

220690

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

KINGS POINT SUBDIVISION

ROSIE BOSENBURY
COUNTY CLERK COMAL COUNTY

BY [Signature]
33.00 pd

THE STATE OF TEXAS §
COUNTY OF COMAL § KNOW ALL MEN BY THESE PRESENTS: COUNTY

THAT this Declaration is made on the date hereinafter set forth by KINGS POINT JOINT VENTURE, a joint venture, (hereinafter referred to as Declarant);

W I T N E S S E T H:

WHEREAS, Declarant is the owner of all tracts, except Lot 13, Block 2 in Kings Point Subdivision, a subdivision in Comal County, Texas, according to the map or plat thereof recorded in Volume 6, page 86, of the Map Records of Comal County, Texas (hereinafter referred to as the Subdivision); and

WHEREAS, it is deemed to be in the best interests of Declarant and any other persons who may purchase property in the Subdivision, that there be established and maintained a uniform plan for the improvement and development of the Subdivision as a highly restricted and modern subdivision of the highest quality;

WHEREAS, the Subdivision is presently restricted and subject to those covenants, easements, restrictions and conditions set out and recorded in Vol. 308, page 430, Comal County Deed Records; and

WHEREAS, Declarant desires to supplant, amend and replace in its entirety the said present restrictions with those set out hereinafter with respect to all lots which it owns;

NOW, THEREFORE, Declarant hereby declares that all of the tracts which it owns in Kings Point Subdivision 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 said real property. These easements, covenants, restrictions and conditions shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in said real 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. "Association" shall mean and refer to Kings Point Property Owners Association, Inc., a Texas non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to that portion of the Subdivision, owned or acquired by the Association for the common use and enjoyment of the Members of the Association and shall include, but is not limited to, all recreational facilities, community facilities, swimming pools, storage facilities, pumps, trees, landscaping, sprinkler systems, pavement, streets, pipes, wires, conduits and other public utility lines situated thereon.

Section 3. "Declarant" shall mean and refer to Kings Point Joint Venture, its successors and assigns.

Section 4. "Purchaser" shall mean and refer to an individual who purchases a lot.

Section 5. "Lot" or "Tract" shall mean and refer to any of the numbered plots of land shown on the recorded map or plat of the Subdivision.

"Corner Lot" is a lot that abuts on more than one street. A Corner Lot shall be deemed to front on the street designated by the Architectural Control Committee.

Section 6. "Living Unit" shall mean and refer to any improvements on a Lot which are designated and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single housekeeping unit.

Section 7. "Occupied Lot" shall mean and refer to any Lot on which there is a Living Unit in which one or more persons are residing.

Section 8. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Lot which is a part of the Subdivision, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Mortgagee" shall mean and refer to a person or entity which has loaned or advanced money to an Owner or to Declarant for the purchase or improvement of a Lot or other property in the Subdivision and has taken a recorded lien on such property to evidence the security for such loan.

ARTICLE II

Property Rights

Section 1. Owner's Easement of Access and Enjoyment: Every Owner shall have an easement of access and a right and easement of enjoyment in and to Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Area;

(b) The right of the Association to suspend a Member's voting rights and right to use the recreational and other facilities owned or operated by the Association, for any period during which any assessment against his Lot or any other sum due the Association by him remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members; and,

(d) The right of the Association to limit the number of guests of Members.

Section 2. Delegation of Use: Any Owner may delegate in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities to members of his family, or his tenants, who reside on the Lot owned by him. If a residence is leased, then the lessee shall have the use of the Common Area. The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot, by acceptance of a Deed therefor, whether it shall be expressed in the Deed or other evidence of the conveyance, is deemed to covenant that any lease executed on a Lot shall be in writing and contain provisions binding any lessee thereunder to the terms of this Declaration of Covenants, Conditions and Restrictions and any rules and regulations published by the Association applicable to the Lot and further providing that non-compliance with these terms of the lease shall be a default thereunder.

Section 3. Title to the Common Area: The Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area. Notwithstanding the above, the Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Common Area for utility services.

ARTICLE III

Membership and Voting Rights

Section 1. Membership: Every person or entity who is a record owner of a fee or undivided fee interest in a Lot which is a part of the Subdivision, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Lot, except as to a lessee. Ownership of a Lot shall be the sole qualification for membership, except as to a Lessee. Any mortgagee or lienholder who acquires title to any Lot which is a part of the Subdivision, through judicial or non-judicial foreclosure, shall be a Member of the Association.

Section 2. Voting Rights: There shall be two classes of membership entitled to voting rights in the Association and they shall be as follows:

(a) Class A: All Members in the Association, other than Declarant, shall be considered Class A Members, and for each Lot owned shall be entitled to one vote on each matter coming before the Members at any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as hereinabove provided in Article II, Section 1(b). When a particular Lot is owned by more than one individual or entity, all the individuals or entities holding an ownership interest in that Lot shall be considered Class A Members, however, for that particular Lot they shall be entitled to a total of no more than one vote on each matter coming before the Members at any meeting or otherwise. The vote for such Lot shall be exercised as they among themselves determine.

(b) Class B: Class B Members shall be those individuals or entities who are herein defined as Declarant (including the original joint venturers individually comprising Declarant), and for each Lot owned they shall be entitled to five votes on each matter coming before the Members at any meeting or otherwise.

When a particular Lot is owned by more than one such individual or entity, all such individuals or entities holding an ownership interest in that Lot shall be considered Class B Members, however, for that particular Lot they shall be entitled to a total of no more than five votes on each matter coming before the Members at any meeting or otherwise. The five votes for such Lot shall be exercised as they among themselves determine. In the event a Lot owned by a Class B Member is sold to an Owner who would be classified as a Class A Member, the Class B Membership shall terminate with respect to such Lot. All Class B Memberships shall cease and be automatically converted into Class A Memberships on the happening of either of the following events, whichever occurs earlier:

(i) When the total number of votes entitled to be cast by the Class A Members at any meeting of the Members or otherwise equals the total number of votes entitled to be cast by the Class B Members; or

(ii) Ten (10) years from the date this Declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Comal County, Texas, for recordation in the Deed Records of Comal County, Texas.

ARTICLE IV

Covenant for Maintenance Assessment

Section 1. Creation of the Lien and Personal Obligation for Assessments: The Declarant, for each Lot within the Sub-division which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Lot which shall be or thereafter become assessable, by acceptance of a Deed therefor, whether or not it shall be expressed in the Deed or other evidence or the conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges;
- (b) Special assessments for capital improvements; and
- (c) Any other sums to the extent they are specifically provided for elsewhere in the instrument.

Such assessments or charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing vendor's lien upon the Lot against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs, and reasonable attorney's fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title to such Lot.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums, assessments by Kings Point Property Owners Association, Inc., and repair, maintenance and acquisition expenses incurred by the Association and at the option of the Board of Directors of the Association for any or all of the following purposes: lighting, improving and

maintaining streets, alleyways, sidewalks, paths, parks, parkways, and esplanades in the Subdivision; collecting and disposing of garbage, ashes, rubbish and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with enforcement of this Declaration of Covenants, Conditions and Restrictions; employing policemen or watchmen and/or a security service; fogging and furnishing other general insecticide services; acquiring and maintaining any amenities or recreational facilities that may be operated in whole or in part for the benefit of the Owners; repayment of debt (principal and interest) incurred by the Association to acquire, repair, maintain or improve the Common Area or facilities situated thereon; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the property in the Subdivision in neat and good order, or which it considers of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. Such funds may also be used to repair, maintain and restore abandoned or neglected residences and Lots as hereinafter provided. It is understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is reasonable and exercised in good faith.

Section 3. Annual Assessments: The initial annual assessment shall be \$420.00 payable in advance on January 1 of each year. The annual assessment with respect to each Lot shall commence and be payable upon the sale of such Lot by Declarant, and if the sale occurs effective other than on January 1, the purchaser shall pay at closing to the Association the prorata assessment from the date of purchase to January 1 of the following year. The Board of Directors on or before November 30 shall have the authority without a vote of the Members to increase the annual assessment 12% per year. Such increase shall become effective on January 1 following the date a notice of increase is filed of record with the Clerk of Comal County, Texas.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessment authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of a particular capital improvement located upon Common Areas, including the necessary fixtures and personal property related thereto. The Board of Directors of the Association shall call a meeting of the Members for the purpose of voting on such special assessment. The amount and time and manner of payment of such assessment shall be established by a vote of the Members owning at least two-thirds of the Lots in the Subdivision. Notice of special assessment shall be mailed to each Owner at the address shown in the records of the Association.

Section 5. Notice of Quorum for any Action Authorized Under Sections 3 and 4: Written notice of any meeting of the Members of the Association called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members and shall be posted at a public place within the Subdivision not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of the Members holding fifty per cent (50%) of all membership votes entitled to be cast in each membership class or their proxies shall constitute a quorum. If

the required quorum is not present, another meeting may be called subject to the same notice and quorum requirements. In lieu of such a meeting and notice, the Association may obtain the required approval of the Members by having such Members sign written authorizations of action under Sections 3 and 4 and containing a waiver of notice and meeting.

Section 6. Rates of Assessment: Both annual and special assessments shall apply to all Lots, except those owned by the Declarant and must be fixed at uniform rates.

Section 7. Certification as to Payment of Assessments: The Association shall, upon demand, and for a reasonable charge, furnish a certificate concerning the status of payment of annual or special assessments. A properly executed certificate issued by the Association shall be binding upon the Association as of the date of issuance with respect to the matters set out therein.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association: Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date at the rate of eighteen per cent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien herein retained against the Lot. Interest, court costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a non-judicial foreclosure on real property covered by the then current State Bar of Texas deed of trust promulgated form, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with said lien, with any one of the current officers of the Association serving as the trustee empowered to conduct the sale. Alternatively, the Association may resort to other legal and equitable relief with respect to enforcement of the liens securing the payment of assessments as may be provided by applicable law, including suit for judicial foreclosure. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages: As hereinabove provided, the title to each Lot shall be subject to the vendor's lien securing the payment of all assessments and charges due the Association, but this vendor's lien shall be subordinate to any valid purchase money lien or mortgage created for improvements covering a Lot. Sale or transfer of any Lot shall not affect this vendor's lien. Provided, however a sale pursuant to a foreclosure of a valid purchase money or improvement mortgage shall extinguish the liens securing any unpaid assessments to the date of such sale, and the purchaser at such sale shall thereafter be the Owner liable for all assessments from and after the date of such foreclosure sale. No extinguishment of the assessment liens shall ever relieve the defaulting Owner from personal liability for payment of such assessments.

In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

Section 10. Exempt Property: All properties dedicated to, and accepted by, a local public authority and all properties owned by Declarant or the Association shall be exempt from the assessments and charges created hereby. Lots owned by any individual venturers of Declarant shall be subject to the same assessments and charges as Lots owned by other Owners.

ARTICLE V

Insurance

The Association, through the Board of Directors, or its duly authorized agent, shall have the authority to obtain the following types of insurance policies:

(a) Property insurance covering the Common Area and all improvements thereon in an amount equal to the full replacement value of the improvements and facilities located upon the Common Area and owned by the Association (including all building service equipment and the like) with an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, and, if necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement in Texas, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, and any such other risk as shall customarily be covered with respect to projects similar in construction, location and use;

(b) A comprehensive policy of public liability insurance covering all of the Common Area and insuring the Association, within such limits as it may consider acceptable (but with coverage of not less than \$1,000,000 for all claims for personal injury and/or property damage arising out of a single occurrence); such coverage to include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location, and use; and

(c) A policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling funds of the Association; such fidelity bonds shall be of the kind and in an amount the Association deems necessary for the protection of the Owners.

Premiums for all such insurance policies carried by the Association shall be a common expense payable by assessments on all Lots. Liability and property insurance for Lots and the contents of residences shall be the responsibility of each individual Owner. All proceeds from policies held by the Association shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. In no event shall the insurance company or the bank or other financial institution holding proceeds on a policy issued in the name of the Association be authorized to distribute any proceeds therefrom to the Declarant. Proceeds from such policies shall be used by the Association only for the benefit of its Members and where such proceeds arise out of an occurrence in which a building or improvement owned by the

Association is damaged or destroyed, they shall be used to repair, restore and rebuild such building or improvements. In the event the insurance proceeds are determined to be insufficient to pay all costs of repairing and/or rebuilding said improvements to their original condition, the Association may levy a special assessment for capital improvements against all Owners to make up the deficiency. This shall be done only after compliance with all the requirements for imposition of special assessments.

ARTICLE VI

Permitted Uses and Restrictions

LOT USE: Except as otherwise provided herein, said land and premises shall be used solely for single family residential purposes. The term "Residential Purposes", as used herein, shall be held and construed to exclude duplexes, or any other type of multi-family dwelling. No Lot shall be used for more than one residence, and its outbuildings. An Owner who has constructed a primary living unit on his Lot shall be permitted to erect not more than one structure on each lot which may be used for guest or servants quarters, provided such quarters shall not be let, rented or leased separately from the primary living unit or otherwise used for commercial or business purposes. Any such structure for guest or servants quarters shall be constructed in accordance with the standards established by the Architectural Control Committee. No Lot shall be used or occupied for trade or business of any kind. Declarant reserves and excepts the right and authority at any time prior to April 1, 1986, to designate Tract 45 in the Subdivision for multi-family residential use. In that regard, Declarant, its successors and assigns may, after such designation, resubdivide said tract, submit all or part of it to a condominium regime or planned unit development, or otherwise develop and use the property for such multi-family use. In the event of a resubdivision or submission to a condominium regime or planned unit development, each Lot as resubdivided and each residential unit in a condominium or planned unit development shall be deemed to be a Lot as defined herein, and the owners thereof shall be Owners and Members for the purposes herein contained. Declarant also reserves the right to amend or revise these restrictions with respect to Tract 45 as appropriate for a first-class, highly-restricted multi-family residential use, including, for example but not in limitation, the right to lower the minimum square footage of a Living Unit and change setback lines.

EXISTING STRUCTURES: No existing structure shall be moved on said land and premises, and all improvements erected thereon shall be of a permanent type, character and construction. No building previously constructed elsewhere shall be moved on any Lot.

SET-BACK LINES: Improvements on all Lots shall have minimum setback lines as follows:

- A. Tract 1 Block 1, and Tracts 1 and 21 of Block 2, forty (40) feet from the property lines abutting any public street.
- B. Tracts 1 and 2 of Block 3, forty (40) feet from the property line abutting Kings Point Drive and twenty-five (25) feet from the property line abutting Kings Point Loop.
- C. Tract 3 of Block 3, twenty-five (25) feet from the property lines abutting any public street.
- D. On all other Lots, forty (40) feet from the property lines abutting any public street.

- E. On all Lots, ten (10) feet from the side or adjoining property lines.
- F. On all Lots, except the Lots in Block 1 and Block 3, thirty (30) feet from the rear property line.
- G. All Lots in Block 1 shall have no rear setback lines.
- H. All Lots in Block 3, twenty (20) feet from the rear property line.

All setback lines set out in these restrictions shall control in the event of a conflict with the minimum setback lines as shown on the plat of the subdivision.

For the purpose of this covenant, eaves and steps shall not be considered as a part of the building provided, however, that there be a minimum of ten (10) feet between edges of overhangs of structures on adjacent lots and provided that this shall not be construed to permit any encroachment on another Lot or on a street. The maximum area of a Lot which may be used for buildings shall not exceed forty per cent (40%) thereof. Building area includes the total ground area of each building and accessory building but does not include the area of uncovered entrance platforms, terraces and steps.

MINIMUM LIVING AREA: The minimum floor living area of the main structure of any living unit exclusive of porches, terraces, garages and detached accessory buildings shall be 1800 square feet of heated living area. The minimum ground floor living area of one and one-half story and two-story residences, exclusive of porches, terraces, garages and detached accessory buildings shall be 1000 square feet of heated living area.

ARCHITECTURAL CONTROL COMMITTEE: There is herewith created an Architectural Control Committee, hereinafter referred to as the Committee, and is composed of H. DWAIN BROWN, MERLE BROWN and WILLIAM C. CLEGG. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining shall have full authority to designate a successor. At any time after April 1, 1990, a majority of the Lot Owners in the Subdivision may change the membership of the Committee or may withdraw or restore to the Committee any of the powers and duties.

APPROVAL OF PLANS: No building shall be erected, placed or altered on any Lot until the construction plans and specifications, plat showing the location of the structure and the landscaping plan, have been approved by the Architectural Control Committee as to harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. The Committee's approval or disapproval required in these covenants shall be in writing. A final inspection upon completion of construction is required to insure compliance with plans and specifications as submitted to the Architectural Control Committee. In the event the Committee or its designated representative fails to approve or disapprove the plans and specifications in writing within twenty-one (21) days after working drawings and written detailed specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will be deemed to have been given and there shall be deemed to have been compliance with these restrictions. It shall be the general purpose of the Committee to provide for the maintenance of high standards of architecture and construction in such a manner as to enhance the aesthetic purposes and structural soundness of the improvements to the subdivision. The Committee shall be guided by and controlled by this Declaration except when

in their sole discretion good planning would dictate to the contrary.

ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided they are penned or leashed when outside at all times, and that they are not kept, bred or maintained for any commercial purposes.

DISPOSAL OF GARBAGE AND TRASH: No Lot shall be used or maintained as a dumping ground. No rubbish, trash, garbage or any other waste, shall be kept except in covered sanitary containers. Equipment for the storage or disposal of such materials shall be kept in a clean sanitary condition. No trash, ashes or other refuse may be thrown or dumped on any vacant lot in said addition. Grass, weeds and vegetation on each Lot sold shall be mowed regularly and drainage areas over and across any part of a Lot shall be kept clean and open so as to maintain the same in a neat and attractive manner. Dead trees, shrubs, vines and plants shall be removed within a reasonable time from the property. Until a home or residence is built on a Lot, the Association may have the grass, weeds and vegetation cut when and as often as the same is necessary in its judgment and may have dead trees, shrubs and plants removed and the Owner of such Lot shall be obligated to reimburse the Association for the cost of such work plus interest at eighteen per cent (18%) per annum, and such cost may be assessed and be declared a lien on the land.

SIGNS: No sign of any kind shall be displayed to the public view on any lot except one sign of not more than three (3) square feet advertising the property for sale or rent, except signs used by a builder to advertise the property during the construction and sales period.

DRILLING AND MINING: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil well, tanks, tunnels, mining excavations or shafts be permitted upon or in any Lot.

GARAGE: Any residence constructed on said premises shall be required to have a garage, sufficient to store a minimum of two (2) cars. The exterior of the garage shall be constructed of the same material as that of the main residence. At the time of the erection of a residence on any Lot, a garage sufficient to store a minimum of two (2) cars shall be erected thereon. Garages attached to residences may be converted to living areas provided that sufficient driveway space in side yards remains, as is elsewhere provided for herein, and that an additional garage sufficient to store a minimum of two (2) cars is built in compliance with these restrictions within three (3) months after such conversion, all to be subject to the written approval of the Architectural Control Committee.

OBSTRUCTION OF VIEW: No fence, wall, hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines, and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No trees or other vegetation shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No improvements on Tract 1 through and including Tract 39 in Block 1 and on Tract 1 through and including Tract 3 in Block 3 shall be

erected where the roof or top line of the structure is twelve (12) feet higher than the highest point of that Lot's front building setback line.

EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No structure shall be erected within such easements and no fence shall be constructed across such easement without the permission of the utility company or companies, provided that when an Owner owns adjoining Lots, improvements may be constructed on the reserved easements on the abutting property lines, with the approval of the Architectural Control Committee.

EXTERIOR WALLS: The exterior walls on all residences shall be of brick, stone, rock stucco or wood. No asbestos siding in present form can be used on the exterior walls. The exterior walls (exclusive of window areas) of any structure on any Lot shall be at least eighty percent (80%) masonry, however, in the case of one and one-half story, two story or split-level dwellings, part of which is two story, the outer walls of the upper story thereof may be exempted from the above masonry requirements, provided that the plans and materials specified for such upper story outer walls have been approved by the Architectural Control Committee.

NOXIOUS OR OFFENSIVE ACTIVITY: No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

COMMERCIAL VEHICLES AND HOUSE TRAILERS: No commercial vehicle with more than four (4) wheels shall be parked in this Subdivision excepting temporary parking of moving and storage trucks and vehicles necessary for construction of improvements on said Subdivision, on any lots or in the streets of said Subdivision for more than forty-eight (48) consecutive hours.

MOBILE HOMES: No mobile homes or manufactured housing unit shall be placed on any lot either temporarily or permanently. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any lot at any time as a residence, either temporarily, or permanently.

TERMINATION OF COVENANTS: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, unless changed in whole or in part by an instrument signed by a majority of the then owners of the Lots, after which time such covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by majority of the then owners of Lots have been recorded, agreeing to change said covenants in whole or in part. These Covenants or any provision hereof or any covenant, condition or restriction contained herein may be modified, amended, terminated or extended with the written consent of the owners of seventy-five percent (75%) of the Lots within the subdivision; provided, however, that so long as the Declarant owns at least five percent (5%) of the Lots within the subdivision, no such amendment, modification, termination or extension shall be effective without the written approval of Declarant. No such modification, amendment, termination or extension shall be effective until a proper instrument in writing has been executed and acknowledged and filed for record in the real property records of Comal County, Texas.

MAINTENANCE OF LOTS: All Lots shall be maintained in a neat, tidy and trim condition at all times. All Lots with

living units constructed upon them shall be maintained in a neat, tidy and trim condition at all times.

The Owner and lessee of any property within the Subdivision, shall have the responsibility of keeping the premises, building, improvements, appurtenances and landscaping in a well maintained, safe, clean and attractive condition at all times. If, in the opinion of the Association, any such Owner or lessee shall fail in his duty and responsibility of maintenance, the Association may give such Owner or lessee, or both, notice of such fact, and thereupon such Owner or lessee, shall, within ten (10) days of such notice, undertake the care and maintenance required to restore said Owner's or lessee's property to a safe, clean and attractive condition. Should any such Owner or lessee fail to fulfill this duty and responsibility after such notice, the Association shall have the right and power to perform such care and maintenance and the Owner and the lessee, if any, of the property upon which said maintenance work is performed, and such Owner and Lessee shall be liable for the cost of such work and shall promptly reimburse the Association for the cost thereof. Entry by the Association, its agents or employees upon the property of the Owner or lessee and all action taken thereupon in connection with the care and maintenance of such property shall not be deemed a trespass and all claims for damages by reason thereof are hereby expressly waived. If any Owner or lessee shall fail to reimburse the Association within thirty (30) days after being billed for the services herein set forth, then the cost of such services shall be a debt of such Owner and the lessee, if any, payable to the Association and shall be a lien against such Owner's and lessee's interest in said property. If any legal or equitable proceeding for the collection of any such debt are instituted, the losing party or parties in such amount attorney's fees of the prevailing party or parties shall pay the as may be fixed by the court in such proceedings. The Owner or occupant, as the case may be, agrees by the purchase or occupation of any Lot in this Subdivision to pay such statement immediately upon receipt thereof. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

RIGHT TO ENFORCE: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants, either to restrain or to recover damages.

DRIVEWAYS: All driveways in the Subdivision shall be constructed of reinforced concrete dowelled into existing curb.

PARKING OF VEHICLES, BOATS AND TRAILERS: No trailers, "campers," motor homes, boats and trailers, automobiles or other motor vehicles, or any portion thereof, shall be parked on any Lots or in the streets of the subdivision for more than forty-eight (48) consecutive hours, except as otherwise herein provided. Campers, motor homes, boats and trailers, and other motor vehicles may be parked temporarily on driveways. Permanent parking or storage of any such vehicles or boats shall be in enclosed garages or storage facilities protected from the view of the public from the streets and from the other residents in the subdivision.

NUISANCE: No nuisance of any kind shall be created or permitted.

VIOLATION OF RESTRICTIONS AND COVENANTS: If any person or persons shall violate or attempt to violate any of the restrictions and covenants herein, it shall be lawful for any other person or persons owning any real property situated in the subdivision or the Association to prosecute proceedings at law or in equity against the person violating or attempting to violate any such restriction and covenant and either prevent him or them

from so doing, or to correct such violation, or to recover damages or other dues for such violation. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter against any person who has violated a covenant or expressed an intent to violate a covenant or is in the process of violating a covenant. Invalidation of any one or any part of these restrictions by judgment or Court order shall in no way affect any of the other provisions or part of provisions which shall remain in full force and effect.

MAILBOXES: Mailboxes shall be under the control of the Architectural Control Committee.

REMODELING OF RESIDENCES: Remodeling of a residence shall comply with these restrictions and may be performed only with the written approval of the Architectural Control Committee.

RESUBDIVIDING OF LOTS: No Lot shall be resubdivided or Lot lines changed without permission in writing from the Architectural Control Committee.

COMPLETION OF BUILDINGS: All buildings must be completed not later than six (6) months after laying foundation.

FENCES OR WALLS: No fence, wall, hedge or shrub used as fencing, shall be constructed or placed or used on any tract closer to any street than the minimum setback lines, unless approved by the Architectural Control Committee, nor in any event without the written approval of the U. S. Corps of Engineers if placed on land subject to a flowage easement for Canyon Lake reservoir. No fence shall be constructed of wire, mesh, or "chain link". Fence material shall be under the control of the Architectural Control Committee. No fence shall exceed five feet (5') in height except privacy fences around swimming pools may be no more than seven (7') feet in height. All fences must conform to the provisions of the paragraph labelled OBSTRUCTION OF VIEW.

BUILDING HEIGHT: No building shall exceed the lesser of two and one-half (2- $\frac{1}{2}$) stories, or thirty-five (35) feet in height, and all buildings shall conform with the provisions of that paragraph labelled OBSTRUCTION OF VIEW.

ENCLOSURE OF FOUNDATION: The foundation of any structure must be closed at the perimeter with masonry or wood construction which is in harmony with the remainder of the main dwelling.

WATER WELLS: No water well may be drilled on any Lot so long as a central water supply system is available to the premises.

SEWER SYSTEM: On the date hereof, septic tanks approved by the applicable governmental authorities must be used on all Lots. At any time that a commercial or public sewer line gathering system is made available to any tract in the Subdivision, each Owner of said tracts containing residences shall cause his residence to be connected to such gathering system and agrees to pay the then normal and customary and appropriate connection fees and charges.

SERVICE LINES: All service lines for utilities (water, electricity, telephone, cable television, etc.) shall be installed underground with eighteen inches (18") of cover and no above-surface utility wires or lines shall be installed on any tract.

YARD LIGHTING: Residences constructed on all tracts will be required, upon completion, to place near the street serving

the tract a decorative electric yard light or lights to be provided by Declarant. The type, location, and elevation of the light shall be designated by the Architectural Control Committee. Said light or lights shall be controlled by a light sensitive switch. Each yard light and light sensitive switch for same shall be maintained by the Owner in a manner so that the light shall burn all night. Declarant shall be obligated to furnish one of said lights per Lot, and Owner may purchase additional lights from Declarant, at Owner's option and expense.

HUNTING, FIREARMS, FIREWORKS: Hunting shall not be permitted in the Subdivision, nor shall there be any discharge of firearms or fireworks.

STORAGE OF MATERIAL: All tools, landscaping instruments, household effects, machinery or machinery parts, trailers, containers, boxes, bags, trash or other materials or other items, when not in use, shall be secured or stored in an enclosure and out of the public view. Trash for collection shall be placed in enclosed sanitary containers at the street right-of-way on collection days for a period not to exceed twelve (12) hours prior to scheduled pickup. Storage of junk, inoperative or unlicensed cars shall not be allowed.

FUEL STORAGE: Tanks used for the storage of gases or liquids for fuel shall be buried underground.

TREES: No trees shall be cut on any lot except to provide room for construction of buildings or to remove dead or unsightly trees.

RADIO OR TELEVISION ANTENNAE: No radio or television aerial wires or antennae shall be maintained on any portion of any Lot forward of the front of the building; nor shall any free standing antenna of any style be permitted upon the Lot which extends more than ten (10) feet above the height of the roof of the Living Unit on said Lot.

WORK ON VEHICLES: No owner of any Lot nor any visitor or guest of any owner of any Lot shall be permitted to perform work on automobiles or other vehicles in driveways or streets abutting such Lots in view of the public.

ROOF EQUIPMENT: No air conditioner, heat pumps, evaporative cooler or any other heating or cooling system or components thereof, or any other object deemed unsightly in the opinion of the Architectural Control Committee, shall be placed, kept or maintained on the roof of any building except and unless the same is concealed from view and is not otherwise aesthetically objectionable, and all subject to the approval of said Committee.

LANDSCAPING: All open, unpaved space, including, but not limited to, front, side and rear building set-back areas, shall be planted and landscaped and such landscaping shall be maintained in a manner determined to be adequate by the Architectural Control Committee. Landscaping in accordance with approved plans and specifications must be completed within thirty (30) days following the occupancy or completion of any building, whichever occurs first. This 30-day period may be extended in writing by the Architectural Control Committee, acting in its sole good faith discretion, in the event of delays caused by adverse weather conditions or other causes beyond the reasonable control of the property owner requesting such an extension. The Owner of each Lot used for a Living Unit, shall spot, sod or sprig with grass the area between the front of his living unit and the curb line of the abutting street. The grass shall be of a type and within the standards prescribed by the Architectural Control Committee.

BUILDING MATERIAL: For the purposes of these protective covenants, when construction material is specified herein, another material may be used in lieu thereof, provided that such substituted material is determined by the Architectural Control Committee to be of equivalent or better quality than the specified material.

WATER METER SETTING CHARGE: Owner shall be responsible for the payment of any water meter setting charge, hookup fees and the like as established from time to time by Declarant or other provider of water services in the subdivision.

CLOTHES LINES: No clothing or other materials shall be aired or dried except in an enclosed structure or in an area adequately screened by planting or fencing so as not to be seen from other Lots or from the streets.

SEVERABILITY: Invalidation of any one or more of the foregoing Protective Covenants, restrictions, conditions or charges by judgment or Court shall not affect the validity of any other covenant, restriction, condition or charge set forth herein, which shall remain in full force and effect for all purposes.

Notwithstanding any of the above provision, the Architectural Control Committee is hereby given the authority to waive in writing, any restriction or covenant herein contained, when in the opinion of said Committee, the proposed waiver will add to the appearance and value of the subject property and to the Subdivision as a whole and will not detract from the appearance or value of other properties in the Subdivision.

EXECUTED this the 26 day of JANUARY, 1983.

KINGS POINT JOINT VENTURE

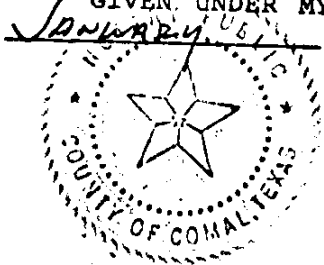
By: H. Dwain Brown
H. Dwain Brown, Project Manager

By: Bernard Livshutz
Bernard Livshutz, Managing
Venturer

THE STATE OF TEXAS §
COUNTY OF COMAL §

BEFORE ME, the undersigned authority, on this day personally appeared H. DWAIN BROWN, Project Manager of Kings Point Joint Venture, on behalf of said Joint Venture.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 26th day of JANUARY, 1983.

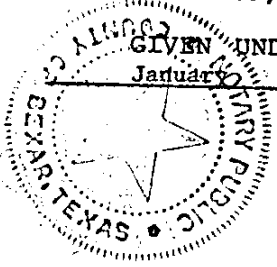


Philip M. Reinger
Notary Public, State of Texas

My commission expires: 2-28-85

THE STATE OF TEXAS §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared BERNARD LIFSHUTZ, Managing Venturer of Kings Point Joint Venture, on behalf of said Joint Venture.



GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 26th day of January, 1983.

Lawrence B. Torres
Notary Public, State of Texas
Lawrence B. Torres
My commission expires: 4-30-85