

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

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

Association. "Association" shall mean and refer to Kovar Big Sky Owners Association, Inc., a Texas non-profit corporation, its successors and assigns.

- Board. "Board" shall mean the Board of Directors of the Association.
- Bylaws. "Bylaws" shall mean the Bylaws of the Association adopted by the Board, and as from time to time amended., a copy of which is attached hereto as **Exhibit B**.
- Common Properties. "Common Properties" shall mean that portion of the Property owned by the Association for the common use and enjoyment of the Members of the Association including, but not limited to all Big Sky Ranch Road (as shown on the Plat) and its associated entrance gate, community mailbox, entrance signage and landscaping, including any irrigation or sprinkler system, subdivision fences, Subdivision signs, and any public utility lines situated thereon (to the extent not owned by appropriate governmental authorities or by local utility companies).
- Declarant. "Declarant" shall mean Roger Beasley Investment, LLC, a Texas limited liability company, its duly authorized representatives or successors or assigns; provided that any assignment of the rights of the Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.
- Declaration. "Declaration" shall mean this instrument, and as it may be amended from time to time.
- Declarant's Control Period. The "Declarant's Control Period" shall mean the period during which the Declarant has Class B Membership rights and Class B voting powers in the Association, as more fully provided in Association's Articles.
- Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind located on the Property, including but not limited to buildings, outbuildings, storage sheds, barns, cabanas, patios, tennis courts, sport courts, swimming pools, garages, barns, storage buildings, fences, trash enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, air conditioning equipment, water softener fixtures or equipment, and poles, pumps, windmills, antennas, solar panels and arrays wells, tanks, reservoirs, stock ponds, catch basin, water storage tanks, pipes, lines, meters, and other facilities used in connection with water, sewer gas, electric, telephone, regular or cable television, or other utilities.
- Lot. "Lot" or "Lots" shall mean any of the eight (8) lots shown on the Plat.

Member. "Member" or "Members" shall mean any person, persons, entity, or entities holding membership rights in the Association.

Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering all or any portion of the Property given to secure the payment of a debt.

Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

Owner. Owner" or "Owners" shall mean and refer to a person or persons, entity or entities, including Declarant, holding a fee simple interest in all or any portion of the Property, but shall not include a Mortgagee.

Person. "Person" or "Persons" shall mean any individual, individuals, entity or entities having the legal right to hold title to real property.

Plat. "Plat" means the above referenced final recorded subdivision plat of the Property.

Required

Declarant

Improvements: Big Sky Ranch Road (as shown on the Plat) and its associated entrance gate, community cluster mailbox, entrance signage and landscaping, including any irrigation or sprinkler system, all as shown or more fully described in the attached **Exhibit C.**

Restrictions. "Restrictions" shall mean, collectively, (I) this Declaration, together with any amendment hereto made from time to time, (ii) the matters reflected on the Plat.

Subdivision. "Subdivision" shall mean and refer to Big Sky Ranch Subdivision described in the Plat.

Subdivision

Rules. "Subdivision Rules" shall mean the Community Rules of Big Sky Ranch Subdivision, if any, hereafter adopted by the Board, as the same may be amended from time to time.

ARTICLE II - DECLARANT'S RIGHTS AND DUTIES DURING THE DECLARANT'S CONTROL PERIOD

2.1 Use of Common Properties. During the Declarant's Control Period, the Declarant, with the right of assignment in whole or in part to any builder in the Subdivision, shall have and hereby reserves the right to reasonable use of the Common Properties and land owned by the Declarant or the Association within the Property in connection with the promotion and marketing of land within the boundaries of the Property. Without limiting the generality of the foregoing,

Declarant may erect and maintain (and may assign the right to builders in the Subdivision to erect and maintain) such marketing or directional signs, temporary buildings, construction trailers and other structures as Declarant may reasonably deem necessary to promote, develop, and market of land within the Property during the Declarant's Control Period.

2.2 Required Declarant Improvements. The Declarant shall commence and complete the Required Declarant Improvements at its sole cost and expense, within one hundred eighty five (185) days of the date that the Declarant conveys the sixth Lot to an Owner, or by September 30, 2021 if sooner or later than such benchmark sale date. Prior to the time it completes the installation of Big Sky Ranch Road, Declarant shall also, at its expense, rough cut a construction access road and top the same with caliche or other construction grade entrance materials to accommodate workmen access to any Lot whereon a single family residence is under construction.

ARTICLE III - GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.1 Antennae. No exterior radio or television antenna or aerial or satellite dish or internet antenna/receiver larger than one (1) meter in diameter, or other devices larger than one (1) meter in length designed to receive telecommunication/ microwave, broadband, satellite or cellular signals are permitted on any Lot. This includes, but is not limited to equipment of all types for radio, television, microwave, broadband, satellite and cellular signals which are intended for reception of any or all of radio, cable television, network television, cellular telephone, internet access or other entertainment content, unless a recorded exception therefore is made by the Declarant during the Declarant's Control Period, which approval shall not be unreasonably withheld or delayed, but which may be granted subject to reasonable placement and screening requirements and the Declarant may elect to impose in its sole and absolute discretion. It is the intent of this Declaration that Antennae, to the extent reasonably possible, be screened from view from public or private thoroughfares and adjacent Lots in the Subdivision.

3.2 Subdividing. No Lot may be partitioned or further subdivided (other than due to condemnation by a governmental entity with the power of eminent domain).

3.3 Signs. No sign of any kind shall be displayed to the public view on the Property without the prior written approval of the Declarant. The Declarant may create Community Rules to govern signs, prohibit any type of commercial advertising, other than customary residential for sale or lease signs or it may set standards for the same. The foregoing shall not apply to political or public referendum signs or flags placed by an Owner on such Owner's Lot during the pendency of an election or public referendum.

3.4 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view, except when placed in roll out type refuse containers placed in any common area designated for trash pick up during the period beginning the day before a scheduled trash pickup and ending at midnight on the day of a scheduled trash pickup. See also Article 10, paragraph (e) of the Bylaws regarding other restrictions related to rubbish and debris from construction activity.

3.5 Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security or public safety purposes) shall be located, used or placed on any Lot such that it becomes or will become clearly audible at the property line of any adjoining Lot. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.6 Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

3.7 Temporary Structures. Except as provided in sections 2.1 above, no tent, shack or other temporary building, improvement or structure shall be placed upon the Property; provided, however, that temporary structures necessary for storage of tools, materials and equipment, and for office space for architects, builders and foremen during actual construction may be maintained, with Declarant reserving the right to limit and approve the nature, size, duration and location of such temporary structures. A Temporary Structure may also be used by an owner of a Lot during, and only during the construction of the single family residence on such Lot, but in such case, such temporary use by an Owner shall not exceed twelve (12) months.

3.8 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth.

3.9 Unsightly Articles; Vehicles. No article deemed to be unsightly shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, recreational vehicles, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair, restoration or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other Structures. Owners shall not keep more than two (2) automobiles in such manner as to

be visible from any other portion of the Property for any period in excess of seventy two (72) hours in any calendar month. Automobiles shall include cars, pick-ups, sport utility vehicles and vans used for the personal transportation of residents or their guests. No automobiles or other vehicles may be parked at any time on Big Sky Ranch Road. Service areas, storage areas, loading areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view from public or private thoroughfares and adjacent properties and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view from public or private thoroughfares and adjacent properties.

3.10 Mobile or Modular Homes, Travel Trailers and Recreational Vehicles. No mobile or modular homes shall be parked or placed on any Lot at any time, and no travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private thoroughfares for more than seventy two (72) hours in any calendar month. Mobile and Modular Home shall mean and include also container homes, "tiny homes," and other structures which are portable and built off site, unless the container or modular component is intended to be and does become an integrated finished out part of larger permanent structure that was designed by a licensed Texas architect or engineer to be an integral part of the permanent residential Improvements or accessory Structure on the Lot.

3.11 Animals. Domestic animals, horses, cows and other livestock and wild game are allowed on the Lots so long as they are kept within enclosed or fenced areas on the Lots which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Fences must be adequate for containing the animal in question and must be maintained in good repair. Swine are not allowed on any Lot. Other than swine, animals are permitted if solely used by an Owner in conjunction with an FFA or 4-H project. No part of any Lot may be used as a commercial feed lot for any type of livestock or poultry. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large out side of any Lot and all animals shall be kept within enclosed areas on the Lots. Such enclosed areas shall be of reasonable design and construction to adequately contain such animals.

3.12 Maintenance of Lawns and Planting. Each Owner shall keep all planted shrubs, planted trees, non-native grass and plantings of every kind on such Owner's Lot, cultivated, pruned, mowed, and free of trash and other unsightly material. Owner shall install landscape irrigation systems where appropriate for the types of installed vegetation located on such Lot, and shall maintain all such landscape irrigation systems in good working order. Nothing contained herein requires any particular maintenance of native vegetation, other than seasonal mowing and normal farm and ranch land maintenance practices to deter pests, control fire ants and reduce fire hazards.

3.13 Construction Activities. Notwithstanding any provision herein to the contrary but subject entirely to Article 10 paragraph (e) of the Bylaws, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements or Structures by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. Any Lot clearing activity shall be performed only in accordance with accepted practices as established by the Texas Forest Service to control the spread of oak wilt and other diseases harmful to plants, trees, and shrubs.

3.14 Compliance with Provisions of the Restrictions. Each Owner shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions, laws, rules, regulations or ordinances shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

3.15 Construction in Place. All dwellings constructed on the Property shall be built in place on the applicable Lot and the use of prefabricated materials shall be allowed only as provided above.

3.16 Plat Requirements. Construction on all Lots is subject to and must comply with the notes on the Plat, including without limitation or expansion, those notes pertaining to construction and placement of water wells, water well and other set backs, on site sewage facilities, driveways, culverts, easements and connection to approved water, electric and wastewater collection facilities.

3.17 Rentals / Commercial Activities. Nothing in this Declaration shall prevent the rental of any entire Lot and all Improvements and Structures thereon under a single end user lease by the Owner thereof for residential purposes for any duration, short or long (a "Permitted Lease"). Commercial activity including, rental of any one or more Structure for any duration short or long separate and apart from the rental to a single end user under a Permitted Lease of an entire Lot, is prohibited on the Property with the exceptions of: (i) home office use, appurtenant art and music studio uses, and home based businesses (excluding manufacturing, other than hobby wood working shops) which do not entail public or patron visits, recurring shipping and receiving operations to and from the Property or employment of more than one on-site employee; (ii) farming; (iii) ranching; (iv) horse and cattle operations; and (v) temporary shooting of motion pictures or television shows.

3.18 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE IV - USE RESTRICTIONS

4.1 General. The Lots shall be improved and used solely for single family residential use, which for purposes of this Declaration means only one (1) single family residence may be constructed on each Lot, with the exception of appurtenant servant quarters, and one or more associated guesthouses, structures intended for use as private offices, or studio, art, screening, or practice or recording spaces and other Structures (as defined below), subject to the requirements and restrictions described in this article below.

- (A) Each single family residence must be constructed of new material (or repurposed architectural materials).
- (B) Each single family residence must have a minimum of 1,000 square feet of air conditioned area, provided however this minimum area requirement shall not apply to appurtenant servant quarters or one or more associated guesthouses, structures intended for use as private offices, or studio, art, screening, or practice or recording spaces or other Structures (as defined below), which may be constructed beginning up to two (2) years before the intended single family residence is constructed.
- (C) Unless otherwise approved by the Declarant during the Declarant's Control Period (which approval shall reference the Lot by its legal description and be duly recorded in the Official Public Records of Bastrop County Texas), the exterior finish materials on the sides of any home, building or other habitable structure must be constructed using rock, brick, stucco, wood, architectural metal, Hardiplank, or any combination thereof.
- (D) No home, building, other Structure or improvement on any Lot may exceed forty eight feet (48') in height as measured from average height of the natural grade of the land on which the foundation rests.
- (E) Unless otherwise approved by the Declarant during the Declarant's Control Period (which approval shall reference the Lot by its legal description and be duly recorded in the Official Public Records of Bastrop County Texas), appurtenant servant quarters, and associated guesthouses, structures intended for use as private offices, or studio, art, screening, or practice or recording spaces are subject to the same exterior cladding material requirements for single family residences as are described above;
- (F) Improvements on Lots may include, in addition to a single family residence, barns, shop buildings, or other out buildings, so long as each are constructed with new materials (or repurposed architectural materials), provided however that no metal sides or siding of any

such building or Structure may be located so as to be visible from State Highway 95 or from Big Sky Ranch Road.

- (G) Any single family residence, servant quarters, guesthouse, structures intended for use as private offices, or studio, art, screening, or practice or recording spaces servant or guesthouse, barn, shop building, or outbuilding (collectively, "**Structures**"), must be completed within twenty four (24) months of commencement of construction of such Structure (as determined on a Structure by Structure basis). There is no requirement that all Structures be commenced or completed at the same time, however if not built first, the construction of the single family residence must commence within two (2) years after the completion of construction of the first Structure on that Lot.
- (H) Any swimming, wading or splash type pool shall be enclosed by fencing or walls or other enclosure devices meeting the minimum requirements for swimming pool enclosure devices in Bastrop County, Texas.
- (I) All Owners shall comply with and shall cause all persons engaged by such Owner to construct improvements on any Lot, to comply with the requirement of section 7.3 below.
- (J) Each single family residence and habitable Structure must have and be connected to a septic system properly designed and installed in compliance with a license from the appropriate governmental authority and each such system shall be installed, maintained and operated in accordance with all applicable laws.

ARTICLE V - THE ASSOCIATION

5.1 Organization. The Declarant shall, at such time as Declarant deems appropriate, but prior to the date of first sale of a lot to a third party Owner, cause the formation and incorporation of the Association as a nonprofit corporation under the laws of the State of Texas. The Association shall be created for the purposes, charged with the duties, governed by the provisions, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Members holding one-tenth of the total votes entitled to be cast, represented in person or by proxy, shall constitute a quorum. Save and except as provided otherwise therein, the Articles and/or Bylaws may be amended by a majority of the total votes entitled to be cast by Members of the Association. In the event the Articles or Bylaws shall for any reason be inconsistent with this Declaration, the Articles control the Declaration and the Declaration shall control the Bylaws.

5.2 Membership. The Declarant with respect to the Lots it owns shall be a Class B Member of the Association and every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject, by covenants of record, to Assessment by the Association, including contract sellers, shall be a Class A Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. Any Mortgagee or Lienholder who acquires title to any Lot which is a part of the Property through judicial or non-judicial foreclosure, shall be a Member of the Association.

5.3 Voting Rights. The Association shall have (2) classes of voting memberships:

- (A) Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds such interest in any Lot, all such persons as shall be Members. The vote for such Lot shall be exercised as they among themselves determine as provided by the Bylaws, but in no event shall more than one (1) vote be cast with respect to any Lot.
- (B) Class B. The Class B Member shall be the Declarant, and its successors and assigns, and shall be entitled to twelve (12) votes for each Lot owned by it. The Class B membership shall cease and be converted to Class A membership when and as provided in Article III of the Addendum to the Association's Articles.

5.4 Powers, Duties and Authority of the Association. The Association shall have the powers and duties of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration or the Articles or Bylaws. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it in the Articles, Bylaws or by the Laws of Texas, including without limitation the power and authority to: (1) levy assessments as provided in this Declaration, (2) levy fines, (3) cause the Declarant to install the Required Declarant Improvements at its sole cost and expense.

5.5 Members Right to Hearing. A Member who has been cited by the Association for violation of the Restrictions, including an Assessment levied by the Association pursuant to Section 5.4 of this Declaration, shall have the right to a hearing before the Board, in accordance with the procedures set out in the Bylaws, regarding such violation or levy of Assessment. The hearing may be set at the request of either the aggrieved Member or the Board. The Board shall establish rules and regulations regarding notice and hearing procedures. The decision of the Board following a hearing at which the aggrieved Member has had an opportunity to appear unless subsequently amended by Resolution of the Board or by the order of a court of law shall be deemed the final and binding act of the Association.

5.6 Association Maintenance. Following the installation by the Declarant of the Required Declarant Improvements and expiration of any warranty period associated therewith, the Association shall assume the maintenance of and shall maintain Big Sky Ranch Road and its associated entrance gate and Subdivision signage and associated landscaping.

5.8 Common Properties. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

- (A) To accept, own, operate and maintain Big Sky Ranch Road and its associated entrance gate and Subdivision signage and associated landscaping which shall be conveyed by Declarant to the Association, together with all Improvements of whatever kind and for whatever purpose which may be located in said areas. Such maintenance shall include but not be limited to mowing, removal of rubbish or debris of any kind and repainting when necessary.
- (B) To construct, maintain, repair and replace landscape improvements and irrigation systems within public rights-of-way pursuant to agreement(s) with the appropriate governmental authority.
- (C) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all right's granted by law to contest the legality and the amount of such taxes and assessments.
- (D) To take out and maintain current a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of Big Sky Road and its associated entrance gate and Subdivision signage and associated landscaping. Such insurance shall be in an amount as the Board shall deem appropriate.
- (E) To cause the Declarant to commence and complete the construction of the Required Declarant Improvements and rough cut construction entrance as required above.

5.9 Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, and (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any

liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise. The foregoing shall be in addition to and not in limitation of Article VII of the Addendum to the Associations Articles.

5.10 Quorum for Meetings of Members. The Members holding at least fifty percent (50%) of the votes entitled to be cast at a meeting of the Members, represented in person or by proxy, as such votes are allocated pursuant to the provisions of this Declaration, shall constitute a quorum at a meeting of the Members.

ARTICLE VI - FUNDS AND ASSESSMENTS

6.1 Assessments.

- (A) Assessments established by the Board pursuant to the provisions of this Article VI shall be levied on a uniform basis against each platted Lot within the Property. Assessments for ad valorem property taxes against the common area roadway shall be established by the Board and shall be levied on a uniform basis (1/8) to each lot against all Lots within the Property.
- (B) Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Property against which the Assessment fell due, and shall become a lien against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.
- (C) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose to the duration of the Assessment year or other period remaining after said date.

6.2 Maintenance Fund. The Board shall establish a maintenance fund into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration and the Bylaws. The funds of the Association must be used solely for purposes authorized by this Declaration and the Bylaws, as it may from time to time be amended.

6.3 Purchase Assessment. The Owner of each Lot conveyed by deed from Declarant executed after the effective date hereof shall contemporaneously with the execution of the deed for such Lot, pay an initial assessment of \$4,000.00. This initial assessment is separate and distinct from any other assessment provided for herein and is intended to provide the Association with working capital.

6.4 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions and Community Rules, the cost of enforcing the Restrictions and any Community Rules, and a reasonable provision for contingencies and appropriate replacement reserves less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or in such other manner as the Board may designate in its sole and absolute discretion. In the year 2020, the regular annual assessment shall not exceed \$1,875 per Lot and once the regular annual assessment equals such amount, the regular annual assessment may not thereafter increase by more than ten percent (10.0%) per year.

6.5 Special Assessments. No special assessments may be made in the year 2020 or 2021. After 2021, in addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association. The amount of any special Assessments shall be at the reasonable discretion of the Board and all such special Assessments shall be due and payable to the Association within sixty (60) days of the date of written notice of such special Assessment.

6.6 Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest on the amount of the Assessment from the due date at a percentage rate of ten percent (10%) per annum, unless otherwise established by Board Resolution, together with all costs and expenses of collection, including reasonable attorney's fees.

6.7 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall together with interest as provided in Section 6.6 hereof and the cost of collection, including attorney's fees as herein provided, become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns (as applicable). The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for:

- (A) All liens for taxes or special assessments levied by the applicable city, county or state government, or any political subdivision or special district thereof;

- (B) All liens securing all amounts due or to become due under any mortgage vendor's lien or deed of trust which secures any loan made by any lender to a Member for any part of the purchase price of any Lot, or for any part of the cost of constructing, repairing, adding to or remodeling any Improvements, loan to pay Property taxes on said Lot or any home equity loan, filed for record in any such case prior to the date any Assessment became due and payable.

Notwithstanding the above, no lien shall be deemed or held superior to the lien hereby created unless the Association is made a party to any court proceeding to enforce any of the above listed liens. The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Bastrop county. Such lien for payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and may be enforced by either (i) the Association foreclosing against the defaulting Owner's Lot in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or (ii) the Association instituting suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to such Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

ARTICLE VII - EASEMENTS

7.1 Reserved Easements. All dedications, limitations, restrictions and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights, made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and all dedications, limitations, restrictions and reservations shown on and amended Plat hereafter recorded and all grants and dedications of easements, rights-of-way, restrictions and related rights, made by Declarant after the Property becomes subject to this Declaration but before any lots in such Plat are sold to third parties, are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most

efficiently and economically developing the Property. Further, during the Declarant's Control Period, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, water, cable television, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which said easement shall have a maximum width of 5.0 feet on each side of such Lot line.

7.2 Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the easement areas affecting the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, cable television, fiber optic lines, telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no sewer, electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant during the Declarant's Control Period or the Association thereafter. The Utility companies furnishing service shall have the right to remove, to the minimum extent necessary, all trees situated within the utility easements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

7.3 Drainage, Flood Plain, Erosion and Sedimentation Controls. Each Owner shall comply with the requirements of the Plat as to drainage, flood plains, erosion and sediment controls, limitation on building in areas negatively impacting storm water flows, drainage easements, and any drainage ponds and/or detention/retention areas.

7.4 Surface Areas. Each Owner shall maintain the surface area of all easements located within such Owner's Lot and all improvements located thereon except for such improvements for which a public authority or utility company is responsible. The surface of easement areas for utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

7.5 Title to Easements and Appurtenances Not Conveyed. Title to any Lot conveyed by Declarant by contract, deed or other conveyance shall not be held or construed in any event to

include the title to any part of Big Sky Ranch Road or any drainage, water, storm sewer, electrical light, electrical power, or telephone easement or right of way, or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant.

ARTICLE VIII - MISCELLANEOUS

8.1 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2040, unless amended as herein provided. After that date, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed in accordance with the provisions of Section 8.3(B).

8.2 Nonliability of Declarant or Board. Neither the Declarant or any member of the Board, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of his or her duties under this Declaration unless due to the willful misconduct or bad faith of the Declarant or Boards member, as the case may be.

8.3 Amendment.

(A) By Declarant. This Master Declaration or any Supplemental Declaration may be amended by the Declarant acting alone until December 31, 2040, or until Declarant no longer holds a majority of the votes in the Association, whichever occurs first. Notwithstanding the foregoing, Declarant may amend this Declaration at any time (i) to correct typographical and grammatical errors, and (ii) in order to comply with HUD, VA or FHA requirements for approval of the Property.

(B) By Owners. In addition to the method in Section 8.3(A), after December 31, 2040, this Declaration may be amended by the recording in the Bastrop County Official Public Records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast greater than fifty percent (50%) of the number of votes entitled to be cast pursuant to Section 5.3 hereof.

8.4 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be

deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association. It shall be the obligation of the Member to update the Association with the correct ownership and mailing address. Unless otherwise designated by the Owner/Member, the Association may rely on the ownership records of the Bastrop County Appraisal District for the name and mailing address of an Owner/Member.

8.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of Texas.

8.6 Assignment by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, in writing duly recorded in the Official Public Records of Bastrop County which specifically so states and described the Property by its legal description, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit, by written agreement only, the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder, provided however that no such assignment occurring after the sale of the Lot to a person unrelated to the Declarant shall relieve or release the Declarant from its obligation to install the Required Declarant Improvements at its expense.

8.7 Enforcement and Nonwaiver.

- (A) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provisions. In addition, the Declarant, the Board, and each Owner, shall be entitled to injunctive relief mandating compliance with this Declaration, and shall be entitled to obtain a decree specifically enforcing the performance of the obligations, or enjoining the violation of the Restrictions, covenants, or easements, created hereunder, the Declarant for itself and each future Owner and the Board acknowledging the inadequacy of legal remedies for the irreparable harm which would be caused by any such breach. In such event, the Declarant, Board and/or Owners, as the case may be, shall also be entitled to exercise any other rights or remedies available to the Declarant, the Board or Owners, either at law or in equity, from the consequences of such breach. Should Declarant, the Board or the Owners, in an attempt to enforce the provisions of this Declaration, bring suit for the enforcement

of any of the provisions hereof, the prevailing party in such proceeding shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees, associated legal expenses and costs of court in connection with any such proceeding. As used herein, the "prevailing party" means the party who receives at the conclusion of a proceeding, or, as the case may be, dismisses an action for recovery hereunder in exchange for, payment of sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the proceeding. Except as otherwise specifically provided in this Declaration, no remedy provided in this Declaration shall be exclusive, but shall be cumulative with all other remedies provided for in this Declaration, and all other remedies at law or in equity which are available to the Declarant, the Board or the Owners.

- (B) Nonwaiver. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.
- (C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

8.8 Interpretation.

- (A) Restrictions Severable. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
- (C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof
- (D) Covenants Running With Land. This Declaration, upon and subject to its terms, shall be covenants running with the land, binding upon the Property, the Lots, and its Owners, including the Declarant.

8.9 Constructive Notice and Acceptance. Every Person who, now or hereafter, owns or acquires any right, title or interest in or to any portion of the Property upon which the Restrictions provided for herein have been placed, whether as an owner, tenant or occupant, and any subsequent mortgagee, is and shall be conclusively deemed to have consented and agreed to every term, provision, covenant, condition and restriction herein contained, whether or not any

reference to this Declaration shall be contained in the instrument by which such Person acquires an interest in such portion of the Property.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this _____ day of September, 2019.

DECLARANT: Roger Beasley Investment, LLC, a Texas limited liability company

By: _____
Roger Beasley, Manager

STATE OF TEXAS §
COUNTY OF TRAVIS §

This Declaration of Covenants, Conditions and Restrictions was acknowledged before me on this _____ day of September, 2019, by Roger Beasley as Manager of Roger Beasley Investment, LLC, a Texas limited liability company, on behalf of said limited liability company as Declarant.

Notary Public in and for the State of Texas
Print Name: _____
My Commission Expires: _____
Notary Number: _____

AFTER RECORDING RETURN TO:

Craig A. Dunagan, P. C.
2004 Lakeshore Drive
Austin, Texas 78746

EXHIBIT "A"

Certificate of Formation of
Kovar Big Sky Owners Association, Inc., a Texas non-profit corporation

EXHIBIT "B"

Bylaws of

Kovar Big Sky Owners Association, Inc., a Texas non-profit corporation

EXHIBIT "C"

[Add details re Subdivision Sign, Cluster Mail Boxes Description and Location

And Add detail re Big Sky Ranch Road, the associated entrance gate and any landscaping and associated irrigation]