CJB/emh/REAL ESTATE/restrictions

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF DIETRICH OAKS RANCH SUBDIVISION

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF GILLESPIE §

THAT, DALE A. CRENWELGE, ("Declarant"), being the owner of those certain tracts of land known as DIETRICH OAKS RANCH SUBDIVISION (hereinafter referred to as the "Subdivision"), situated in Gillespie County, Texas, comprised of a) Dietrich Oaks Ranch Subdivision, out of and a part of Richard Slack Survey No. 194, Abstract No. 610, plat of which is recorded at Volume Le, Page 260 of the Plat Records of Gillespie County, Texas; b) that certain 10.540 acre tract of land situated in Gillespie County, Texas, out of the Richard Slack Survey No. 194, Abstract 610 and being more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference; and c) that certain 11.510 acre tract of land situated in Gillespie County, Texas, out of the Richard Slack Survey No. 194, Abstract 610 and being more particularly described in **Exhibit "B"** attached hereto and incorporated herein by reference, in the aggregate, the "Property", as such, desiring to create and carry out a uniform plan for the improvement, development, and sale of the subdivided lots situated within the Property, does hereby adopt and establish the following easements, restrictions, covenants and conditions ("Protective Covenants") to run with the land and to apply in the use, occupancy, and conveyance of the aforesaid described Property therein, which easements, restrictions, covenants and conditions shall be binding on all parties having a right, title or interest in or to the above described Property or any part thereof, and their heirs, successors and assigns, and which easements, restrictions, covenants and conditions shall inure to the benefit of each owner thereof; and each contract or deed which may be executed with regard to any of such property shall be conclusively held to have been executed, delivered and accepted, subject to the following restrictions and covenants (the headings being employed for convenience only and not to be controlling over content):

## ARTICLE I.

## DEFINITIONS

"Declarant" shall mean and refer to DALE A. CRENWELGE, his successors and assigns, if successors or assigns should acquire all of the undeveloped and unsold lots or acreage from the Declarant for the purpose of development.

"Declaration" shall mean this instrument as it may be amended from time to time.

"Dwelling" shall mean and refer to any building or portion of a building situated upon the Property which is designed and intended for use and occupancy as a residence.

"Improvement" or "Improvements" shall mean or refer to all structures or other improvements to any portion of the Property, whether above or below grade, including, but not limited to, buildings, barns, carports, fences, pens, well houses, entryways, gates, recreation areas, utility installations, driveways, and any exterior additions including any changes or alterations thereto.

"Owner" shall mean and refer to the record owner (including Declarant), whether one or more persons or entities, of a fee simple title to any Tract including contract Sellers, but excluding those having such interest merely as security for the performance of an obligation.

"Property" shall mean and refer to that certain real property hereinbefore described as that certain subdivision known as DIETRICH OAKS RANCH SUBDIVISION (hereinafter referred to as the "Subdivision"), situated in Gillespie County, Texas, comprised of a) Dietrich Oaks Ranch Subdivision, out of and a part of Richard Slack Survey No. 194, Abstract No. 610, plat of which is recorded at Volume Ce, Page 210 of the Plat Records of Gillespie County, Texas; b) that certain 10.540 acre tract of land situated in Gillespie County, Texas, out of the Richard Slack Survey No. 194, Abstract 610 and being more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference; and c) that certain 11.510 acre tract of land situated in Gillespie County, Texas, out of the Richard Slack Survey No. 194, Abstract 610 and being more particularly described in **Exhibit "B"** attached hereto and incorporated herein by reference.

"Tract" or "Lot" shall mean and refer to any plot of land which is out of the Property.

## ARTICLE II.

## RESTRICTIVE COVENANTS

The Declarant hereby declares that the Property shall henceforth be owned, held, transferred, sold and conveyed subject to the following covenants, conditions and restrictions which are intended for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on Declarant and all Owners, and their respective heirs, successors and assigns, and which shall inure to the benefit of Declarant and each Owner of any part of the Property, and their respective heirs, successors and assigns.

### Section 1. Building Restrictions

(1) Not more than one single-family dwelling may be erected on any Tract. In addition, Servant's quarters, one (1) guest house, B & B (Bed and Breakfast), VRBO (Vacation Rental by Owner), and related outbuildings, barns, stables, pens, fences and other similar improvements may be constructed or erected on a Tract.

(2) Single-family dwellings shall contain a minimum of 1800 square feet of living area. For purposes of this restriction the term "living area" shall mean that area of a dwelling which is

heated and cooled, exclusive of porches, breezeways, carports, garages or basements.

(2a) B & B, VRBO, and Guest houses shall contain a minimum of 1000 square feet of living area. For purposes of this restriction the term "living area" shall mean that area of a dwelling which is heated and cooled, exclusive of porches, breezeways, carports, garages or basements.

(3) The exterior of the dwelling, servant's quarters, B & B, VRBO and guesthouses ("buildings") shall be constructed of rock, stone, stucco, and/or masonry constituting 50% of the exposed exterior of the buildings. The exposed exterior shall exclude area occupied by windows and doors.

(4) All buildings shall be substantially completed not later than twelve (12) months after the commencement of construction.

(5) All dwellings shall be newly constructed and erected on site. No dwelling shall be moved on to a Tract.

(6) A residence or dwelling shall not be occupied until the exterior thereof shall be completely finished and plumbing is connected to a septic system or other water disposal system which has been approved by Gillespie County and/or State of Texas Health Department and/or other governing body regulating wells and septic systems.

(7) Recreational vehicles, travel trailers, buses, mobile homes, modular homes, and/or manufactured homes shall not be used as a dwelling (permanent or temporary) on any tract. All boats, tractors, golf carts and ATV's, motorcycles, and other similar types of vehicles, recreational vehicles and travel trailers may be stored on a Tract provided they are not visible to the public view.

(8) All perimeter fences erected on any Tract shall be of new material and erected in accordance with professional fence building standards regarding quality and appearance. No chain link fence shall be permitted.

(9) All utility lines, including but not limited to electric, telephone and cable shall be installed underground from the point of connection with the public utility to its terminus at the structure.

Section 2. Setback Requirements

(1) Except for entrance and other gates, fences, roadways, wells, well houses, septic systems and buried or overhead electric, telephone and other buried or overhead utility lines, no improvement shall be stored, placed or erected nearer than a) 50 feet from any side boundary of Lots 2, 4-13 and 100 feet from any front boundary of Lots 2, 4-13; (b 100 feet from the front and side boundaries of Tract 1; and c) 100 feet from the boundaries of any other tract.

(2) In the event any Owner shall own two tracts that abut each other, the abutting boundary line

shall not be subject to the setback restrictions.

(3) Notwithstanding anything to the contrary herein, any boundary of a Tract that does not abut other land in the Property, is not subject to this setback restriction.

(4) Upon submission of a written request to the Declarant, the Declarant may, from time to time in its sole discretion, permit Owners to construct, erect or install Improvements which are in variance with the setback requirements as provided in this Declaration. Such variances must, in the Declarant's sole discretion, not detrimentally affect the integrity of the Subdivision. The Declarant shall not be liable to any Owner for claims, causes of action, or damages arising out of the grant or denial of any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Declarant's right to strictly enforce the covenants and restrictions provided hereunder, against any other Owner.

If written notice of approval of the variance request has not been delivered to the requesting Owner within thirty (30) days of the date of submission of the request, it shall be conclusively presumed that the Declarant has denied the request for a variance.

Section 3. Use Restrictions

(1) Except as set forth below, all Tracts constituting the Property shall be used and occupied by the Owner of the Tract for single-family residential purposes only, and no Tract shall be used for any commercial purpose. Notwithstanding the above and as exceptions thereto, a bed and breakfast or VRBO may be operated by an Owner on a Tract. For purposes of these restrictions, the term "bed and breakfast" shall mean a lodging service within rooms of the principal dwelling or in a separate guest house.

(2) No pigs, hogs, swine or fowl shall be permitted on the Property unless raised in conjunction with a 4-H or FFA related project.

(3) Declarant (and/or their tenants or assignees) shall have the right to graze cattle or livestock on an Owner's Tract until such time as such Owner has enclosed the Owner's Tract by a livestock restraining fence and upon completion of the livestock restraining fence, the right to graze cattle or livestock shall be permanently extinguished. Each Owner and their respective heirs, successors and assigns, by acceptance of title to an interest in a Tract, hereby agree to indemnify and hold harmless Declarant (and their respective tenants or assignees), from and against, and hereby waive and release any claims or causes of action such Owner may have with respect to, any injuries to any persons or any damages to any properties that may be caused by livestock on an Owner's Tract, or that may otherwise arise out of, or be suffered or incurred in connection with, the exercise by Declarant (or their tenants or assignees) of the right to graze livestock on an Owner's Tract, and/or the presence of livestock on an Owner's Tract.

The grazing rights reserved herein shall be subordinate to the right of a lienholder under a

purchase money deed of trust, home equity loan or a mechanics and materialman's lien.

(4) The owner of a tract which has a boundary on the perimeter of the Subdivision (a boundary which abuts property other than a Subdivision Tract boundary) shall maintain the fence on the Tract's boundary perimeter in a manner which will restrain livestock.

(5) There shall be no commercial feeding operation or commercial breeding of animals or fowl on any Tract. Animals used for grazing a tract while simultaneously raising young (e.g., a cow/calf operation) shall not be considered commercial breeding of animals.

(6) Abandoned or inoperative equipment, vehicles or junk shall not be stored or maintained on any Tract. Owners are to keep each Tract clean and neat in appearance and free of litter at all times.

(7) No Tract shall be further divided or resubdivided without the express approval of Declarant.

(8) Harvesting and shooting of wildlife by the use of firearms is prohibited, provided shooting of snakes, predators and other dangerous animals to protect the property or person of any property owner on any Tract is permitted. Harvesting wildlife by the use of a bow and arrow or cross bow on one or more contiguous Tracts of land owned by the same Owner that in the aggregate exceed ten acres is permitted.

(9) No Hunting Blinds/Stands/Feeders shall be placed within 150 feet of the boundary of any other Tract unless the abutting Tract is owned by the same Owner. Commercial hunting is not allowed.

(10) No prolonged or persistent discharge of firearms, such as skeet or trap-shooting, shall be allowed on any Tract.

(11) All driveways shall be constructed of asphalt, concrete, pre-manufactured stone or brick pavers, or pink crushed granite.

(12) All structures including water well pumphouses, guest houses, pool houses and storage buildings shall have exterior walls, roof and trim that are of comparable color to the main dwelling.

(13) No signs, banners or pennants of any kind shall be displayed to the public view on any Tract, except for real estate signs marketing property in the subdivision.

(14) All yards and lawns and other portions of Tracts that are landscaped or cleared shall be kept neat and well maintained and all grass, weeds and vegetation on each tract shall be kept neat in appearance.

(15) No Tract shall be used as a dumping ground for rubbish.

(16) No radio or television aerial wires or antennas shall be erected on any portion of any Tract.

(17) No building structure erected on any Tract shall exceed thirty-five (35) feet in height.

ARTICLE III.

TERM

The covenants and restrictions set forth in this Declaration are made and adopted to run with the land and shall be binding upon the undersigned and all parties and persons claiming through and under them until January 1, 2045, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless and until an instrument executed by Owners of at least fifty-one percent (51%) of the Tracts has been recorded agreeing to terminate said covenants and restrictions in whole or in part; provided that, if Declarant owns any interest in the Property at the time, the covenants and restrictions may only be terminated if the Declarant joins in executing such instrument.

ARTICLE IV.

ENFORCEMENT

Section 1. Right of Enforcement. Declarant, its successors or assigns, or any Owner, shall have the right to enforce, by proceedings at law or in equity, the terms, provisions, covenants, conditions, and restrictions of this Declaration. Failure of Declarant or any Owner to take any action upon any breach or default shall not be deemed a waiver of their right to take action upon any subsequent breach or default. Declarant, for itself, its successors or assigns, reserves the right to enforce this Declaration, though it may have previously sold and conveyed all Tracts controlled hereby. The reservation by Declarant of this right of enforcement shall not create a duty or obligation of any kind to enforce same, and Declarant shall not be subjected to any claim, demand, or cause of action from any Owner by virtue of not enforcing any term, provision, covenant, condition or restrictions herein contained.

ARTICLE V.

PARTIAL INVALIDITY

The invalidation of any of the terms, provisions, covenants, conditions or restrictions contained in this Declaration, by judgment, court order, operation of law or otherwise, shall in no way affect the validity any of the other terms, provisions, covenants, conditions or restrictions hereof, which shall remain in full force and effect.

ARTICLE VI.

AMENDMENT

(a) Except as otherwise provided herein, as long as Declarant owns any interest in the Property, the Declarant and the Owners (but expressly excluding their respective mortgagee's, if any) of at least fifty percent (50%) of the Tracts may amend this Declaration, by executing and filing an instrument containing such amendment, in the office of the County Clerk of Gillespie County, Texas. Except as otherwise provided herein, from and after the date that Declarant no longer owns any interest in the Property, the Owners (but expressly excluding their respective mortgagee's, if any) of at least eighty percent (80%) of the Tracts may amend this Declaration by executing and filing an instrument containing such amendment, in the office of the County Clerk of Gillespie County, Texas.

(b) Notwithstanding anything to the contrary, as long as Declarant retains an ownership interest in the property, Declarant shall have the right at any time, at its sole discretion and without any joinder or consent of any other party, to amend this Declaration for the purposes of correcting any error, ambiguity or inconsistency appearing herein or for any reason whatsoever deemed necessary for the benefit of the overall development as determined by Declarant in the exercise of its good faith judgment. Said amendment shall be effective upon filing of the instrument containing such amendment in the office of the County Clerk of Gillespie County, Texas.

ARTICLE VII.

WAIVER AND LACHES

The obligation to abide by the provisions contained in this Declaration shall be deemed to be of a continuing and continual basis. Each and every day an Owner allows a condition to exist on such Owner's Tract which is not in compliance with the requirements contained herein shall constitute a separate and individual violation hereof, and shall give rise to a new cause of action for such breach. The intended effect and express purpose of this provision shall be that every Owner, by accepting title to a Tract, hereby waives the affirmative defenses of the statute of limitations, waiver and laches with respect to covenant violations. Noncompliant conditions shall be allowed to exist on a Tract only upon the Owner obtaining a written variance in accordance with the applicable provisions herein. Failure of Declarant, or of any Owner to enforce the terms of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

EXECUTED by said Declarant, this 23 day of March, 2020.

Dale A. Crenwelge

DALE A. CRENWELGE

CJB/emh/REAL ESTATE/restrictions

THE STATE OF TEXAS §

COUNTY OF GILLESPIE §

This instrument was acknowledged before me on this the 23 day of March, 2020, by DALE A. CRENWELGE.

Notary Public, State of Texas

CAROLYN WEIDENFELLER
Notary Public, State of Texas
Comm. Expires 03-12-2024
Notary ID 261617-4

EXHIBIT "A"



SEARCHERS
LAND SURVEYING, LLC
MASON | FREDERICKSBURG
P.O. Box 528 Mason, TX 76856 | 325-347-7430 | TBPLS Firm #10193966
P.O. Box 1504 Fredericksburg, TX 78624 | 806-252-9810 | TBPLS Firm #10194211
www.searchersls.com

LEGAL DESCRIPTION: Being 10.540 acres of land out of the Richard Slack Survey No. 194, Abstract No. 610 in Gillespie County, Texas and being a portion of that certain 120.5 acre tract described in Instrument No. 20190695 of the Official Public Records of Gillespie County, Texas; Said 10.540 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Land Surveying, LLC in November 2019:

BEGINNING at a 1/2 inch iron rod with cap marked "Bonn 4447" found in the occupied south line of that certain 200 acre tract, First Tract, recorded in Volume 81, Page 215 of the Deed Records of Gillespie County, Texas, for the northeast corner of that certain 74.92 acre tract described in Volume 164, Page 456 of said Deed Records, the northwest corner of said 120.5 acre tract, and the northwest corner hereof;

THENCE North 87°55'16" East a distance of 565.74 feet along the occupied south line of said 200 acre tract and the north line of said 120.5 acre tract to a 1/2 inch iron rod set for the northeast corner hereof, and from which a 6 inch cedar fence corner post found for the northeast corner of said 120.5 acre tract bears North 87°55'16" East a distance of 2607.61 feet;

THENCE crossing said 120.5 acre tract, the following 2 courses:

1. South 00°47'14" East a distance of 721.36 feet to a 1/2 inch iron rod set for the southeast corner hereof;

2. South 89°18'12" West a distance of 796.78 feet to a 1/2 inch iron rod found for a corner of said 74.92 acre tract, a corner of said 120.5 acre tract; and the southwest corner hereof;

THENCE along the east line of said 74.92 acre tract and the west line of said 120.5 acre tract, the following 2 courses:

1. North 38°57'53" East a distance of 195.31 feet to a 38 inch dead oak tree found;
2. North 10°00'45" East a distance of 567.23 feet to the POINT OF BEGINNING containing 10.540 acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are Grid, NAD 83, Texas Central Zone 4203 and are derived from GPS techniques. A "1/2 inch iron rod set" is a 1/2 inch rebar with plastic cap marked "Searchers RPLS 6275".

Surveyed by;

Josh W. Leamons
Registered Professional Land Surveyor #6276
Date: November 22, 2019
Job# 19-2969

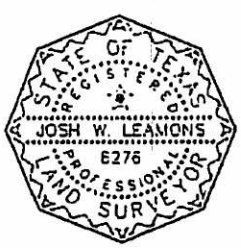


EXHIBIT "B"



SEARCHERS
LAND SURVEYING, LLC
MASON | FREDERICKSBURG
P.O Box 528 Mason, TX 76856 | 325-347-7489 | TBPLS Firm #10193966
P.O Box 1504 Fredericksburg, TX 78624 | 806-252-9810 | TBPLS Firm #10194211
www.searchersls.com

LEGAL DESCRIPTION: Being 11.510 acres of land out of the Richard Slack Survey No. 194, Abstract No. 610 in Gillespie County, Texas and being a portion of that certain 120.5 acre tract described in Instrument No. 20190695 of the Official Public Records of Gillespie County, Texas; Said 11.510 acre tract being more particularly described as follows and as surveyed under the supervision of Searchers Land Surveying, LLC in November 2019:

BEGINNING at a 1/2 inch iron rod with cap marked "Searchers RPLS 6275" found in the east line of that certain 74.92 acre tract described in Volume 164, Page 456 of said Deed Records and the west line of said 120.5 acre tract as defined by the boundary line agreement described in Instrument No. 20190290 of said Official Public Records, for the northwest corner of that certain 20.873 acre tract described in Instrument No. 20194205 of said Official Public Records and the southwest corner hereof;

THENCE along the east line of said 74.92 acre tract and the west line of said 120.5 acre tract, the following 6 courses:

1. North 04°02'06" West a distance of 96.22 feet to a 20 inch live oak tree fence corner found;
2. North 00°33'54" West a distance of 231.49 feet to a 1/2 inch iron rod found;
3. North 26°23'11" East a distance of 70.99 feet to a 16 inch dead oak tree fence corner found;
4. North 18°59'59" East a distance of 109.66 feet to a 14 inch live oak tree fence corner found;
5. North 23°51'41" East a distance of 29.44 feet to a 12 inch dead oak tree fence corner post found;
6. North 32°17'20" West a distance of 197.28 feet to a 1/2 inch iron rod found for a corner of said 120.5 acre tract and the northwest corner hereof;

THENCE crossing said 120.5 acre tract, the following 5 courses:

1. North 89°18'12" East a distance of 896.78 feet to a 1/2 inch iron rod set for the northeast corner hereof;

2. South 00°47'14" East, at a distance of 371.08 feet pass a 1/2 inch iron rod set, continue in all for a total distance of 402.04 feet to a 1/2 inch iron rod with cap marked "Searchers RPLS 6275" found;
3. South 74°59'33" West a distance of 250.68 feet to a 1/2 iron rod with cap marked "Searchers RPLS 6275" found;
4. Along a curve to the left having an arc length of 191.04 feet, a radius of 200.00 feet, and a chord that bears South 47°37'42" West a distance of 183.86 feet to a 1/2 inch iron rod with cap marked "Searchers RPLS 6275" found;
5. South 20°15'51" West a distance of 115.68 feet to a 1/2 inch iron rod with cap marked "Searchers RPLS 6275" found in the north line of said 20.873 acre tract, and from which a 1/2 inch iron rod with cap marked "Searchers RPLS 6275" found for a corner of said 20.873 acre tract bears North 90°00'00" East a distance of 263.83 feet;

THENCE North 90°00'00" West, at a distance of 31.98 feet pass a 1/2 inch iron rod set, continue in all for a total distance of 448.93 feet crossing said 120.5 acre tract along the north line of said 20.873 acre tract to the POINT OF BEGINNING containing 11.510 acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings, distances and acreage shown hereon are Grid, NAD 83, Texas Central Zone 4203 and are derived from GPS techniques. A "1/2 inch iron rod set" is a 1/2 inch rebar with plastic cap marked "Searchers RPLS 6275".

Surveyed by;

Josh W. Leamons
Registered Professional Land Surveyor #6276
Date: November 22, 2019
Job# 19-2969

STATE OF TEXAS
REGISTERED
JOSH W. LEAMONS
6276
PROFESSIONAL
LAND SURVEYOR

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
Mary Lynn Rusche

GILLESPIE COUNTY TEXAS 1848

Mary Lynn Rusche, County Clerk
Gillespie County Texas
March 24, 2020 03:03:38 PM
FEE: $70.00 LSUTTLE
DCC

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