

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

MORGAN CREEK ESTATES

STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS
COUNTY OF ERATH	§	

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for MORGAN CREEK ESTATES (this "Declaration"), is made on the date hereinafter set forth by Morgan Creek Estates, LLC, a Texas limited liability company ("Declarant"), for the purpose of evidencing the covenants, conditions and restrictions contained herein.

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property that Declarant expects to plat as "MORGAN CREEK ESTATES" and which real property is more particularly described on Exhibits "A" and "B" attached hereto and incorporated herein by reference. Such real property is hereinafter referred to as the "Development" or the "Property," and such plat when filed, as may be amended or replatted, is hereinafter referred to as the "Plat."

WHEREAS, one of more of the platted lots within the Development may now or subsequently be located within the city limits of an incorporated city and, thus, it is the intention of the Declarant that (i) this Declaration shall propose covenants, conditions and restrictions in addition to those imposed by the zoning ordinances and/or building codes of such city and (ii) in the event of a conflict between this Declaration and such ordinances or codes, the more restrictive provisions shall control.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions and conditions shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of Declarant and each owner thereof.

NOW, THEREFORE, the Morgan Creek Homeowners Association, a Texas nonprofit corporation, has also been formed in the State of Texas and has been granted power of administering and enforcing the covenants, restrictions, charges and liens and disbursing the assessments and charges hereinafter created.

ARTICLE I

ADDITIONAL DEFINITIONS

1.1 Association. “Association” shall mean and refer to the Morgan Creek Homeowners Association.

1.2 Board of Directors. “Board of Directors” shall mean and refer to the directors of the Association.

1.3 Common Area. “Common Area” shall mean those portions of the Development designated on Exhibit “C” as Common Areas and those additional properties which Declarant shall, from time-to-time, convey to the Association for purposes of their ownership, use and maintenance by the Association for the benefit of all of the Owners of a Lot.

1.4 County. “County” shall mean Erath County, Texas.

1.5 Declarant. The term “Declarant” shall mean Morgan Creek Estates, LLC, a Texas limited liability company, and any party to whom it shall expressly assign in writing, its rights, powers, privileges and prerogatives hereunder.

1.6 Home. “Home” shall mean a single-family residential unit constructed on a Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which the Home is located.

1.7 Lienholder. “Lienholder” or “Mortgagee” shall mean the holder of a first mortgage lien, either on any Home and/or any Lot.

1.8 Lot. “Lot” or “Lots” shall mean and refer to a portion of the Property designated as a Lot on the Plats of the Property, excluding Open Space, streets and alleys. Where the context requires or indicates, the term Lot shall include the Home and all other improvements, which are or will be constructed on the Lot.

1.9 Open Space. “Open Space” shall mean and refer to those areas designated by the Declarant within the Development for parks, greenbelts, landscaped areas, open spaces and the like, whether developed or remaining in a natural state, upon which no improvements are constructed.

1.10 Owner. “Owner” shall mean and refer to the record Owner, other than Declarant whether one or more persons or entities, of a fee simple title to any Lot and shall include any homebuilder, but shall exclude those having such interest merely as security for the performance of an obligation. However, the term “Owner” shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot, which is a part of the Property, through deed in lieu of foreclosure or through judicial or nonjudicial foreclosure.

1.11 Roads. “Roads” shall mean and refer to all roadways, means of access, ingress and egress shown on the map or plat attached hereto as Exhibit “C” and incorporated herein by reference.

ARTICLE II

HOMEOWNERS’ ASSOCIATION, VOTING AND DIRECTORS

2.1 Membership. The Declarant and each Owner shall automatically be a member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a member.

2.2 Classes of Voting Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those members described in Section 1 of this Article II with the exception of Declarant. Class A members shall be entitled to one vote for each Lot (as such Lot is identified on the date of filing of this Declaration). When two or more persons or entities hold undivided interests in a Site, all such persons or entities shall be Class A members, and the vote for such Site shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to ten (10) votes for each Lot, PROVIDED, HOWEVER, that from and after December 31, 2020, notwithstanding any other provision of this Article, the Class B member shall be entitled to only one vote for each Lot.

2.3 Board of Directors. All of the Directors of the Association shall be selected by the Declarant until January 1, 2018. Beginning January 1, 2018, the Directors of the Association shall be selected by the Class A and B Members in accordance with their respective number of votes as provided hereinabove.

ARTICLE III

ASSESSMENTS

3.1 Covenants for Assessments. The Declarant, for each lot, tract or parcel of land owned by it within the Development, hereby covenants, and each Owner of a Site, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the Association: (1) annual assessments or charges (as specified in Section 3.3 of this Article III), and (2) special assessments for capital improvements (as specified in Section 3.4 of this Article III), all of such assessments to be fixed, established and collected from time to time as hereinafter provided.

3.2 Purposes of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety and welfare of the Owners, the Declarant, and permitted guests, invitees and users of the Development and the Common Areas, or any part thereof, and for carrying out the purposes of the Association as stated in its Articles of Incorporation.

3.3 Annual Assessments. Each Owner shall pay to the Association an annual assessment of Two Hundred Fifty and No/100 Dollars (\$250.00). The Declarant shall pay to the Association an annual assessment of Fifty and No/100 Dollars (\$50.00) for each Lot it owns. The rate of annual assessment may be increased by vote of the membership of the Association, as provided in Section 3.5 of this Article III. The Board of Directors 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 different amount. The Association may not accumulate a surplus at the end of the year which is more than two (2) times the maximum permissible annual assessment for that year. The Board of Directors shall, should excess surplus (as above defined) exist at the end of any year, reduce the next total annual assessment by an amount at least equal to such excess surplus.

3.4 Special Assessments. In addition to the annual assessments authorized by Section 3.3 of this Article III, the Association may, by vote of its members as specified in Section 3.6 of this Article III, levy in any assessment year or years a special assessment for the purposes of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described improvement including the necessary fixtures and personal property related thereto, or for carrying out other purposes of the Association as stated in its Articles of Incorporation.

3.5 Vote Required For Increase in Rate of Annual Assessment. The increase in the rate of the annual assessment as authorized by Section 3.3 of this Article III must be approved at an Association Meeting by a majority of the total eligible votes of the membership of the Association as defined in Article II hereof.

3.6 Vote Required for Special Assessment. The Special Assessment authorized by Section 3.4 of this Article III must be approved (i) by a majority of the Board of Directors and, (ii) at an Association Meeting, by a majority of the total eligible votes of the membership of the Association as defined in Article II hereof.

3.7 Commencement Date of Annual Assessment. The first annual assessment provided for herein shall commence with the year 2018 (effective January 1st of that year) and shall continue thereafter from year to year.

3.8 Due Date of Assessments. The first annual assessment shall become due and payable on January 1, 2018, and shall be considered delinquent if not paid by January 31, 2018. The assessments for any year after 2018 shall become due and payable on January 1st of such year and delinquent if not paid by January 31st of such year. The due date and delinquent date of any special assessment under Section 3.4 of this Article III shall be fixed in the resolution authorizing such assessment.

3.9 Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of each Owner of a Site covered by any assessments. No Owner may exempt itself from liability for such assessments. In the event of default in the payment of any such assessment, the Owner of such Site (hereinafter referred to as a "Delinquent Owner") shall be obligated to pay interest at the rate of twelve (12%) per annum on the amount of the assessment from the due date thereof, together with all costs and expenses, including attorney's fees.

3.10 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 3.9 of this Article III and the cost of collection, including attorney's fees as hereinafter provided, thereupon become a continuing lien and charge (hereinafter referred to as "Assessment Lien") on the Site covered by such assessment, which shall bind such Site in the hands of a Delinquent Owner, its successors and assigns. An Assessment Lien shall be superior to all other liens and charges against a Site, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the Site in question. The Association shall have the power to subordinate the Assessment Lien to any other lien. Such power shall be entirely discretionary with the Association. To evidence the Assessment Lien, the Association shall prepare a written notice of the Assessment Lien setting forth the amount of the unpaid indebtedness, the name of the Delinquent Owner of the Site subject to the Assessment Lien and a description of the Site. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Erath County, Texas. The Assessment Lien shall attach with the priority set forth above from the date that such payment becomes delinquent as set forth in Section 3.8 of this Article III and may be enforced by a foreclosure action against the Delinquent Owner's Site by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of the Assessment Lien as provided above, or the Association may institute suit against the Delinquent Owner obligated to pay the assessment and/or for foreclosure of the Assessment Lien judicially. In a foreclosure proceeding, whether judicial or not judicial, the Delinquent Owner shall be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association shall have the power to bid on the Site at foreclosure or other legal sale and acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any Site, the Association shall report to such mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

3.11 Common Areas Exempt. All Common Areas as defined in Article I, Section 1.2 hereof, any common areas of any other association designated on any recorded plat filed by Declarant, and any portion of the Development owned by or otherwise dedicated to any political subdivision, shall be exempt from the assessments and liens created herein.

3.12 Combination of Lots. No replatting or other combination of multiple Lots into a single Lot shall result in the reduction of the obligation of the Owner to pay all annual and special assessments for each of the Lots as originally designated at the time of the filing of this Declaration.

3.13 Assessments. This Declaration does not create or establish any right in the Declarant, distinct from the right of the Association, to assess or collect any assessment, charge or fee with respect to the Property or the Development associated with the maintenance, oversight or management of the Development or the Property.

ARTICLE IV

ARCHITECTURAL REVIEW

4.1 Authority of Declarant. As detailed in this Article IV, the Declarant shall have the authority of architectural review under this Declaration.

4.2 Submission of Plans to Declarant. No building, fence, wall, parking area, swimming pool, spa, pole, mail box, driveway, fountain, pond, tennis court, sign, exterior color or shape, or new or modification of a structure shall be commenced, erected or maintained upon any Lot or the patio or garage used in connection with any Lot after the purchase of any Lot from Declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved by the Declarant. Plans and specification shall be submitted to the Declarant at least fourteen (14) days prior to the commencement of any construction or modification. The following shall be submitted for approval: a site plan showing the entire Lot with existing improvements, and floor plan and elevations of all faces of the proposed structure; and a description of all exterior construction materials. A copy of the above described plans and specifications may be retained by Declarant.

4.3 Approval of Plans. The Declarant shall review the plans and specifications and notify the Owner in writing of its approval or disapproval. If the Declarant fails to approve or disapprove said plans and specifications within fourteen (14) days after the same has been submitted to it, they will be deemed to have been approved by the Declarant. Any disapproval shall set forth the elements disapproved and the reason or reasons thereof. The judgment of the Declarant in this respect in the exercise of its sole and absolute discretion shall be final and conclusive and the Owner shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval. No construction, alteration, change or modification shall commence until approval of the Declarant is obtained. The Declarant may approve any deviation from these covenants and restrictions as the Declarant, in its sole and absolute discretion, deems consistent with the purpose hereof. The Declarant shall not be liable to any Owner for any claims, causes of action or damages arising out of the denial of any submittal or grant of any deviation to an Owner. Future requests for deviations submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a deviation to any Owner shall not constitute a waiver of the Declarant's rights to strictly enforce the Declaration and the architectural standards provided herein against any other Owner. Approval by the Declarant of the plans and specifications or its determination that the completed construction or modification has been constructed in accordance with the plans and specifications shall be deemed to be an acknowledgment by the Declarant that such are in accordance with this Declaration and such acknowledgment shall be binding against the Owners of the Lots and the Property.

4.4 Declarant's Liability. The Declarant, nor any of its employees, officers, directors or members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans of the site plan submitted to the Declarant shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Declarant shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Declaration, County codes, state statutes or the common law, whether the same relate to Lot lines, building lines, easements or any other issue.

4.5 Homebuilder Plans. Notwithstanding anything to the contrary contained herein, once a particular set of plans and specifications submitted by a homebuilder (which for purposes hereof shall be defined as any entity or person in the business of constructing single family residences for the purpose of sale to third parties) has been approved by the Declarant or deemed approved, such homebuilder may construct homes in the Development on any Lot in accordance with such plans and specifications without the necessity of obtaining subsequent approvals therefore, so long as there are no major material changes in the plans and specifications and the Declarant approves of the location of the residence to be constructed in accordance with such plans and specifications to prevent unnecessary duplication thereof within the Development.

4.6 Design Guidelines. The Declarant has the right to issue Design Guidelines from time to time which will contain the specific provisions applicable to all of the Lots regarding style, basic site design issues, aesthetics of each home, the use of quality exterior finish materials and minimum landscaping plans for the Lots. The Design Guidelines will be used by the Declarant with the Declaration to determine the approval of all plans.

4.7 Termination of Authority of Declarant. Declarant's authority under this Declaration shall terminate upon the construction of a Home being completed upon each Lot within the Development. Upon termination of Declarant's authority under this Declaration, approval by the Declarant with respect to any of the terms or conditions under this Declaration will no longer be required. However, subsequent to the Declarant's termination of authority, the Board of Directors of the HOA shall have the exclusive right of enforcement as provided by Section 6.2 herein below.

ARTICLE V

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

5.1 Residential Use. The Property shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than (a) one (1) detached single family residence per Lot, which residence may not exceed two and one-half (2½) stories in height and a private garage as provided below, which residence shall be constructed to minimum Federal Housing Authority ("FHA") and Veteran's Administration ("VA") standards, unless otherwise approved in writing by the Declarant, and (b) up to two (2) additional or "out" buildings constructed of the same materials and design as the single family

residence constructed on the Lot. Such additional buildings shall also be subject to approval in writing by the Declarant (or the Board of Directors if the Declarant no longer owns any of the Lots). All well houses, storage sheds, detached garages, shops and the like shall be counted toward the limitation of additional buildings specified in this Section 5.1.

5.2 Single Family Use. Each residence shall be limited to occupancy by only one family consisting of persons related by blood, adoption or marriage or no more than two (2) unrelated persons residing together as a single housekeeping unit, in addition to any household or personal servant staff.

5.3 Garage Required. Each residence shall have an enclosed garage suitable for parking a minimum of two standard size automobiles, which garage shall conform in design and materials with the main structure. All garages must be rear entry or side entry only.

5.4 Restrictions on Resubdivision. No Lot shall be subdivided into smaller Lots.

5.5 Driveways. All driveways shall be surfaced with concrete or similar substance approved by the Declarant.

5.6 Uses Specifically Prohibited.

(a) No temporary dwelling shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment which may be placed on a Lot only in places which are not visible from any street on which the Lot fronts) shall be permitted on any Lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a specifically permitted Lot during construction of the residence on that Lot. No building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence, and then such material shall be placed totally within the property lines of the Lot upon which the improvements are to be erected.

(b) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, box trailer, bumper pull trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the front yard or on any public street on the Property, nor shall any such vehicle or equipment be parked for storage in the side yard of any residence on a Lot. Parking of such items may occur behind the residence on a Lot. Such vehicles or equipment may be parked for storage in the driveway of a residence for up to seven (7) consecutive days and a maximum of ten (10) days cumulative per calendar month. No such vehicle or equipment shall be used as a residence or office, temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use for the construction, maintenance or repair of a residence in the Development.

(c) Trucks with tonnage in excess of one and one-half (1.5) tons and any commercial vehicle with painted advertisement shall not be permitted to park overnight on the Property

except behind a residence on a Lot or in a barn or storage building constructed on a lot, except those used by a builder during the construction of improvements.

(d) No vehicle of any size, which transports flammable or explosive cargo, may be kept on the Property at any time.

(e) No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks (including those with attached bed campers), four-wheelers, all-terrain and off-road vehicles, and the like that are in operating condition, have current license plates and inspection stickers and are in current use.

(f) No structure of a temporary character, such as a trailer, tent, shack, barn, underground tank or structure or other out-building shall be used on the Property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period, but not as a residence.

(g) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in or on the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Property. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on the Property. This section shall not apply to and shall have no bearing on any equipment, structure, or activity already in existence as of the date of this Declaration. Any substantial or material change to any existing equipment, structure or activity must be approved in writing by the Declarant.

(h) Dogs, cats or other qualified animals may be kept as household pets. Livestock (i.e., only cattle, horses, sheep and goats) may be raised and kept on a Lot of a number equal to the greater of (i) a total of three (3) head of livestock per Lot or (ii) a total equal to the sum of one head of livestock per five (5) acres within the boundary of a Lot. Poultry may be raised and kept on the Property but they must be confined in such a manner as to not roam freely beyond the boundaries of a Lot upon which they are raised. No person shall raise or keep on a Lot any hogs, guinea fowls, ducks, turkeys, skunks or any other animals that may interfere with the peace and quiet and health and safety of the community. No more than four pets (other than livestock) will be permitted on each Lot. Pets must be restrained or confined to the homeowner's rear yard within a secure fenced area or within the house. It is the livestock and pet owner's responsibility to keep the Lot clean and free of all animal debris or odor noxious to adjoining Lots. All animals must be properly registered and tagged for identification in accordance with local ordinances.

(i) No Lot or other area of the Property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may only be stored on Lots during construction of the improvement thereon.

(j) No individual water supply system shall be permitted on any Lot except that each owner of a Lot may drill on each Lot a water well for use by such Owner or successor owners of such Lot.

(k) No individual sewage disposal system shall be permitted on any Lot except that each owner of a Lot may construct a septic system for use by such Owner or successor owners of such Lot.

(l) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any Owner, tenant or other person prior to the erection of a residence.

(m) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or any window of a residence. No evaporative cooler shall be installed on the front wall or any window of a residence.

(n) Except with the written permission of the Declarant, no antennas, satellite dishes or other equipment for receiving or sending sound or video signals shall be permitted in or on the Property except antennas for AM or FM radio reception and/or television reception. Such antennas shall be located inside the attic of the main residential structure except that, only upon the prior written permission of the Declarant, one antenna may be permitted to be attached to the roof (on the downslope of the rear or back portion of a roof not visible from any roadway in front of such residence) of the main residential structure not to extend above said roof more than a maximum of six (6) feet and one satellite dish or similar antenna may be placed in the rear yard of a Lot so long as it is completely screened from view from any adjacent street or other public area.

(o) No Lot or improvement thereon shall be used for a business, professional, commercial or manufacturing purposes of any kind for any length of time (except for the sale of livestock produced by a Lot owner on his or her Lot. No business activity shall be conducted on the Property that is not consistent with single-family residential purposes. No noxious or offensive activity shall be undertaken on the Property, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales/construction office for so long as such builder is actively engaged in construction on the Property. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' peaceful use and enjoyment of their residences and yards.

(p) No fence, wall, hedge or shrub planting which obstructs sight lines at an elevation between three and six feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The

same sight-line limitations shall apply on any Lot within that area that is ten feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a minimum height of six feet above the adjacent ground line.

(q) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected on the Property.

(r) Within those easements on each Lot as designated on the Plat of the Development, no improvement, structure, swimming pool, planting or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water through drainage channels. The general grading, slope and drainage plan of a Lot as established by the Declarant's approved development plans may not be altered without the approval of the County and/or other appropriate agencies having authority to grant such approval.

(s) No sign of any kind or character, including (a) any signs in the nature of a "protest" or complaint against Declarant or any homebuilder, (b) or that describe, malign or refer to the reputation, character or building practices of Declarant or any homebuilder, or (c) discourage or otherwise impact or attempt to impact anyone's decision to acquire a lot or residence in the Development shall be displayed to the public view on any Lot or from any home on any Lot except for one professionally fabricated sign of not more than five square feet advertising the property for rent or sale, or signs used by a builder to advertise the property during the construction and sales period. Declarant, any home builder, or their agents shall have the right, without notice, to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. The failure to comply with this restriction will also subject any Owner to a fine of \$100.00 per day (to be collected by Declarant or, if applicable, the Association) for each day that such Owner fails to comply with this restriction. The non-payment of such fine can result in a lien against Lot of an Owner violating this provision, which lien may be foreclosed on in order to collect such fine.

The foregoing provisions applicable to signage shall not be construed to prohibit normal and customary business signage on personal vehicles owned or driven by Owners.

(t) Outdoor clothes lines and drying racks visible to adjacent Properties are prohibited. Owners or residents of Lots where the rear yard is not screened by solid fencing or other such enclosures, shall construct a drying yard or other suitable enclosure or screening to shield from public view clothes drying racks, yard maintenance equipment and/or storage of materials.

(u) Except within fireplaces in the main residential dwelling and equipment for outdoor cooking, no burning of anything shall be permitted anywhere on the Property except as permitted by the County.

(v) Any lights or other illumination constructed to illuminate play areas, arenas, basketball or tennis courts, that are equal to or more than twenty five feet (25") in height shall be turned off no later than 11:00 p.m. each night.

5.7 Minimum Floor Area. The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings) shall be not less than two thousand two hundred (2,200) square feet or the minimum floor area as specified by the County, whichever is greater. The Declarant shall have the authority to grant a variance of up to ten percent (10%) from the foregoing minimum floor area requirement upon the written request of any person constructing such structure and provided such approval shall be in writing.

5.8 Building Materials. The total exterior wall area (excluding windows, doors and gables) of each residence constructed on a Lot shall not be less than seventy percent (70%) brick, brick veneer, stone, stone veneer, or other masonry material approved by the Declarant (with Hardie® type materials, cement boards, and "HardiePlank®" siding not satisfying any portion of the 70% masonry requirement). Windows, doors, other openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from calculation of total exterior wall area. All roofing shall be 240 lb./square fiberglass material or approved equal or variegated pitch in "Weathered Wood" or other Declarant approved color and shall comply with requirements of the County, the FHA, the VA and the Declarant. All main residences shall have a minimum 7/12 roof pitch on the major portions of the building.

5.9 Setback Requirements. No dwelling shall be located on any Lot nearer to the side lot line than greater of (a) fifty (50) feet or (b) the minimum setback lines shown on the Plat or as required by the County. No dwelling shall be located on any Lot nearer to the front lot line than the greater of (a) one hundred (100) feet or (b) the minimum setback lines shown on the Plat or as required by the County.

5.10 Fences and Walls. All fences and walls shall be constructed of masonry, wood, brick, unpainted or stained cedar or redwood, painted board rails or decorative iron or other material approved by the Declarant. No fence or wall on any Lot shall extend nearer to any street than the front building line unless approved by the Declarant. Except as otherwise specifically approved by the Declarant, all streetside side yard fencing on corner Lots shall be set no closer to the abutting side street than the property line of such Lot. No portion of any fence shall exceed eight (8) feet in height. No chain link fences or perimeter stockade fencing is permitted on any Lot. Any fence or portion thereof that faces a public street shall be constructed so that all structural members and, unless Declarant determines otherwise, support posts will be on the side of the fence away from the street and are not visible from any public right-of-way. No fence of any type shall be constructed on any Lot prior to the written approval of the Declarant.

5.11 Mailboxes. Mailbox designs shall be approved by the Declarant and mailboxes shall be constructed of brick and stone unless an alternative material is approved by the Declarant.

5.12 Chimney Flues. Chimney stacks on front and side exterior walls that are visible from the street shall have a brick or stone masonry material finish unless approved by the Declarant. No wood, hardy siding or masonite is allowed.

5.13 Windows. Windows, jambs and mullions shall be composed of anodized aluminum or wood. All front elevation windows shall have baked-on painted aluminum divided light windows (no mill finish).

5.14 Landscaping. Landscaping of each Lot (surrounding the principal residence on a Lot) shall be completed within one hundred twenty (120) days, subject to extension for delays caused by inclement weather, after the home construction is completed and shall be completed according to a landscaping plan approved by the Declarant.

5.15 General Maintenance of Lots. Following occupancy of the Home upon any Lot, each Owner shall maintain and care for the Home, all improvements and all trees, foliage, plants, and lawns on the Lot and otherwise keep the Lot and all improvements thereon in good condition and repair and in conformity with the general character and quality of properties in the immediate area, such maintenance and repair to include but not be limited to: (i) the replacement of worn and/or rotted components, (ii) the regular painting of all exterior surface, (iii) the maintenance, repair and replacement of roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, drives, parking areas and other exterior portions of the improvements to maintain an attractive appearance, and (iv) regular mowing and edging of lawn and grass areas.

In addition to the maintenance of their Lot, each Owner shall also maintain, clean, mow and care for any portion of any drainage structures or areas, ditches, culverts and water ways located on or adjacent to or touching an Owner's Lot. Drainage structures under private driveways shall always have a net drainage open area of sufficient size to permit the free flow of water without backwater. Furthermore, any drainage structure constructed on or adjacent to any Lot shall be constructed of rock, concrete or a combination thereof on each end of the drainage structure so that (i) no metal pipe or concrete pipe is showing and (ii) the structure permits the passage of water without the erosion or damage to adjacent soil, road ways, ditches and landscaping.

Upon failure of any Owner to maintain a Lot owned by him in the manner prescribed herein, the Declarant at its option and discretion, but without any obligation to do so, but only after ten (10) days written notice to such Owner to comply herewith, may enter upon such Owner's Lot and undertake to maintain and care for such Lot to the condition required hereunder and the Owner thereof shall be obligated, when presented with an itemized statement, to reimburse the Declarant for the cost of such work within ten (10) days after presentment of such statement. This provision, however, shall in no manner be construed to create a lien in favor of any party on any Lot for the cost or charge of such work or the reimbursement for such work.

ARTICLE VI

GENERAL PROVISIONS

6.1 **Easements.** Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plats. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences, Declarant reserves the right to make changes in and additions to the above-referenced easements for the purpose of most efficiently and economically installing improvements to the Lots.

6.2 **Enforcement.** The Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees from the nonprevailing party.

6.3 **Severability.** If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the final judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

6.4 **Term.** The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant (during the time it owns any Lots) or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time these covenants shall be automatically extended for successive periods of ten (10) years, unless by vote, of the then Owners of sixty-six and two-thirds percent (66-2/3%) of the Lots (and the County, if then a party hereto) agree in writing to terminate or change this Declaration in whole or in part and such writing is recorded in the Real Property Records of Erath County, Texas.

6.5 **Amendment.**

(a) This Declaration may be amended or modified by the Declarant without the consent of the Owners for a term of five (5) years from the date this Declaration is recorded. An amendment or modification to this Declaration after this time period shall require the consent of the then Owners in accordance with subsection (b).

(b) This Declaration may be amended or modified upon the express written consent of at least sixty-six and two-thirds percent (66-2/3%) of the Owners. Any and all amendments, if any, shall be recorded in the office of the County Clerk of Erath County, Texas. Notwithstanding the foregoing, Declarant shall have the right at any time to execute and record amendments to this Declaration without the consent or approval of any other party if the sole

purpose of the amendment is for the purpose of correcting technical errors or for purposes of clarification.

(c) Declarant intends that this Declaration may be amended to comply (if not in compliance with all requirements of the Federal Home Loan Mortgage Corporation (“FHLMC”), Federal National Mortgage Association (“FNMA”), FHA and VA. Notwithstanding anything to the contrary contained herein, if this Declaration does not comply with FHLMC, FNMA, VA or FHA requirements, the Declarant shall have the power in its discretion, and on behalf and each and every Owner, to amend the terms of this Declaration or to enter into any agreement with FHLMC, FNMA, VA, and FHA, or their respective designees, reasonably required by FHLMC, FNMA, VA or FHA to allow this Declaration to comply with such requirements. Should the FHLMC, FNMA, VA or FHA subsequently delete any of their respective requirements which necessitate any of the provisions of this Declaration or make any such requirements less stringent, the Declarant, without approval of the Owners, may, upon reasonable justification, cause an amendment to this Declaration to be executed and recorded to reflect such changes.

6.6 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.

6.7 Remedies. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity, including, without limitation, an action for injunctive relief, it being acknowledged and agreed that a violation of the covenants, conditions and restrictions contained herein could cause irreparable injury to Declarant and/or the other Owners and that the Declarant’s and/or the other Owner’s remedies at law for any breach of the Owners’ obligations contained herein would be inadequate. Enforcement may be commenced by the Declarant, the County, or any Owner against any person or persons violating or attempting to violate them, and failure by the Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The rights created herein are unique and enforceable by specific performance.

6.8 Notices to Member/Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered forty-eight (48) hours after deposited in the United States Mail, postage prepaid, certified or registered mail, and addressed to the last known address of the Owner.

6.9 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender and words in the singular, shall be held to include the plural and vice versa unless the context requires otherwise.

6.10 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Property, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except land in the

Development. This Declaration, when executed, shall be filed of record in the Real Property Records of Erath County so that each and every owner or purchaser of any portion of the Development is on notice of the conditions, covenants, restrictions and agreements herein contained.

6.11 Recorded Plat; Other Authorities. All dedications, limitations, restrictions and reservations that are shown on the Plat are deemed to be incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by the Declarant, conveying the Lots, whether specifically referred to therein or not. If other authorities, such as the County, impose more demanding, expensive, extensive or restrictive requirements than those that are set forth herein (through zoning or otherwise), the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those that are set forth herein shall not supersede or diminish the requirements that are set forth herein. If a Lot is located within the city limits of an incorporated city whose zoning ordinances or building codes impose more demanding, expensive, extensive or restrictive requirements than those that are set forth herein, the requirements of such ordinances or codes shall be complied with by the Lot so located within such city limits. If such city's ordinances or codes impose lesser requirements than those set forth herein, the owner of the Lot shall comply with the more restrictive provisions of this Declaration.

6.12 Additions to the Development. Additional property may become subject to this Declaration in any of the following manners:

(a) The Declarant may add or annex additional real property to the scheme of this Declaration by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions with the County and the Real Property Records of Erath County, Texas, which shall extend the scheme of this Declaration to such property, provided, however, that such Supplementary Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration.

(b) In the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of this Declaration, such annexation must have the prior written consent and approval of the Declarant and a majority of the Owners.

6.13 No Warranty of Enforceability. While the Declarant has no reason to believe that any of the restrictive covenants or other terms or provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants. Any Owner acquiring a Lot in the Development in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom. The Declarant shall not be responsible for the acts or omissions of any individual, entity or other Owners.

6.14 Right of Enforcement. The failure by Declarant to enforce any provision of this Declaration shall in no event subject Declarant to any claims, liability, costs or expense; it being the express intent of this Declaration to provide Declarant with the right (such right to be exercised at its sole and absolute discretion), but not the obligation to enforce the terms of this Declaration for the benefit of any Owner(s) of any Lot(s) in the Development.

6.15 Universal Easements. The Owner of each Lot (including Declarant so long as Declarant is the Owner of any Lot) is hereby granted an easement not to exceed two (2) foot in width over all adjoining Lots for the purpose of accommodating any encroachment or protrusion due to engineering or fence line errors, errors in original construction, surveying, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of said encroachment, protrusion, settling or shifting; provided, however, that in no event shall an easement for encroachment or protrusion be created in favor of an Owner or Owners of said encroachment or protrusion occurred due to willful misconduct of said Owner or Owners. In addition, the Owner of each Lot is hereby granted an easement for encroachments not to exceed three (3) feet in width by misplaced fences or fence lines and overhanging roofs, eaves or other improvements as originally constructed over each adjoining Lot and for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to each affected Lot and shall pass with each conveyance of said Lot.

6.16 EPA Compliance. The Owner of each Lot agrees to comply with all EPA rules and regulations regarding erosion control and compliance with a Storm Water Pollution Prevention Plan affecting the Lots (the "Plan"), which will include elements necessary for compliance with the nationwide general permit for construction activities administered by the EPA under the National Pollutant Discharge Elimination System. Each Owner acknowledges that the Declarant and any homebuilder will not bear any responsibility for complying with a Plan on any Lot upon the sale of each Lot in the subdivision.

6.17 Soil Movement. EACH OWNER IS HEREBY NOTIFIED THAT THE SOIL COMPOSITION AND CONDITION OF THE LOTS MAY RESULT IN THE SWELLING AND/OR CONTRACTION OF THE SOIL IN AND AROUND THE LOT IF THE OWNER OF THE LOT DOES NOT EXERCISE THE PROPER CARE AND MAINTENANCE OF THE SOIL REQUIRED TO PREVENT SOIL MOVEMENT.

If the Owner fails to exercise the necessary precautions, damage, settlement, movement or upheaval to the foundation may occur. Owners are highly encouraged to install and maintain a full irrigation system around the home to ensure even, proportional, and prudent watering around the foundation.

Accordingly, by each Owner's acceptance of a warranty deed to any Lot, each Owner, on behalf of Owner and Owner's representatives, successors and assigns, hereby acknowledge that the developer, Declarant and all homebuilders in the Development shall not be responsible or liable for any damage, settlement, movement or upheaval to the foundation or any other part of the residence constructed on said Lot and hereby releases and forever discharges, developer, all homebuilders in the Development, and Declarant and their respective shareholders, members,

officers, directors, partners, employees, agents, representatives, affiliates, attorneys, successors and assigns, of and from any and all claim for the relief and/or causes of actions, liabilities, damages and claims whatsoever, known or unknown direct or indirect, arising from or relating to the foundation and/or the residence constructed upon the Lot, including but not limited to any damage thereto caused by and/or related in any fashion to the soil condition upon which the same are constructed, the presence of groundwater and any other subsurface condition affecting the Lot and/or from the failure or improper or uneven watering of the Lot, inadequate grading or drainage facilities to carry water away from the foundation, or planting of improper vegetation near the foundation or any action which affects the drainage of the Lot.

The Owner of any Lot, and the Owner's legal representatives, successors and assigns, shall assume all risk and consequences to the residential structure, including but not limited to those arising or relating to the subsurface and surface soil condition in and around the Lot, the failure of the Owner or any other person or entity to exercise prudent maintenance procedures and/or the Owner's negligence in protecting and maintaining the integrity of the foundation and structure of the residence.

6.18 Arbitration of Disputes Involving Declarant.

(a) ANY AND ALL DISPUTES ARISING HEREUNDER BETWEEN AN OWNER AND DECLARANT SHALL BE SUBMITTED TO BINDING ARBITRATION AND NOT TO A COURT FOR DETERMINATION. ARBITRATION SHALL COMMENCE AFTER WRITTEN NOTICE IS GIVEN FROM EITHER PARTY TO THE OTHER, SUCH ARBITRATION SHALL BE ACCOMPLISHED EXPEDITIOUSLY IN ERATH COUNTY AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA").

THE ARBITRATION SHALL BE CONDUCTED BY THREE (3) ARBITRATORS, ONE OF WHOM SHALL BE APPOINTED BY THE OWNER AND ONE OF WHOM SHALL BE APPOINTED BY DECLARANT. THE THIRD ARBITRATOR SHALL BE APPOINTED BY THE FIRST TWO ARBITRATORS. THE ARBITRATORS SHALL BE SELECTED FROM A LIST OF ARBITRATORS SUBMITTED BY THE AAA. JUDGMENT UPON THE AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. ARBITRATION SHALL NOT COMMENCE UNTIL THE PARTY REQUESTING IT HAS DEPOSITED ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00) WITH THE ARBITRATORS AS A RETAINER FOR THE ARBITRATORS' FEES AND COSTS. THE PARTY REQUESTING ARBITRATION SHALL ADVANCE SUCH SUMS AS ARE REQUIRED FROM TIME TO TIME BY THE ARBITRATORS TO PAY THE ARBITRATORS' FEES AND COSTS, UNTIL THE PREVAILING PARTY IS DETERMINED OR THE PARTIES HAVE AGREED IN WRITING TO AN ALTERNATIVE ALLOCATION OF FEES AND COSTS. EACH PARTY SHALL PAY HIS/HER OWN LEGAL FEES AND COSTS AND ANY OTHER FEES INCURRED IN CONNECTION WITH AN ARBITRATION PROCEEDING WHICH ARISES OUT OF OR RELATES IN ANY WAY TO THIS AGREEMENT PROVIDED, HOWEVER, THAT THE ARBITRATION PANEL SHALL AWARD THE ARBITRATORS' FEES AND COSTS TO THE PREVAILING PARTY IN ITS ARBITRATION JUDGMENT.

(b) Other Dispute Resolutions. Notwithstanding Declarant's and Owner's intent to submit any controversy or claim arising out of or relating to this Declaration to arbitration, in the event that a court of competent jurisdiction shall determine or a relevant law shall provide that a particular dispute is not subject to the arbitration provisions in this Section, then the parties agrees to the following provisions:

(c) Waiver of Trial by Jury. EACH OWNER ACKNOWLEDGES THAT THIS DECLARATION IS A SOPHISTICATED LEGAL DOCUMENT. ACCORDINGLY, JUSTICE WILL BEST BE SERVED IF ISSUES REGARDING THIS DECLARATION ARE HEARD BY A JUDGE IN A COURT PROCEEDING, AND NOT A JURY. EACH OWNER AGREES THAT ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THIS DECLARATION, ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR COMMISSION OR OMISSION OF ANY PARTY SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY.

DECLARANT:

Morgan Creek Estates, LLC,
a Texas limited liability company

By: _____
Jeff Clark, Manager

STATE OF TEXAS)

COUNTY OF ERATH)

Subscribed and sworn to before me by Jeff Clark, Manager of Morgan Creek Estates, LLC, a Texas limited liability company, as the act and deed of such company on July ____, 2016.

Notary Public, State of Texas

[Seal]

Exhibits “A” and “B”

Legal Description of Morgan Creek Estates

Exhibit “C”

Plat and Map of Common Areas and Roads