

**NOTE: THESE RESTRICTIONS MAY BE AFFECTED BY STATE LAW, INCLUDING BUT NOT LIMITED TO TEX. PROP. CODE CH. 201 ET. SEQ. AS IN EFFECT FROM TIME TO TIME. REVIEW CURRENT LAW BEFORE APPLYING THESE RESTRICTIONS.**

**DECLARATION OF COVENANTS AND RESTRICTIONS**

STATE OF TEXAS )  
 )  
COUNTY OF KENDALL )

FILED BY:  
Texas Investors Title  
116 Blanco Rd., Ste 101  
Boerne, TX 78006

GF#:

20210310

THIS DECLARATION OF RESTRICTIONS is made effective as of the date of recording in the real property records of KENDALL COUNTY, TEXAS (the "Effective Date") by Oakhills Partners, LLC (the "Declarant").

WHEREAS, at the time of recordation of the Declaration of Covenants and Restrictions, Declarant owns all of that certain 372.81 acres of land, more or less, conveyed to Declarant by Special Warranty Deed from Barnhardt-Pfeil Limited Partnership, also known as the Barnhardt-Pfeil Limited Partnership dated March 26, 2021, such land lying and being situated in Kendall County, Texas, described as follows (the "Property"):

TRACT 1: Being a 200.2 acre tract of land, more or less, out of the J.W. Ellis Survey No. 206, Abstract No. 701 and the G.C. & S.F. R.R. Co. Survey No. 282, Abstract No. 1288, Kendall County, Texas; said 200.2 acres being more particularly described on Exhibit A attached hereto and made a part hereof.

TRACT 2: Being a 165.6 acre tract of land, more or less, out of the J.W. Ellis Survey No. 206, Abstract No. 701, the H.T. Mitchell Survey No. 205, Abstract No. 729 and the G.C. & S.F. R.R. Co. Survey No. 282, Abstract No. 1288, Kendall County, Texas; said 165.6 acres being more particularly described on Exhibit B attached hereto and made a part hereof.

TRACT 3: Being a 7.01 acre tract of land, more or less, out of the H.T. Mitchell Survey No. 205, Abstract No. 729, Kendall County, Texas; said 7.01 acres being more particularly described on Exhibit C attached hereto and made a part hereof.

WHEREAS, the Declarant purchased the Property with the intention of subdividing it into tracts of land for sale to third parties as depicted on Exhibit D;

WHEREAS, the Declarant, for the benefit of current and subsequent owners of the Property or portions thereof, desires to make certain restrictions, protective covenants, conditions and charges as set forth herein;

NOW, THEREFORE, Declarant, in order to protect the value and desirability of the Property, hereby DECLARES that said Property shall be held, sold, and conveyed subject to the following RESTRICTIONS, COVENANTS, AND CONDITIONS which shall run with the

land and shall be binding on all parties having a right, title or interest in or to the Property or any part thereof, and their heirs, successors and assigns, and any deed or deed of trust which may hereafter be executed, delivered and accepted shall be subject to the terms and conditions contained in this Declaration, regardless of whether or not such terms and conditions are specifically set out in said contract.

## ARTICLE I

### Definitions

1. "Residential Use" shall mean single-family detached dwellings.
2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any portion of the Property excluding, however, those having any interest therein merely as security for the performance of an obligation.
3. "Tract" and/or "Tracts" shall refer to any subdivided portion of the Property comprised of fifty (50) acres or less, as owned by an Owner. Tracts will be defined and sold by metes and bounds description.
4. "Mobile Home" shall mean and refer to: (1) a HUD-code manufactured home as defined in the Texas Manufactured Housing Act, Chapter 1201 Of the Texas Occupations Code; or (2) a ready built home constructed prior to June 14, 1976 and at a temporary location in a manner in which the entire living area is contained in a single unit for the purpose of selling and moving to another location.
5. "Modular Buildings" shall mean and refer to a structure that is constructed in one or more modules or constructed using one of more modular component and built at a location other than the permanent site, and/or erected or installed on a permanent foundation system.
6. "Front of the Tract" shall mean the tract's boundary line adjacent to and contiguous with Crabapple Road, a Kendall County Road.
7. "RV" or Recreational Vehicle shall mean a van, travel trailer or motor home equipped with such things as beds and cooking equipment so that people can live in it temporarily, usually while on vacation.

## ARTICLE II

### Restrictions

1. Only single-family residences may be constructed on the Tracts. Commercial or retail development and multi-family housing such as duplexes, condominiums and apartments, are strictly prohibited.

2. On any one of the several tracts, three homes, a primary residence and a two guest homes may be built on each individual Tract.
3. All structures must be built on site. No mobile, tiny, modular, pre-manufactured and/or industrial-built home shall be used as a dwelling located or stored on any Tract.
4. All structures must: (1) be constructed with new materials, except that used or aged brick, stone, wooden beams, doors, and the like may be used for architectural design and aesthetics if such use is appropriate for the structure and does not detract from the appearance of the structure; and, (2) corrugated sheet metal (as in barn-dominium) with hardie plank, or cedar being the preferred secondary siding on exterior walls. Roofs shall be constructed of 30 year or better composition shingle, tile, slate, metal standing seam or other approved roofing material.
5. Decks, patios, arbors, trellises, sunshades, gazebos, patio covers and similar structures are permitted, as long as they conform to the building and materials requirements provided by these Declarations and do not extend into any easements or building setback requirements.
6. No more than two permanent metal, rock, and/or Hardie Plank barn, storage building, or workshop shall be allowed. Such two buildings shall be no larger than 3,000 square feet; or, one storage building of no more than 6,000 square feet. The front line of the storage building must be built behind the back line of the location of the main dwelling and away from Crabapple Road and not in front of the main dwelling. Storage buildings may include temporary living quarters for habitation for a period of no longer than 12 months while the main residence is being constructed. Under no circumstances shall storage buildings serve as a permanent dwelling or residence. A barn-dominium built in accordance with these restrictions is not considered storage buildings and may serve a permanent residence.
7. No water wells shall be drilled on any Tract and no sanitary sewage disposal system shall be installed on any Tract until all required permits from any regulatory agencies have been obtained. No structure shall be occupied until water service is connected and an approved private sewage system is installed. On-site sewage facility (septic system) is required.
8. No more than four Domestic Livestock Animal Units are allowed per every 10 acres of the Tract. "Domestic Livestock Animal Units" refers to the category and number of domestic livestock animal units identified in the Animal Unit Equivalent Chart promulgated by the National Resources Conservation Service and found at: [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs144p2\\_002433.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_002433.pdf). No swine shall be raised, bred, or kept on any Tract except where the animal is to be kept as a 4-H or FFA project. A maximum of four (4) head may be kept for such projects. No more than 12 grown chickens are allowed on any Tract.
9. No more than six household pets may be kept outside. Puppies and kittens are not counted in this total until they are weaned from their mother. Animals must not be permitted to run at large, but must be confined to the Owner's lot or controlled by a restraint device.
10. All vehicles parked on the Property must have current inspection and license registration. One medium or heavy-duty commercial-type truck or trailer, including 18-wheel tractor-trailer

rig, may be parked on the Property provided the vehicle is 500 feet off of the main access road. An exception would be for construction and/or repair equipment while a Tract is being built upon or repaired in the immediate vicinity and provided that such commercial-type vehicle is parked for no more than 48 hours.

11. Setback Requirements. No structure or improvement, except fences, may be located within 150 feet of the Front of the Tract or 30 feet of any side or rear property line.

12. No driveway shall be constructed on any Tract until all required permits from applicable governmental entities and regulatory agencies have been obtained, if required. All entrance gates shall be inset a minimum of 40 feet from the right-of-way of Crabapple Road.

13. The first 100 feet of all driveways must be constructed of packed gravel base, asphalt, combo chip seal, two-course chip and seal asphalt paving, concrete, or crushed granite.

14. Border walls and fencing extending along any portion of the Property (individual Tracts, or combination of Tracts) shall be constructed of the following materials: three or four board vinyl, or wood fencing; wrought iron; metal pipe with top rail; masonry or masonry veneer; or cedar posts. T-Posts and barbed wire, or net wire fencing shall be allowed along the frontage of Crabapple Road. Perimeter and cross fencing not fronting Crabapple Road may include cedar posts, metal pipe, and T-Posts with barbed wire, net straight wire, livestock panel, rolled wire or some combination thereof.

15. No Tract shall be used or maintained as a landfill, bury pit, or dumping ground. Trash, garbage, rubbish, or other waste shall not be kept on the Property, except in sanitary containers.

16. No Tract shall be used for the open storage of any materials visible from the road or neighboring Tracts, except that any new building materials used in the construction of improvements erected upon any Tract may be placed upon such Tract at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements. Promptly following completion of improvements, such building materials shall either be removed from the Tract or stored in a suitable enclosure on the Tract.

17. All buildings and structures constructed on a Tract shall be completed within 12 months from the date the foundation is poured, or materials are stored on the Tract (whichever is earlier). All construction must be performed by an experienced, competent general contractor.

18. All mining activity (including, but not limited to stone, gravel, sand, caliche) and exploration of any type which will damage the surface is prohibited. Road material including gravel or caliche used to construct roads on the Property may be mined and used on the Property and utilized, provided that, once construction of the road is complete, the removal site shall be restored as much as possible to its original condition.

19. Signage and symbols used to for marketing are prohibited except in the case of a resale of the property in which one "For Sale" sign no larger than 24" X 24" is allowed.

20. Tracts may not be subdivided. An owner of multiple Tracts may sell any of their owned, individual Tract so long as the conveyance results in all Tracts maintaining their original size.
21. No commercial activity to which the general public is invited shall be conducted on the Property. Only a profession, or business (as in accounting) where there is no more than five clients per day is to be allowed.
22. The main easement access road from Crabapple Road, located in the southeast corner of the Property shall be for rights of ingress and egress to the several Tracts of the Property by owners of the several Tracts. The Property shall not be used for public road purposes, and no public road shall be built to extend through any Tract of the Property to allow access to adjacent Tracts without the consent of the Declarant neighbors to the north.
23. Owners shall only be allowed to live temporarily in their RV, or Recreational Vehicle while their home is being constructed within the twelve-month period; but no more, as mentioned in Article II, Item 19 above.

### ARTICLE III

#### Binding Effect

1. Covenants Running with the Land. All of the restrictions, covenants and easements set forth herein apply to each and every Tract, and shall be covenants running with the land.
2. Declarant Not Bound. The Declarant shall not be subject to the restrictions set forth herein.
3. Declarant Not Liable. No person, entity or Owner shall be entitled to maintain a suit in equity against the Declarant for any alleged violations of this Declaration by an Owner.
4. Partial Invalidity. All of the conditions, covenants, restrictions, and reservations contained in this Declaration shall be construed together. Invalidation of any covenant or restriction (by court judgment or otherwise) shall not affect, in any way, the validity of all other covenants and restrictions, all of which shall remain in full and effect. Acquiescence in any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions.
5. Term. These restrictions shall continue in full force and effect for twenty years from the date of execution (the "Initial Term"). During the Initial Term, these restrictions may be amended or modified in the manner specified in this Declaration. Following the expiration of the Initial Term, these restrictions shall be automatically renewed and continue in full force and effect for one additional 10-year term unless otherwise terminated by a vote of a majority of the Owners.



## ARTICLE IV

Amendment

Declarant shall have, in its sole and absolute discretion, the right to modify this Declaration for as long as it owns at least one Tract subject to these restrictions (the "Declarant Modification Period"). Following the Declarant Modification Period and during the Initial Term, this Declaration may only be modified by an instrument signed by all of the Owners of Tracts subject to these restrictions. No amendment is effective until recorded in the real property records of Kendall County, Texas. Any amendment to this Declaration shall only apply to Tracts sold after the date the amendment is recorded in the real property records of Kendall County, Texas.

## ARTICLE V

Enforcement

If an Owner or Owner's heirs, successors or assigns shall violate or attempt to violate any provision of this Declaration, it shall be lawful for any Owner to prosecute proceedings at law or in equity against the violator or potential violator to prevent the violation, to correct such violation, to recover damages, to obtain other relief for such violations, or to seek any combination of the forms of relief mentioned. Failure at any given time to enforce this Declaration shall in no event be deemed a waiver of the right to do so thereafter. **Nothing herein shall be construed as compelling the Declarant to enforce any provision in this Declaration, nor shall any failure to enforce any of these provisions be deemed to be a waiver of the right of enforcement or prohibition. The Declarant shall have no liability or responsibility at law nor in equity on account of enforcement of, nor on account of the failure to enforce, this Declaration.**

Oakhills Partners, LLC, a Texas Limited Liability Company

By: J. Frank Childress

J. Frank Childress, Secretary/Treasurer

STATE OF TEXAS

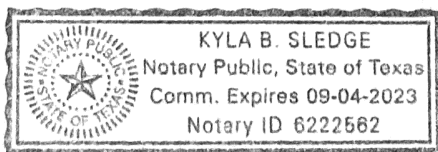
COUNTY OF Kendall

This instrument was acknowledged before me this 11th day of June, 2021, by J. Frank Childress, as Secretary/Treasurer of Oakhills Partners, LLC a Texas Limited Liability Company on behalf of the business or entity.

My commission expires: \_\_\_\_\_

Kyla B. Sledge  
(Notary Public, State of Texas)

(Seal)



**Easement Dedication and Agreement for Access****Date:** June 11, 2021**Grantor:** Tract Two: OAKHILLS PARTNERS, LLC, a Texas limited liability company  
P.O. Box 1260  
Canyon Lake, Texas 78133FILED BY:  
Texas Investors Title  
116 Blanco Rd., Ste 101  
Boerne, TX 78006GF#: 20210210**Grantee / Holder:**Tract Three: OAKHILLS PARTNERS, LLC, a Texas limited liability company  
P.O. Box 1260  
Canyon Lake, Texas 78133Tract Four: OAKHILLS PARTNERS, LLC, a Texas limited liability company  
P.O. Box 1260  
Canyon Lake, Texas 78133Tract Five: OAKHILLS PARTNERS, LLC, a Texas limited liability company  
P.O. Box 1260  
Canyon Lake, Texas 78133**Dominant Estate Property:**

Tract Three: A 69.5 acre tract of land reportedly out of the 1. W. Ellis Survey Number 206, Abstract Number 701, the H. T. Mitchell Survey Number 205, Abstract Number 729 and the G.C. & S.F. RR. CO. Survey Number 282, Abstract Number 1288, Kendall County, Texas being portions of two tracts described as 165.6 and 7.01 acres in deed recorded in Document Number 2021-354139, Official Public Records of Kendall County, Texas; said 69.5 acre tract being more particularly described by metes and bounds on Exhibit A attached hereto and incorporated herein by reference.

Tract Four: A 25.5 acre tract of land reportedly out of the J. W. Ellis Survey Number 206, Abstract Number 701, the H.T. Mitchell Survey Number 205, Abstract Number 729 and the G.C. & S.F. RR. Co. Survey Number 282, Abstract Number 1288, Kendall County, Texas, being portions of two tracts described as 165.6 and 200.2 acres in Deed recorded in Document Number 2021-354139, Official Public Records of Kendall County, Texas; said 25.5 acres being more particularly described by metes and bounds on Exhibit B attached hereto and incorporated herein by reference.

Tract Five: A 29.2 acre tract of land reportedly out of the G.C. & S.F. RR. CO. Survey Number 282, Abstract Number 1288, Kendall County, Texas being a portion of a tract described as 200.2 acres in deed recorded in Document Number 2021-354139, Official Public Records of Kendall County, Texas; said 29.2 acre tract being more particularly described by metes and bounds on Exhibit C attached hereto and incorporated herein by reference.

**Easement Property:** A variable width strip of land reportedly out of the J. W. Ellis Survey Number 206, Abstract Number 701, the R.T. Mitchell Survey Number 205, Abstract Number 729 and the G.C. & S.P. RR. CO. Survey Number 282, Abstract Number 1288, Kendall County, Texas being portions of two tracts described as 200.2 and 165.6 acres in deed recorded in Document Number 2021-354139, Official Public Records of Kendall County, Texas; said 94.3 acre tract being more fully described on Exhibit D attached hereto and incorporated herein by reference.

**Easement Purpose:** For providing free and uninterrupted pedestrian and vehicular ingress to and egress from the Dominant Estate Property, to and from Crabapple Road.

**Consideration:** The sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor.

**Reservations from Conveyance:** None.

**Exceptions to Warranty:** None.

**Grant of Easement:** Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Easement Purpose and for the benefit of the Dominant Estate Property, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty, to the extent that such claim arises by, through, or under Grantor but not otherwise.

**Terms and Conditions:** The following terms and conditions apply to the Easement granted by this Easement Dedication and Agreement for Access (the "Agreement"):



1. *Character of Easement.* The Easement is appurtenant to and runs with all or any portion of the Dominant Estate Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Easement is nonexclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's heirs, successors, and assigns who at any time own the Dominant Estate Property or any interest in the Dominant Estate Property (as applicable, the "Holder").

2. *Duration of Easement.* The duration of the Easement is perpetual.

3. *Reservation of Rights.* Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to continue to use and enjoy the surface of the Easement Property for all purposes that do not interfere with or interrupt the use or enjoyment of the Easement by Holder for the Easement Purposes. Grantor reserves for Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Easement in conjunction with Holder and the right to convey to others the right to use all or part of the Easement in conjunction with Holder, as long as such further conveyance is subject to the terms of this Agreement and the other users agree to bear a proportionate part of the costs of improving, or maintaining the Easement.

4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain a road reasonably suited for the Easement Purpose within the Easement Property. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.

5. *Joint Maintenance of Easement Property.*

a. Holders shall have the right to eliminate any encroachments into the Easement Property. Holders must maintain the Easement Property in a neat and clean condition. Each Holder is responsible to repair or cause to be maintained and kept in good condition and repair the curb cuts, entrances, exits, vehicular circulation lanes, driveways, passages, aisles, sidewalks, parking areas, parking spaces and parking lots, and similar improvements which are now or hereafter constructed alongside each Holder's respective property. All Holders or tenants of Holders with access to the Easement shall cut, trim and maintain landscaping on their respective property. Any construction, installation, maintenance, and removal of a road with all culverts, bridges, drainage ditches, sewer facilities, and similar or related utilities and facilities under or across any portion of the Easement Property (collectively, the "Road Improvements") shall be jointly undertaken by Holders. Prior to the commencement of the Road Improvements or any maintenance, or repair of same, thirty-day's written notice shall be provided to all Holders. Such notice shall include a description of the scope of the work to be done and an estimate of the cost and expenses of the work. All matters concerning the configuration, construction, installation, maintenance, and removal of the Road Improvements must be approved in writing by each Holder. Such approval shall not be unreasonably withheld.

b. Any improvement or maintenance of the Easement Property ("Road Improvement Costs") will be at the joint expense of all of the easement Holders whose contribution amounts shall be based upon the usage of the Easement on the following schedule:

Tract Three: 38.75%

Tract Four: 38.75%

Tract Five: 22.50%

c. In the event any Holder shall fail to comply with this Paragraph 5 (a “*Defaulting Holder*”), any other Holder (the “*Performing Holder*”), following thirty (30) days written notice to the Defaulting Holder, but without notice in the event of an emergency, shall have the right (but shall not be obligated) to reimbursement of the Defaulting Holder’s proportionate share of the Road Improvement Costs. The Defaulting Party shall reimburse the Performing Holder for the reasonable costs incurred with interest thereon at the Agreed Rate (defined below), together with any costs of collection thereof, including reasonable attorney’s fees actually incurred (collectively, the “*Repair Cost*”). As used herein, the “*Agreed Rate*” shall mean five percent (5%) per annum from the date of demand for payment until paid.

6. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this Agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

7. *Attorney's Fees.* If any party retains an attorney to enforce this Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

8. *Binding Effect.* This Agreement binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

9. *Choice of Law.* This Agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

10. *Counterparts.* This Agreement may be executed in multiple counterparts. All counterparts taken together will constitute this Agreement.

11. *Waiver of Default.* A default is not waived if the non-defaulting party fails to declare default immediately or delays in taking any action with respect to the default. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law.

12. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.

13. *Indemnity.* Each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this Agreement by the indemnifying party. The obligations of the parties under this provision will survive termination of this Agreement.

14. *Survival.* The obligations of the parties in this Agreement that cannot be or were not performed before termination of this Agreement survive termination of this Agreement.

15. *Entire Agreement.* This Agreement and any exhibits are the entire Agreement of the parties concerning the Easement Property and the grant of the Easement by Grantor to

