

AMENDED

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DECLARATION OF COVENANTS, CONDITIONSAND RESTRICTIONSPARADISE HILLS, SECTION IIIPARADISE HILLS, SECTION IV

BRINKLEY INTEREST, INC., a Texas Corporation, hereinafter called Declarant, is the owner in fee simple of two certain tracts of real property located in Hays County, Texas, Tract I known by official plat designation as Paradise Hills, Section III, Lots 1 through 20 inclusive, a subdivision of the Village of Wimberley, pursuant to a plat recorded on June 13, 1977 in the records of maps of Hays County, Texas in Volume 1, Pages 357-358, and Tract II known by official plat designation as Paradise Hills, Section IV, Lots 1 through 6 inclusive, a subdivision of the Village of Wimberley, pursuant to a plat recorded on July 27, 1977 in the records of maps of Hays County, Texas in Volume 1, Page 364.

For the purpose of enhancing and protecting the value, beauty and desirability of the Lots or Tracts constituting such subdivision, Declarant hereby declares that all of the real property described above and each part hereof shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: Definitions

Section 1. "Control Committee" shall mean and refer to the building control committee. It shall consist of two representatives of Brinkley Interests, Inc. and one property owner.

Section 2. "Declarant" shall mean Brinkley Interests, Inc., successors or assigns provided such successors or assigns acquire

Real Property Records  
Hays County Texas

more than one undeveloped lot from Declarant for the purpose of development.

Section 3. "Lot" shall mean any plot of land shown on the recorded subdivision map referred to above with the exception of the common area, if any, and portions marked reserved, if any.

Section 4. "Mortgage" shall mean a conventional mortgage or a deed of trust.

Section 5. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

Section 6. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the property, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 7. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of the association as hereinafter provided.

#### ARTICLE II: Control Committee

Section 1. The owner's shall have the right to one (1) representative on the control committee.

Section 2. Every owner of a lot shall have the right to nominate and to vote for the owner's representative to the control committee.

Section 3. The Brinkley Interests, Inc. shall have the right to two (2) representatives on the control committee.

Section 4. The Brinkley Interests, Inc. shall have the right to choose its two (2) representatives in any manner which is not inconsistent with the laws of the U.S. Government, the Laws of the State of Texas, or Declarant's Articles of Incorporation or Bylaws.

Section 5. The control committee shall have the rights, powers, duties and obligations as hereinafter set forth.

#### ARTICLE III: Property Rights

**Section 1. Owner's Easements of Enjoyment.** Every owner of a lot shall have a right and easement of enjoyment in and to the common areas, if any, which shall be appurtenant to and shall pass with the title to such lot, subject to the following rights of the control committee:

(a) The right to charge reasonable admission and other fees for the use of any facility, if any, situated within the common area.

(b) The right to suspend the right of use of recreational facilities, if any, and the voting rights of any owner for periods during which assessments against his lot remain unpaid, and the right, after hearing by the control committee, to suspend such rights for a period not exceeding ninety (90) days for any infraction of the published rules and regulations of the control committee.

(c) The right to dedicate or transfer all or any part of the common area, if any, to the municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the control committee.

**Section 2. Other Easements.**

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision map. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction or flow of drainage facilities in the easements. The easement area of each lot and all improvements therein shall be continuously maintained by the owner of such lot, except for improvements for maintenance of which a public authority or utility company is responsible.

(b) No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right of way, and such easements, reservations, and rights of way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also

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be open and accessable to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements, reservations and rights of way are reserved. There will be no fencing, damming or obstructing the natural drainage of water through the subdivision.

(c) There shall exist appurtenant easements of access to all private streets within the subdivision to the Village of Wimberley for the use of city personnel and equipment on city business.

Section 3. Delegation of use.

Subject to such limitations as may be imposed by the bylaws each owner may delegate his right of enjoyment in and to the common areas and facilities, if any, to the members of his family, his guests, tenants and invitees.

Section 4. Right of Entry.

All Lots shall be maintained by the owner thereof at all times in a sanitary, healthful, and attractive condition. The owner or occupant if different than the owner, shall keep all weeds and grass cut to prevent fires. The declarant, through the duly authorized employees and contractors, shall have the right, after ten (10) days notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein. The owner will be billed and will pay the cost of such maintenance.

ARTICLE IV. USE RESTRICTIONS

The subdivision shall be occupied and used only as follows:

Section 1.

Each lot shall be used as a residence for a single family and for no other purpose, and shall remain as shown on the recorded plat and cannot be subdivided. However, nothing contained herein shall be construed to prevent the consolidation of said lots into one building site. Set-back lines shall be measured from the outer consolidated property lines rather than from the lot lines as indicated on the recorded plat. To insure harmony in appearance, construction plans,

with outside finish specified, and a plot plan showing location of all planned construction as it relates to the set-back lines shall be submitted to the control committee for approval before any work begins.

Section 2.

No residential structure shall be erected on any building plot which has less than 20,000 square feet of land area. All residential structures shall face the front line of the lot on which the structure is constructed. The front line being that line adjacent to the right of way easements. No structure shall be allowed to remain on any lot than one detached single family dwelling or one semi-detached single family dwelling not to exceed two stories in height. All driveways will be finished with a hard top surface. However, nothing contained herein shall be construed to prevent the control committee from approving the construction of certain out-buildings upon proper application.

Section 3.

No business of any kind shall be conducted in any residence with the exception of the business of Declarant and the transferees of Declarant in developing all of the lots.

Section 4.

No noxious or offensive activity shall be carried on in or on any lot. No lot shall be used for commercial or professional purposes with the exception of the business of Declarant and the transferees of Declarant in developing all of the lots. Hunting is strictly prohibited in the subdivision.

Section 5.

No sign or any kind shall be displayed to public view on a lot or the common area without the prior written consent of the Declarant, except customary name and address signs and lawn signs of not more than two square feet in size advertising a property for sale or rent.

Section 6

Nothing shall be done or kept on a lot or on the common area, if

any, which would increase the rate of insurance relating thereto without the prior written consent of the control committee, and no owner shall permit anything to be done or kept on his lot or the common area which would result in the cancellation of insurance on any residence or on any part of the common area or which would be in violation of any law.

Section 7.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot or on the common area, if any. However, dogs, cats and other household pets may be kept on lots subject to such rules and regulations as may be adopted by the control committee, so long as they are not kept, bred or maintained for commercial purposes.

Section 8.

No rubbish, trash, garbage, or other waste material shall be kept or permitted on any lot or on the common area, if any, except in sanitary containers located in appropriate areas concealed from public view. All grease and sewage disposals shall be constructed as to dispose of such waste material through properly engineered grease traps, septic tanks and drainage fields. It is strictly forbidden to dispose of sewage and waste water in any manner not approved by the Hays County Health Department.

Section 9.

No fence, hedge, wall or other dividing instrumentality over six feet in height measured from the ground on which it stands shall be constructed or maintained on any lot except that Declarant and the transferees of Declarant may vary or exceed such height in constructing fences in accordance with existing architectural plans.

Section 10.

No outbuildings, basement, tent, shack, garage, trailer, mobile home, van, recreation vehicle, shed or temporary building of any kind or any part of any of the above shall be used as a residence either temporarily or permanently.

Section 11.

To preserve the beauty and natural surroundings of the subdivision no removal of trees, except for building purposes, will be permitted. Written permission must be granted by the Control Committee.

Section 12.

No improvements, fences or storage facilities will be erected or constructed on any lot in the subdivision nearer to the street than the front building set back line nor nearer than five feet to the side property line. Fences of barbed wire or similar metal fences are prohibited.

Section 13.

The ground floor area of all dwellings shall be not less than 1,000 square feet and the floor area for a one and one-half story or two story dwelling shall be not less than 1200 square feet. Garage, carport area will not be used in calculating this area unless same is completely closed in area.

Section 14.

All boats, campers, trailers, recreational vehicles and parts thereof must be stored at the rear of the residence.

Section 15.

Lot 15 of Paradise Hills, Section III shows a water line easement on the plat.

Section 16.

Lot 1 of Paradise Hills, Section IV shows a water line easement on the plat.

Section 17

All accepted property owners and members of their families shall have ingress and egress to the river, subject to the rules of Brinkley Interests, Inc.. No ownership of any kind is transferred to the property owner except such right of ingress and egress to the river. The regulations described in the sections herein describing rules for the common areas will be applicable. All persons other than house guests of property owners and property owners must have approval

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of Brinkley Interests, Inc., its successors or assigns. The use of the river is made available to the owners and their guests strictly at their own risk.

ARTICLE V. Owner's Obligation to Rebuild.

If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence to rebuild, repair, or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall begin within six months after the damage occurs, and shall be completed within twelve months after the damage occurs, unless prevented by causes beyond the control of the owner or owners.

ARTICLE VI. Enforcement of Restrictions.

Declarant, the control committee or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by Declarant, the control committee, 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.

Section 1. Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 2. Amendments.

Covenants and restrictions of this declaration may be amended by duly recording an instrument executed and acknowledged by the control committee and approved by not less than three-quarters of the Lot, each lot being considered as one vote.

Section 3. Subordination.

No breach or any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the subdivision any lot



therein; provided, however, that such conditions shall be binding on any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

Section 4. Duration.

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the control committee or any owner thereof for a period of twenty (20) years from the date hereof, and thereafter shall continue automatically in effect for additional periods of ten (10) years, unless otherwise agreed to in writing by the then owners of at least three-quarters of the subdivision lots.

The undersigned constitute owners of three-quarters of the lots within Paradise Hills, Sections III and IV, and by execution hereof approve the amendments made to the above Declaration of Covenants, Conditions, and Restrictions.

EXECUTED this 5th day of Jan. A.D., 1984.

ATTEST:

BRINKLEY INTERESTS, INC.

Ann Clancy  
ANN CLANCY, Secretary

By: Jane Brinkley White  
JANE BRINKLEY WHITE, Pres.

Virgil M. Sayre  
VIRGIL M. SAYRE

THE STATE OF TEXAS  
COUNTY OF HAYS

This instrument was acknowledged before me on 5<sup>th</sup> day of January 1984 by JANE BRINKLEY WHITE, President of BRINKLEY INTERESTS, INC., a Texas corporation, on behalf of said corporation.



THE STATE OF TEXAS  
COUNTY OF HAYS

James M. Fleming  
NOTARY PUBLIC, State of Texas

JAMES M. FLEMING  
(print or stamp name of notary)  
My commission expires June 27, 1984  
JAMES M. FLEMING  
Notary Public, State of Texas  
My commission expires 6/27/1984

This instrument was acknowledged before me on 5<sup>th</sup> day of January  
1984 by VIRGIL M. SAYRE.

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James M. Fleming  
NOTARY PUBLIC, State of Texas

JAMES M. FLEMING  
(print or stamp name of notary)  
My commission expires 6/27/1984

JAMES M. FLEMING  
Notary Public, State of Texas  
My commission expires 6/27/1984

FILED  
HAYS COUNTY, TEXAS  
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Spencer B. Clayton  
COUNTY CLERK

STATE OF TEXAS }  
COUNTY OF HAYS }

I hereby certify that this instrument was FILED on  
the date and at the time stamped hereon by me and was duly  
RECORDED, in the Volume and Page of the named RECORDS  
of Hays County, Texas, as stamped hereon by me



January 9, 1984  
Spencer B. Clayton  
COUNTY CLERK  
HAYS COUNTY, TEXAS