

D E C L A R A T I O N  
OF COVENANTS AND CONDITIONS

THE STATE OF TEXAS §  
COUNTY OF WHARTON §

100414

THIS DECLARATION, made on the date hereinafter set forth by KINGSGATE VILLAGE, INC., a Texas corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain real property containing approximately 1,106.072 acres of land, more or less, in Wharton County, Texas, said property being a part of the Warren M. Lum and Mary Dee Moore Land in the Elisha Moore Survey, Abstract 43, Wharton County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein by reference for all purposes;

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit "A" shall be held, sold and conveyed, subject to the following covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, said property and be binding on all parties having any right, title or interest in the said 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 EL LOBO RANCHES PROPERTY OWNERS ASSOCIATION, INC., a nonprofit corporation, incorporated under the laws of the State of Texas, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to the surface estate in any lot, parcel, or tract of land which is part of the

property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

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Section 3. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto.

Section 4. "Declarant" shall mean and refer to KINGSGATE VILLAGE, INC., a Texas corporation, its successors and assigns.

#### ARTICLE II

##### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of any portion of the Property which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any portion of the Property which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A members shall be all Owners with the exception of Declarant and shall be entitled to one vote for each one acre of Property owned, rounded off to the nearest acre, provided, that in the event of ownership of less than one (1) acre such ownership shall entitle a minimum of one (1) vote. When more than one person holds an interest in any one portion of the Property, all such persons shall be members. The vote or votes for such portion shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one acre.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three votes for each one acre owned, rounded off to the nearest acre. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On the third (3rd) anniversary date of this Declaration.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each acre owned within the Property, hereby covenants, and each Owner of any portion of the Property by acceptance of a Deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association an annual assessment or charge as hereinafter described. The annual assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of said property at the time such assessment fell due. The personal obligation for delinquent assessments shall not pass to the successor in title unless expressly assumed by said successor.

Section 2. The Purpose of Assessments. The assessments charges levied by the Association shall be used exclusively for the maintenance of roadways within the Property.

Section 3. Annual Assessment or Charge. Until increased by the majority vote of the members of the Association, the annual assessment or charge shall be Two (\$2.00) Dollars per acre, rounded off to the nearest acre, provided, however, that an Owner of less than one acre shall be assessed a minimum assessment equal to the assessment for one acre.

Section 4. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all of the Property on the first day of January, 1978, written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a Certificate signed by an Officer of the Association, setting forth whether the assessments on a specified portion of the Property have been paid.

Section 5. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his portion of the Property.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any portion of the Property shall not affect the assessment lien. However, the sale or transfer of any portion of the Property pursuant to mortgage foreclosure or any proceeding in lien thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but only to that extent, and otherwise the lien shall survive such foreclosure or other proceedings. No sale or transfer shall relieve any portion of the Property from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7. Exempt Properties. All properties lying within roadway easements within the Property shall be exempt from the assessments created herein.

ARTICLE IV

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all conditions and covenants, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or condition herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or conditions shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and conditions of this Declaration shall run with and bind the land, for a period of

twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety (90%) percent of the Property, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Property. Any amendment must be recorded.

Section 4. Books and Records. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any member. The Articles of Incorporation and Bylaws of the Association shall be available for inspection by any member at the principal office of the Association where copies may be purchased at a reasonable cost.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 29th day of

June, A.D., 1977.

KINGSGATE VILLAGE, INC.

By: Larry D. Johnson  
Larry D. Johnson, Vice - President

ATTEST:

Wittis M. Marburger, Asst. Secretary

THE STATE OF TEXAS §  
COUNTY OF WHARTON §

BEFORE ME, the undersigned authority, on this day personally appeared Larry D. Johnson, Vice - President of KINGSGATE VILLAGE, INC., a corporation, 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, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29th day of June, 1977.

[Signature]  
Notary Public in and for  
Harris County, TEXAS

Ret to:

LOUISVILLE TITLE COMPANY - HOUSTON

87WS161m

HOUSTON, TEXAS 77004

88 # 76562

That certain 1106.072 acre tract in the Elisha Moore Survey, Abstract No. 43, Wharton County, Texas; said 1106.072 acre tract being that same tract conveyed in a deed recorded in Volume 435, Page 65, Deed Records, Wharton County, Texas; said 1106.072 acre tract being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod at the fence corner and being the most westerly southwest corner of the said 1106.072 acre tract and being on the west line of the said Elisha Moore Survey;

THENCE N 20°07'00" E, 2092.56 feet along the west line of the said 1106.072 acre tract and the said Elisha Moore Survey to the end of the fence at the south side of the county road;

THENCE N 20°12'14" E, 2857.55 feet along the said west line to an angle point in the fence;

THENCE N 21°24'30" E, 108.38 feet along the said west line to an angle point in the fence;

THENCE N 19°46'48" E, 783.44 feet along the said west line to an angle point in the fence;

THENCE N 20°14'04" E, 462.10 feet along the said west line to an angle point in the fence;

THENCE N 19°35'15" E, 475.09 feet along the west line to the center of a 24-inch pecan tree on the west bank of the San Bernard River and being the most northerly northeast corner of the said 1106.072 acre tract;

THENCE S 70°00'14" E, 6.00 feet to a 1/2-inch iron rod opposite the 24-inch pecan tree on the west bank of the San Bernard River;

THENCE with the following meanders of the west bank of the San Bernard River:

S 08°48'23" E - 835.60 feet  
 S 31°25'53" E - 407.40 feet  
 S 78°33'43" E - 412.08 feet  
 N 83°00'37" E - 330.84 feet  
 S 83°30'33" E - 509.93 feet  
 N 62°28'27" E - 362.25 feet  
 N 78°58'47" E - 549.00 feet  
 S 88°23'33" E - 362.00 feet  
 N 66°36'47" E - 373.05 feet  
 S 35°55'13" E - 314.42 feet  
 S 07°52'33" E - 310.88 feet  
 S 20°52'33" E - 293.18 feet  
 S 52°46'53" E - 468.85 feet  
 S 26°49'43" E - 211.83 feet  
 S 20°11'37" W - 392.84 feet  
 S 79°45'37" W - 292.85 feet  
 S 05°19'27" W - 571.40 feet  
 S 26°09'33" E - 274.95 feet  
 S 72°30'47" W - 447.05 feet  
 S 39°44'13" E - 189.75 feet  
 S 71°54'23" E - 218.70 feet  
 S 24°25'07" W - 223.14 feet  
 S 41°10'03" E - 324.50 feet  
 S 10°42'43" E - 425.70 feet

S 41°30'33" E - 504.85 feet  
S 32°12'48" E - 336.88 feet  
S 15°10'03" E - 342.80 feet  
S 25°38'52" W - 219.14 feet  
S 34°52'58" E - 321.64 feet  
S 72°47'12" W - 251.08 feet  
S 16°12'12" W - 111.00 feet  
S 55°42'33" E - 136.73 feet  
S 57°34'58" E - 167.65 feet  
S 67°23'52" W - 445.55 feet  
S 30°09'48" E - 292.82 feet  
S 63°51'38" E - 259.90 feet  
S 16°26'42" W - 209.65 feet  
S 34°30'48" E - 201.10 feet  
S 53°23'07" W - 384.75 feet  
S 60°56'17" E - 141.85 feet to the most easterly northeast corner of the said 1106.072 acre tract;

THENCE S 20°13'17" W, 1005.47 feet along the east line of the said 1106.072 acre tract to a 1-1/4 inch iron pipe in the fence line;

THENCE S 21°40'26" W, 358.57 feet along the said east line to an angle point in the fence;

THENCE S 20°39'51" W, 841.62 feet along the said east line to an angle point in the fence;

THENCE S 19°44'23" W, 375.06 feet along the said east line to an angle point in the fence;

THENCE S 18°13'46" W, 258.72 feet along the said east line to an angle point in the fence;

THENCE S 21°03'01" W, 589.53 feet along the said east line to an angle point in the fence;

THENCE S 19°58'09" W, 515.09 feet along the said east line to an angle point in the fence;

THENCE S 18°50'48" W, 404.68 feet along the said east line to a 1-1/4 inch iron pipe being the most southerly southeast corner of the said 1106.072 acre tract;

THENCE N 69°58'12" W, 229.05 feet along the south line of the said 1106.072 acre tract to an angle point in the fence;

THENCE N 70°15'06" W, 1125.69 feet along the said south line to an angle point in the fence;

THENCE N 70°34'51" W, 975.62 feet along the said south line to an angle point in the fence;

THENCE N 70°27'21" W, 786.92 feet along the said south line to an angle point in the fence;

THENCE N 70°51'41" W, 917.31 feet along the said south line to the most southerly southwest corner of the said 1106.072 acre tract;

THENCE N 19°42'13" E, 3339.97 feet along the most easterly west line to a 1/2 inch iron rod in fence corner;

THENCE N 70°08'26" W, 2512.98 feet along the most northerly south line to the POINT OF BEGINNING and containing 1106.072 acres, more or less.

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LOUISIANA DEPARTMENT OF REVENUE

HOUSTON, TEXAS

BWS/elm

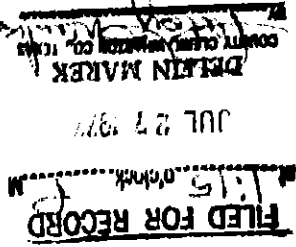
I, Delfin Marek, Clerk of the County Court in and for Wharton County, Texas do hereby certify that the foregoing instrument of writing, with its certificate of authentication, was filed for record in my office the 27<sup>th</sup> day of JULY A. D. 1977 at 1:15 o'clock P. M. and duly recorded the 2nd day of AUGUST A. D. 1977 at 3:00 o'clock P. M. in the Deed Records of said County, in Vol. 484 on page 618

Witness my hand and seal of the County Court, of said County, at Wharton, Texas, the day and year last above written.

**DELFIN MAREK, CLERK COUNTY COURT,  
WHARTON COUNTY, TEXAS**

By William Beard Deputy

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WHARTON COUNTY ABSTRACTS  
301 W. CANEY AT FULTON, P.O. BOX 1100  
PHONE 632-1031 WHARTON, TEXAS 77902