

## MODIFICATION OF RESTRICTIVE COVENANTS AGREEMENT

This Agreement is made as of this 2 day of May, 2005, by and among the Parties whose names and mailing addresses are set forth below.

## RECITALS

1. The Parties are all the respective owners of tracts of land described in the Declaration of Restriction recorded in Volume 5159, Page 94 and more particularly in Exhibit "A" and "B" attached hereto and made a part hereof for all purposes:

- a. The Bill & Ann Messer Family Limited Partnership and John Messer, whose address is P. O. Box 969, Belton, Texas 76513;
- b. Dan William Giebel and wife, Shelley Cole Giebel, whose address is c/o 3010 Scott Boulevard, Suite 104; Temple, Texas 76504;
- c. Joseph D. Cox, Jr. and wife, Regina M. Cox, whose mailing address is 324 Messer Ranch Road, Belton, Texas 76513; and
- d. Joseph Bernard Zizzo and wife, Terrie Zizzo, whose address is 1350 Jack Rabbit Road, Belton, Texas 76513.

2. Each of the above referenced owners' tracts come out of a 202.472 acre tract out of John Beal Survey, Abstract No. 70 and the J. M. Porter Survey, Abstract No. 648, in Bell County, Texas. The 202.472 acre tract was originally owned by Magnolia-Lonestar, Inc.

3. Magnolia-Lonestar, Inc. imposed restrictive covenants on each of the above referenced tracts as they were sold out of the 202.472 acre tract.

4. Each of the present owners of the tracts coming out of the 202.472 acre tract have agreed that paragraph 1.11 and 1.12 of the restrictive covenants shall be deleted and replaced with the following:

- 1.11 Stalls, corals, pens, barns, fences, and other related facilities which are necessary to prevent the keeping of such animals from becoming a nuisance shall be kept in a neat and clean condition so as not to create a nuisance. The minimum distance a horse or animal can be kept in such facility from a property line fronting Paddy Hamilton Road (as the said Paddy Hamilton Road exists on the date this instrument is recorded) is 150 feet and 50 feet from any adjoining property owner.
- 1.12 No building or other structure shall be placed within 100 feet of the south right of way line of Paddy Hamilton Road (as the said Paddy Hamilton Road exists on the date this instrument is recorded) and no building or other structure shall be placed within 50 feet of the north right-of-way line

of Paddy Hamilton Road (as the said Paddy Hamilton Road exists on the date this instrument is recorded).

NOW, THEREFORE, in consideration of these mutual promises, covenants and agreements, the Parties agree that paragraphs 1.11 and 1.12 of the restrictive covenants imposed on the tracts described in Exhibits "A", and "B" attached hereto are hereby modified as stated above.

This Agreement is executed in a number of counterpart originals, each of which is deemed to be an original, and all of which shall constitute one and the same instrument.

This Agreement shall not become effective as to any Party until this document has been executed by all of the Parties, at which time this Agreement shall become effective.

This instrument contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by all the Parties.

BILL & ANN MESSER FAMILY LIMITED  
PARTNERSHIP, a Texas limited partnership

By:

B & A MESSER, LLC,  
a Texas limited liability company

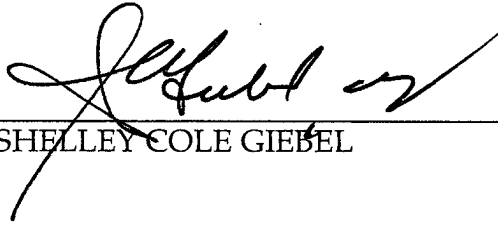
By:



Ann Messer, Secretary and Manager

  
\_\_\_\_\_  
JOHN MESSER

  
\_\_\_\_\_  
DAN WILLIAM GIEBEL

  
SHELLEY COLE GIEBEL

\_\_\_\_\_  
JOSEPH D. COX, JR.

\_\_\_\_\_  
REGINA M. COX

\_\_\_\_\_  
JOSEPH BERNARD ZIZZO

\_\_\_\_\_  
TERRIE ZIZZO

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2005, by Ann Messer, Secretary and Manager of B & A Messer, LLC, general partner to Bill & Ann Messer Family Limited Partnership, a Texas limited partnership, on behalf of said partnership.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

*Shelley Cole Giebel*  
\_\_\_\_\_  
SHELLEY COLE GIEBEL

*Shelley*  
*Joseph D. Cox, Jr.*  
\_\_\_\_\_  
JOSEPH D. COX, JR.

*Regina M. Cox*  
\_\_\_\_\_  
REGINA M. COX

*Joseph Bernard Zizzo*  
\_\_\_\_\_  
JOSEPH BERNARD ZIZZO

*Terrie Zizzo*  
\_\_\_\_\_  
TERRIE ZIZZO

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 2nd day of May, 2005, by Ann Messer, Secretary and Manager of B & A Messer, LLC, general partner to Bill & Ann Messer Family Limited Partnership, a Texas limited partnership, on behalf of said partnership.



*Staci Sellears*  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

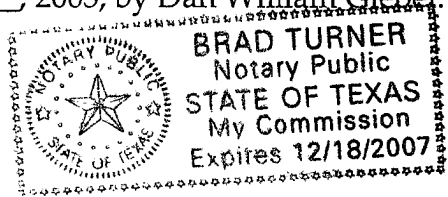
This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by John Messer.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 20 day of May, 2005, by Dan William Giebel.

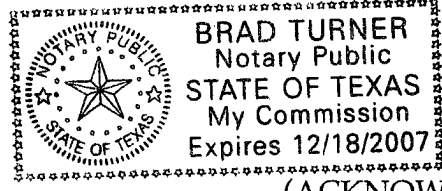


*Brad Turner*  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 20 day of May, 2005, by Shelley Cole Giebel.



*Brad Turner*  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2005, by Joseph D. Cox, Jr.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2005, by Regina M. Cox.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2005, by Joseph Bernard Zizzo.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2005, by Terrie Zizzo.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 2nd day of May, 2005, by John Messer.



Staci Sellears  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

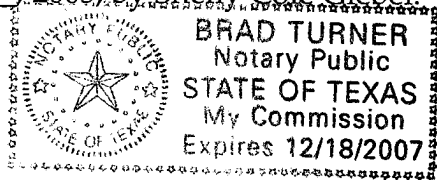
This instrument was acknowledged before me on the ~~13<sup>th</sup>~~ day of \_\_\_\_\_, 2005, by Dan William Giebel.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 20 day of May, 2005, by Shelly Cole Giebel.

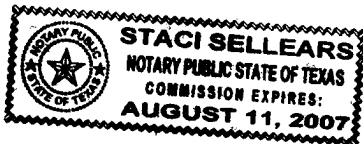


Brad Turner  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 13<sup>th</sup> day of May, 2005, by Joseph D. Cox, Jr.



Staci Sellears  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 13<sup>th</sup> day of May, 2005, by Regina M. Cox.



Staci Sellars  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 2<sup>nd</sup> day of May, 2005, by Joseph Bernard Zizzo.



Staci Sellars  
NOTARY PUBLIC, STATE OF TEXAS

(ACKNOWLEDGMENT)

STATE OF TEXAS  
COUNTY OF BELL

This instrument was acknowledged before me on the 2<sup>nd</sup> day of May, 2005, by Terrie Zizzo.



Staci Sellars  
NOTARY PUBLIC, STATE OF TEXAS



TRACT I

FIELD NOTES for a tract of land in Bell County, Texas, part of the John Deal Survey, Abstract No. 70, and the land herein described being a part of that certain 200 acre tract of land described as "First Tract" in a warranty deed of gift from Lavada Hamilton House, et al, to Bell County, a Political Subdivision of the State of Texas, said deed being of record in Volume 2804, Page 78, Deed Records of Bell County, Texas.

BEGINNING at a  $\frac{1}{8}$ " iron rod found in the intersection of the south right-of-way of Paddy Hamilton Road with the east line of the 200 acre tract and being in the west line of a 214.50 acre tract described in a deed to Thomas Ewell Sanderford, Jr., of record in Volume 976, Page 227, Deed Records of Bell County, Texas, for the northeast corner of this.

THENCE S.  $20^{\circ}44'59''$  W., 3433.06 feet (deed S.  $19^{\circ}$  W.) with the east line of the 200 acre tract and the west line of the Sanderford 214.50 acre tract and a 115.00 acre tract described in a Volume 976, Page 227, to a  $\frac{3}{8}$ " iron rod set in the north line of a 235 acre tract described in a warranty deed to John B. Messer of record in Volume 238, Page 425, being the southwest corner of the 115.00 acre tract and the southeast corner of the 200 acre tract, for the southeast corner of this.

THENCE N.  $69^{\circ}21'14''$  W., 2076.00 feet (deed N.  $71^{\circ}$  W., 2086.11 feet) to a  $\frac{1}{8}$ " iron rod found, being the northwest corner of the Messer 235 acre tract and the southwest corner of the 200 acre tract and being in the east line of a 224 acre tract described in a deed to Glenn R. Baird and wife Dorothy Baird of record in Volume 976, Page 510, Deed Records of Bell County, for the southwest corner of this.

THENCE N.  $19^{\circ}00'00''$  E., 2901.09 feet (deed N.  $19^{\circ}$  E.) with the west line of the 200 acre tract, and the east line of the Baird 224 acre tract and the east line of a 5.00 acre tract described in a deed to Carl Drake in Volume 3234, Page 179, a 10.00 acre tract described in a contract of sale and purchase to Carl Drake of record in Volume 3234, Page 179 and with the east line of the remainder of a 113.43 acre tract described in a deed to the J.L. Shepherd Family L.P. of record in Volume 3562, Page 702, to a 1" iron pipe found in the south right of way of Paddy Hamilton Road, being the northeast corner of the 113.43 acre tract, for the northwest corner of this.

THENCE S.  $83^{\circ}11'06''$  E., 2230.21 feet with the south right of way of Paddy Hamilton Road to the PLACE OF BEGINNING containing 154.00 acre of land.

The bearings for the above description are based upon the west line of the 200 acre tract as described in Volume 2804, Page 78, Deed Records of Bell County, Texas.

EXHIBIT

"A"

TRACT II

FIELD NOTES for a tract of land in Bell County, Texas, part of the John Beal Survey, Abstract No. 70, and the J.M. Porter Survey, Abstract No. 648, and the land herein described being a part of that certain 200 acre tract described as "First Tract" and all of that certain tract of land described as "Second Tract" in a warranty deed of gift from Lavada ... .. to Bell County, A Political Subdivision of the State of Texas, said deed being of record in Volume 2804, Page 78, Deed Records of Bell County, Texas.

BEGINNING at a 3/8" iron rod set at the intersection of the north right of way of Paddy Hamilton Road with the west line of the 200 acre tract, being the southeast corner of 25.43 acre tract described in a deed to J.L. Shepherd Family L.P., said deed being of record in Volume 3562, Page 702, for the southwest corner of this.

THENCE N. 20°37'26" E., 829.51 feet (deed N. 19° E.) with the west line of the 200 acre tract and the east line of the 25.43 acre tract to a 3/8" iron rod set in the south right-of-way of the G.C. and S.F. Railroad, being the northeast corner of the 25.43 acre tract for the northwest corner of this.

THENCE with the south right-of-way of the G.C. & S.F. Railroad and a curve to the right 620.68 feet (long chord bears N. 76°24'45" E., 620.68 feet, having a radius of 6285.74 feet) to a 3/8" iron rod set.

THENCE continuing with the south right-of-way of the G.C. and S.F. Railroad N. 78°53'53" E., 774.68 feet to a 3/8" iron rod set being the northeast corner of the "Second Tract" for a corner of this.

THENCE S. 11°38'19" E., 444.28 feet (deed S. 15° E.) with the east line of the "Second Tract" to a 3/8" iron rod set in the north line of the 200 acre tract, being the southeast corner of the "Second Tract" and the southwest corner of a 65 acre tract described in a deed to J. Roy Norman of record in Volume 757, Page 425, for an ell corner of this.

THENCE S. 69°24'18" E., 758.43 feet (deed S. 71° E.) with the north line of the 200 acre tract and the south line of the 65 acre tract to a 3/8" iron rod set on the Bank of Nolan Creek, being the northeast corner of the 200 acre tract and the southeast corner of the said 65 acre tract, also being the northwest corner of a 214.50 acre tract described in a deed to Thomas Ewell Sanderford, Jr., of record in volume 976, Page 277, for the northeast corner of this.

THENCE S. 20°21'40" W., 685.69 feet (deed S. 19° W.) with the east line of the 200 acre tract and the west line of the 214.50 acre tract to a 3/8" iron rod set in the north right-of-way of Paddy Hamilton Road for the southeast corner of this.

THENCE N. 82°57'50" W., 2233.24 feet with the north right-of-way of Paddy Hamilton Road to the PLACE OF BEGINNING containing 48.472 acres of land.

The bearings for the above description are based upon the west line of the 200 acre tract as described in Volume 2804, Page 78, Deed Records of Bell County, Texas.

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Exhibit B