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DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

ROSIE ROSENHURY  
COUNTY CLERK COMAL COUNTY

EAGLE'S PEAK RANCH UNIT NO. 1

BY Dorothy B. Kauffel  
13.00 pd

EAGLE'S PEAK RANCH, INC.

TO

THE PUBLIC

THE STATE OF TEXAS  
COUNTY OF COMAL

§ KNOW ALL MEN BY THESE PRESENTS:  
§

THAT EAGLE'S PEAK RANCH, INC., as owner and developer of the following described land and premises in Comal County, Texas, to-wit:

EAGLE'S PEAK RANCH, UNIT NO. 1, a subdivision of 149 tracts or "Lots", together with a well site and roads, located in Comal County, Texas, according to a map or plat of said subdivision recorded in Volume 8, Pages 225-230 of the Map and Plat Records of Comal County, Texas, and containing 111.759 acres.

in consideration of the premises, for itself and for its successors and assigns, and for its future grantees, hereby agrees that for the purpose of creating and carrying out a uniform plan for the improvement and sale of lots contained in said subdivision the following covenants, conditions, restrictions, reservations and building requirements for said property are hereby established, and it is hereby covenanted and provided that EAGLE'S PEAK RANCH, INC., and its successors and assigns, and all parties holding title by, through or under EAGLE'S PEAK RANCH, INC. shall hereafter have and hold title to the above described land and premises subject to the following covenants, conditions, restrictions, reservations and building requirements which are hereby imposed upon said property as covenants running with the land, and which shall be binding upon and shall be observed by EAGLE'S PEAK RANCH, INC., its successors and assigns, and shall run in favor of and be enforceable by any person or legal entity that shall hereafter own any of the above described real property.

ARTICLE ONE

ARCHITECTURAL CONTROL

Architectural Control Committee

1.01. No building, fence, wall, or other structure or improvement shall be erected, commenced or maintained nor shall any exterior addition to or change or alteration therein, be made, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to, and approved in writing as to harmony of external design and location in relation to surrounding structures and topography in accordance with the restrictions and provisions of this Declaration by an Architectural Control Committee of JACK SOMERS, LAWRENCE D. KRAUSE and DOUGLAS BELL, or by a representative designated by the members of said Committee. The service rendered and to be rendered

hereunder, by the Committee and/or its designated representative or agent shall be without compensation or charge to the owner or owners of the Lots. In the event of the inability, failure or refusal to act or the death or resignation of a member of said Committee, the remaining members shall have full authority to approve or disapprove such plans, specifications and locations. The Architectural Control Committee shall be appointed and members thereof removed and other members appointed at the sole discretion of the Developer, until such time as the Developer shall relinquish such powers, which in no event shall be later than when the Developer ceases to own a majority of the total lots in the subdivision. Developer shall send a notice by regular mail to all lot owners at their last known address on Developer's records when the Developer no longer owns a majority of the lots or desires to relinquish the power to appoint the members of the Committee, setting out such information and setting a time and place for a meeting of the owners of all the lots for the purpose of electing members to the Committee by a vote of the owners of a majority of the lots who are present and voting in person or by proxy on the basis of one vote for each lot. Written minutes of any meeting of the Committee or any duly elected successor Committee shall be filed in the records of the Committee and shall be available for inspection at all reasonable times. The Committee shall call such further meetings as may from time to time be necessary for electing new members to the Committee by vote of the lot owners as above described.

#### Failure of Committee to Act

1.02. In the event that any plans and specifications are submitted to the Architectural Control Committee, whether original or successor, as provided herein, and such Committee shall fail either to approve or reject such plans and specifications for a period of thirty (30) days following such submission, approval by such Committee shall not be required, and full compliance with this Article requiring such submission shall be deemed to have been had. However, the failure to act by such Committee, or the absence of a duly elected Committee, shall not constitute a waiver of any covenant, condition, restriction, or building requirement contained in this Declaration, including the requirement that all plans and specifications be submitted to any existing Committee.

### ARTICLE TWO

#### USE RESTRICTIONS

##### Type of Buildings Permitted

2.01. All Lots shall be used for residential purposes only. No dwelling or other building shall exceed two stories in height. Each residence shall be required to have either a garage or carport. Bona fide guest or servant's quarters incidental to the use of the lots for single family residential purposes shall be permitted, provided that such guest or servant's quarters likewise do not exceed two stories in height, and are constructed simultaneously with, or after the construction of the primary single family residential dwelling on such Lot or Lots, and in conformity to all other requirements contained in this Declaration. Notwithstanding the above provisions, the Architectural Control Committee is hereby given the authority to waive in writing the two stories limitation, when in the opinion of the Committee to do so will add to the appearance and value of the lot and will not detract from the appearance and value of the other lots.

##### Minimum Floor Area, Exterior Walls and Plumbing

2.02. Any residential dwelling constructed on said Lots must have a minimum livable, heated floor area of not less than 1,250 square feet, exclusive of open or screened porches, terraces, patios, driveways, carports, garages, and guest or servant's quarters. No exterior wall of any residence, or guest or servant's quarters shall consist of or be constructed with asbestos, aluminum or metal siding, nor shall any roofing material be utilized which causes excessive or unusual glare from the sun. All buildings must be completed not later than nine (9) months after commencement of construction thereon, and no building shall be occupied or used for

dwelling purposes until the exterior thereof is completely finished. No outside toilet shall be installed or maintained on any premises and all plumbing shall be connected to a sanitary sewer or septic system approved by State and local Departments of Health. All buildings must be completely enclosed from the ground level to the lower portion of the outside walls so as to maintain a neat appearance and remove posts or piers (except those supporting raised porches) from outside view.

#### Setbacks

2.03. No building shall be located on any Lot nearer than twenty-five feet (25') to any Lot line SAVE AND EXCEPT in relation to "side" lot lines. No building shall be located nearer than ten feet (10') to any such side lot line, which for purposes of this covenant shall be defined as and deemed to be a lot line (not a common line with a public road) which commences at such line's intersection with a public road and then proceeds away from such intersection for a single stated distance along a single stated compass bearing; PROVIDED, FURTHER, however, that a corner lot located at the intersection of two (2) public roads shall be deemed to have only one (1) side lot line, which shall be the side lot line opposite the longer of such lots two (2) abutting public road lines. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot; and all references to public street or roadway shall mean the right of way line for such street or roadway. Notwithstanding the above provisions the Architectural Control Committee is hereby given authority to waive in writing the setback requirements, and to approve the direction that any building shall face when in the opinion of the Committee the proposed location and direction of the building will add to the appearance and value of the Lot and will not detract from the appearance and value of the other Lots.

#### Resubdivision or Consolidation

2.04. None of said Lots shall be resubdivided in any fashion without the prior written consent of the Developer, however any person owning two or more adjoining Lots (or fractions thereof acquired with Developer's consent) may consolidate such Lots, or fractions thereof, into a single building site, with the privilege of constructing improvements as permitted in Paragraphs 2.01 and 2.02 hereof on such resulting building site. If any Lot or Lots are resubdivided by permission of the Developer into building sites, or if consolidation into a single building site occurs, the building setback provisions of Paragraph 2.03 shall be applied to each resultant building site as if each were one original Lot, but again provided that such resubdivision or consolidation shall not, unless approved by the Architectural Control Committee, result in any building site having any building setback line of less than would be required had no resubdivision or consolidation taken place.

#### Easements

2.05. Developer reserves to itself, its successors and assigns, an easement or right of way over, under and across a strip of land five feet (5') in width running along all property boundary lines of all Lots for the purpose of installation and maintenance of public utilities, drainage and sewage facilities, and any appurtenances to the supply lines therefor, including the right to remove and/or trim trees, shrubs or plants for such purposes, and to locate guy wires as necessary outside of such easement or right of way. This reservation is for the purpose of providing for the practical installation of such utilities either by Developer or by any public or private authority or utility company as and when same may be desired by either. Neither the Developer nor any utility company, water district, political subdivision, or other authorized party or entity using the easements referred to above shall be liable for any damage done by them, or their assigns, agents, employees or servants, to shrubbery, trees or flowers, or to other property of any lot owner situated within or encroaching upon any such easement.

## Water Sanitation and Drainage

2.06. Sanitary control easement in connection with the waterwell site and prohibited activities in connection therewith are as designated and described on the plat of the subdivision.

## Noxious or Offensive Activities Prohibited

2.07. No noxious or offensive activities 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. No junk or wrecking yard shall be located on any lot and no wrecked or junked vehicles may be permitted to remain on any lot.

## Prohibited Residential Uses

✓ 2.08. No structure of a temporary character, house trailer, mobile home, basement, tent, shack, garage, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. Notwithstanding the above provisions, manufactured homes shall be permitted if placed or erected upon a lot in conformity with all other building requirements contained within this Declaration and if the following specific additional requirements are met:

a. Any unit or units of such manufactured housing shall meet or exceed all building and safety code requirements as published by the Federal Department of Housing and Urban Development and the Texas Department of Labor and Standards.

b. Such manufactured housing shall be placed upon a permanent foundation so as to permanently affix it to the realty and to remove its mobile capabilities, and any applicable certificate of title to such manufactured housing unit or units shall be cancelled and surrendered to the Texas Department of Labor and Standards.

c. All such manufactured housing must be of new construction, procured specifically for placement on the owner's lot within the subdivision, and shall not have been previously located as a fixture to any other realty outside of the subdivision.

d. Manufactured housing with any form of metal or aluminum siding or roofing is specifically prohibited, and all such housing shall be required to have composition shingle roofing.

e. Any such manufactured housing or home must have a front porch, permanently attached thereto and such porch must contain a minimum area of at least twenty-five square feet (25').

f. All manufactured housing or homes must be skirted within thirty (30) days after placement or erection on the lot and prior to occupancy thereof. Such skirting must be done in a good and workmanlike manner, and the skirting material shall be either stone, brick or plaster.

## Signs

✓ 2.09. No signs of any character shall be allowed on any lot except for one sign of not more than five square feet (5'x5') advertising an existing residence or residence under construction, and the lot upon which such residence is situated, for sale or rent.

## Oil, Gas and Other Minerals

2.10. No drilling, mining, quarrying, or other operations in connection therewith for the removal or production of oil, gas and other minerals shall be permitted in the subdivision in any way without the written approval of the owners of 90% of the lots in the subdivision.

## Water Well

2.11. Developer expressly reserves unto itself, its successors and assigns, the right to conduct water well drilling operations, and the right of construction and maintenance of water storage facilities on one or more Lots or portions thereof within the subdivision which Developer or its successors and assigns may choose to own, operate and maintain for all of such purposes, including but not limited to the reservation, use, maintenance and operation of the presently existing water well site as shown on the plat of the subdivision.

## Rubbish, Trash and Garbage

2.12. No Lot shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

## Animals

2.13. 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 that they are not kept, bred, or maintained for any commercial purpose.

## Prohibited Activities

2.14. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot, nor shall any firearm be discharged within the Subdivision at any time.

## Compliance With Laws and Regulations

2.15. No activity shall be conducted on any Lot in violation of any law of the State of Texas or of the United States, and Lot owners shall at all times comply with all applicable laws and regulations regarding the use of the property, imposed by any governmental regulatory body, including, but not limited to all applicable health laws and regulations as may be imposed for sanitary control surrounding the well site shown on the plat of the subdivision.

## ARTICLE THREE

## WATER ASSESSMENTS

3.01. An assessment in the amount of SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00) for the purpose of bringing water to each Lot shall run against each Lot. Such assessment shall be and is hereby secured by a lien on each Lot respectively. Upon construction of a water main by Developer, its successors or assigns, in the street, roadway, and/or utility easement running by said Lot, making water available to same, said water assessment shall become immediately due and payable to Developer, or its successors or assigns. The water assessment herein provided for shall be applicable only to the providing of water by water main running by the said Lot and does not include additional charges which may be incidental to the setting of any water meter or meters and "hook up" services.

## ARTICLE FOUR

## GENERAL PROVISIONS

## Enforcement

4.01. The Developer, or any record Lot Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations contained in this instrument. While Developer shall have the right to enforce such provisions, it shall have no responsibility to any Owner to do so. Failure to enforce any covenant or res-

triction contained in this instrument by Developer or any Owner, shall in no event be deemed a waiver of the right to do so thereafter, unless such waiver is specifically provided for herein.

Severability

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

Duration and Amendment

4.03. The covenants, conditions, and restrictions contained in this instrument shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Developer or the record owner of any lot, and their respective legal representatives, heirs, record successors and assigns, and, unless amended as provided herein, shall be effective until March 1, 2006, after which time such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions contained in this instrument may be amended until March 1, 2006 by an instrument signed by the owners of not less than ninety percent (90%) of the lots; during any succeeding ten (10) year period, the covenants, conditions, and restrictions of this instrument may be amended by an instrument signed by the owners of a majority of the lots. No amendment shall be effective until recorded in the Deed Records of Comal County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

EXECUTED by the said Developer, this 24<sup>th</sup> day of March, 1986.

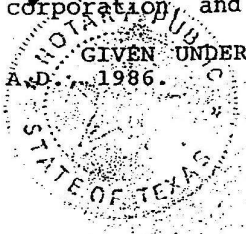
EAGLE'S PEAK RANCH, INC.

BY: *Jack Somers*  
JACK SOMERS, President

THE STATE OF TEXAS §  
COUNTY OF COMAL §

BEFORE ME, the undersigned authority, on this day personally appeared JACK SOMERS, President of EAGLE'S PEAK RANCH, INC., a Texas corporation, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 24<sup>th</sup> day of March, A.D., 1986.



*Rebecca Sulaica*  
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS  
REBECCA SULAICA  
My commission expires: 11-22-86