

# Declaration of Covenants, Conditions and Restrictions

## **Scenic Loop Estates Boerne Stage Airfield**

Operating  
Boerne Stage Airfield

# Declaration of Covenants, Conditions and Restrictions

## Scenic Loop Estates

### (Operating Boerne Stage Airfield)

**THIS DECLARATION** is mutually agreed to by and between Scenic Loop Estates, hereinafter referred to as "Declarant", and the purchasers of Property out of said subdivision, hereinafter referred to as "Buyer", and all those claiming under them. All of the Property described shall be held, sold and conveyed subject to the recorded plat Volume 9510, Page 199, [amended] of the Bexar County Plat Records and all easements recorded thereon as well as the following easements, restrictions, covenants and conditions set out in this document which shall be binding on all parties having any right, title or interest in the Property or any part thereof, including their heirs, successors and assigns, employees and invitees, and shall inure to the benefit of each thereafter. All those who become a party to this instrument and an owner of Property at the Scenic Loop Estates of which the Boerne Stage Field and it's improvements are an integral part, shall have a non-exclusive, perpetual easement across said Boerne Stage field and same shall be considered a common use area and maintained as such. This benefit shall also inure to any subsequent owner, his successors or assigns, employees and invitees, provided that no provision within this document is ever violated while using this easement.

## **Section One: Business and Hangar Property**

### I

The tracts shall be used for business purposes and the storage of aircraft and those items and materials so related and necessary to the safe and efficient operation of aircraft. Business operations may not conflict with those operations of the Boerne Stage Field and it's airport services in any way, particularly hangar rental and fuel sales and those items that are described in other parts of this instrument as being an exclusive part of the airfield operations.

### II

All buildings must be approved by the Architectural Review Committee, hereinafter called the ARC. Approval may be withheld at the sole discretion of the ARC. If notice of approval or disapproval is not given within thirty days after receipt via certified mail of the written request, then the request shall be deemed approved, provided that nothing erected violates any of the covenants contained herein.

### III

No mobile homes or temporary buildings may be placed on the Property as a permanent structure and any other use, including duration of such use, shall be approved by the ARC, which has sole judgment over such matters.

### IV

All buildings in this section must have an exterior finish of at least baked on enamel, the design and color of which are subject to ARC approval. All other aspects or types of construction and lot plan layout must be approved in advance by the ARC, which may withhold such approval for any reason.

### V

All structures must face a roadway or taxiway.

## VI

At the time of construction and as part of the plan to be considered for approval, the Buyer must provide a paved driveway; paved parking suitable for the projected volume of both vehicular and aircraft traffic; and, adequate building setback to accommodate such. The minimum building setback of a main taxiway is twenty-five (25) feet. The minimum building setback on a feeder is twenty (20) feet. Nothing shall inhibit the passage of two-way aircraft traffic on a main taxiway, including overnight tie-downs or any other use of the *setback area* for a prolonged period of time. Parking and other causal placement of vehicles or aircraft is allowed, provided it is done in such a manner that will not create a potential for wing tip damage to passing aircraft. Nothing may overhang or be placed in the dedicated ingress/egress easement areas at any time, whether that area be maintained by Declarant or Buyer.

## VII

The formula to be used to determine setback of large buildings shall be the first twenty-five feet as stated previously, plus additional setback equal to a ratio of 1 to 3 for each additional foot beyond the first sixty feet of building depth. A building of one hundred feet in depth would require a minimum setback of 38.33 feet, for example. Buyers who require keeping aircraft in front of their building on a regular basis may require more setback to provide adequate clearance for the fronting taxiway, subject to ARC approval.

## VIII

No building or other structure may exceed the height restrictions or runway setback criteria as set forth by the Federal Aviation Administration in its advisory circulars without the express written consent of the ARC and the Boerne Stage Field, its successors or assigns. All other easements for utilities and drainage must be kept clear of debris and no permanent structure or concrete slab may be placed thereon except where allowed by County or Utility company regulations, such as parking areas.

## VIX

The ARC shall be the final authority for approval of any signage and may establish uniform specifications as to colors, size and graphics.

## X

The ARC may designate additional easements for drainage and side setback criteria at the time of approval of the Buyer's building plan.

## XI

Buyer shall keep Property in a neat and attractive condition. If buyer fails to comply, Declarant, his successors or assigns, after giving ten days advance written notice, may enter the Property for the purpose of mowing weeds and grass, removing dead trees, rubbish or junk. Buyer shall be liable for the cost thereof and the exercise of this right shall leave Declarant free of any liability to Buyer.

## XII

All activity on the property shall be conducted in an orderly manner with minimum noise. No noxious odors, smoke, or pollutants shall be allowed to escape or migrate from any structure or lot. Buyer shall clean and repair any damages to other Property from any action that occurs or originates on Buyer's property as a result of neglect, carelessness, or any other thing over which Buyer has control.

### **XIII**

No septic sewer systems may be constructed on the Property without first meeting all requirements set forth by the County of Bexar. Engineering data confirms a land area of one-half acre minimum is required for a private, domestic sewer system. All others are subject to engineering design and approval. Properties of less than one-half acre have been designed for aircraft storage without consideration for septic systems. Combining lots to meet requirements for private sewer systems shall be governed by the ARC and it's designated Registered Professional Engineers.

### **XIV**

Easements are reserved to the Declarant, it's successors or assigns, for the installation and maintenance of utilities, sanitary sewers and drainage and are depicted on the subdivision plat. Easements within a lot shall be continuously maintained by the owner of the lot, except for those easements for which a public authority or utility company is responsible.

### **XV**

The Declarant, his successors or assigns, retain the exclusive right to conduct the operations of the airfield and will have control over and exclusivity to the sale of all fuels, lubricants, oils, foods and beverages, auto rentals, hangar rentals or development, flight instruction, aircraft rental or storage, and all those other services related to and regarded as basic airfield services. Because Declarant reserves control over the foregoing does not imply that Declarant will make available or allow any other entity to make available such things as flight instruction or auto rental.

All other business activity related to airfield operations or the foregoing must first be approved by Declarant to ensure compatibility with other property owners, Declarant, the Boerne Stage field, and the covenants and conditions contained within this document.

### **XVI**

No property owners may install private fuel facilities without prior consent by Declarant. The ARC must approve any subsequent installation.

### **XVII**

In the event Buyer becomes unable to enjoy the use of his property, such as loss of Medical Certificate, then that property may be leased. This activity may not exceed previous activity (use) or be harmful to Declarant with respect to Declarant's activities or those of the Boerne Stage Field.

A Buyer may conduct his own business operation on his property but shall notify Declarant of his intent to do so and these operations may not violate other sections of this instrument or the Standing Operating Procedures of the airfield.

A Buyer may time share, sublet or share expenses with another in the use of Buyer's hangar but not to the extent that it harms the operations of Declarant or the Boerne Stage Field. (e.g. rental hangars per se)

### **XVIII**

No noxious, offensive, unlawful or immoral use shall be made of the Property.

### **XIX**

All minerals in, on or under the Property are reserved to the Declarant, his successors or assigns.

### **XX**

No pets may be permitted to roam at will and none shall be left unattended, even if restrained. Livestock operations may not be conducted in this section of Scenic Loop Estates.

## **XXI**

No firearms may be discharged and hunting is prohibited in this section.

## **XXII**

All aircraft operations shall be conducted according to the Standing Operating Procedures which shall be posted or distributed to Buyer and others conducting operations at the Boerne Stage Field, said Boerne Stage field being defined as the landing zone depicted on the Scenic Loop Estates subdivision plat, and all improvements and easements appurtenant thereto. The Standing Operating Procedures may be amended by Declarant or the Owner/Operator of the Boerne Stage field without further amendment to this document.

## **SECTION TWO: RESIDENTIAL PROPERTY**

{Filed, but not reproduced per applicability}

## **SECTION THREE: DECLARANT'S GENERAL PROVISIONS**

### **I**

This document shall remain in full force and effect for perpetuity. It may be modified by a two-thirds vote of all the owners of the parcels that comprise the applicable Section but not until after Midnight, December 31, 2005. No modifications may be made that would degrade or devalue any other section, part or parcel of the subdivision.

### **II**

Declarant may make modifications or issue variances to Buyers as deemed in the best interest of all the property, such change subject to review by the ARC. After January 1, 1990, any modification made by Declarant shall be subject to approval of the then two-thirds owners of the property in the Section to which a change applies. Declarant shall have the sole right and authority to issue variances to Buyers in the Business section for the purpose of controlling the types of businesses located in that section until such time that 90% of the available property is purchased, at which time the proposed business activity shall not violate any covenant or restriction in this document. Declarant has the absolute and irrevocable right to limit the types and numbers of aviation related businesses in the subdivision so that a healthy, competitive business environment is maintained. At the same time Declarant shall not allow so much of the same type of activity that it is harmful to all those involved. (For example, three propeller shops to serve only a small number of based aircraft.) Therefore, any Buyer intending to conduct a business at the Airfield shall serve notice to Declarant of such intention stating the nature of the business, the level of transient activity it might generate, the number of aircraft it will require to be based on it's property and all other pertinent information. Declarant will then issue a letter of approval or disapproval to Buyer. If Buyer in any way believes his business may violate a covenant in this document, or that for any reason he may be disapproved for his business activity, then Buyer should take all steps possible to make proper notice to Declarant before purchasing any property for business use.

### **III**

The ARC shall consist of at least Declarant and one approved, registered, Texas based architect who is also a licensed pilot. {Waived 5/5/89 due to death of member.} Declarant may add one additional member who must be a builder by profession. Any additions beyond these may be at Declarant's discretion. As soon as practicable the ARC chair holders shall also be property owners. The names of the ARC chair holders shall remain confidential if they so request. In the event of a dispute on the committee, Declarant shall have authority to break the tie or finalize a decision. {Current committee of three is all pilots and property owners: one builder, Declarant and spouse.}

### **IV**

While Declarant, the airport or successors maintains the water system, there shall be no fee charged or assessed for the water until such time that a CCN is issued establishing a public utility. Other one-time assessments shall be supported with good cause and used solely for the purpose for which they are intended. But no assessments may be made for water service until a CCN is issued by the State of Texas. Declarant may hand over operation of

the private use water system to the owners or another public utility if in the best interests of the airfield, or may continue status quo indefinitely. {Corrected section IV recorded June 2007}

## **V**

Guidelines for the calculation of maintenance and use fees include the actual costs for maintenance of common areas, additional improvements, security systems and guards, fueling systems, lighting and electric meters for common use areas, the water system, fencing and other items directly related to the subdivision and the landing area. The fees shall be reasonable and not out of line with the national average for comparable benefits associated with a Planned Unit Development (PUD) for which the responsibility for upkeep is not dedicated to a public authority.

## **VI**

The ARC or Declarant shall have the power to enforce these covenants. No action shall be brought against either as a result of any action, or failure to take any action, on any of the matters in this document. The powers granted the ARC shall be exercised as it deems best. The granting of any variance shall not constitute a waiver of the right of the ARC to insist upon full and strict compliance with matters other than the specific variance.

## **VII**

Based aircraft must be General Aviation type in nature, not exceeding the FAA defined limits of a General Aviation aircraft and a noise limit of 95 decibels RMS single event noise level at 500 feet AGL on departure. (For example, a Cessna 170 at 300 feet measured 78 dB RMS at the southern property line with a full power departure.) Gross weights above 8000 lbs are subject to prior approval and runway stress tests. {Increased to 12,500}

Declarant reserves the right to restrict to certain hours and days of the week the activity of any aircraft that might exceed these standards or that generates noise of such a nature that, based on Declarant's expertise, may be considered not compatible with the Property. Loud, two cycle dirt bikes may not be operated at the subdivision. Ultralights shall first be approved by Declarant with the provision for denial without recourse on the owner's behalf. [recorded addendum follows] Ultralights may never be operated in the immediate neighborhood by any owner or invitee at any time except for arrival or departure, with prior approval, and then only in accordance with the Standing Operating Procedures and strict observance of pattern altitudes.

## **VIII**

All operators of any airborne vehicle must be licensed by the FAA.

## **VIX**

Violation of the Standing Operating Procedures (including noise abatement procedures) can result in suspension or revocation of the easement across the common use area for landing aircraft. This authority shall remain with the declarant, his successors or assigns, and shall be used in the best interest of all the owners of Property at the subdivision.

## **X**

All property owners within Scenic Loop Estates, their agents, employees and invitees have an easement for ingress and egress to and from their property and the runway and all other areas used in common with the other owners across property owned or leased by Declarant, his successors and assigns. The right of Declarant to dedicate or transfer all or any part of the common area, including clear zones, taxiways, roads and the runway, to any public or private agency, authority, utility or property owner's association shall remain with Declarant until such time that ninety per cent of the available lots are sold, provided such dedication will benefit, preserve and protect the common area and not alter its use as a landing area.

## **XI**

Should any portion of this document become unlawful or unenforceable, it shall have no effect on any other portion of this document. A lien may be placed on the Property by Declarant to secure his rights therein should legal

counsel be employed to enforce any part of this document. By reason of such breach all costs incurred in enforcement, including a reasonable fee for counsel, shall be paid by the property owner in violation.

[Executed this Sixth day of September, 1985, by Robert H. Bruce, Declarant. Filed even date Bexar County Clerk's office Vol 3499, Pages 0410 et seq]

### **Declarant's First Addendum to the Covenants, Conditions, and Restrictions of Scenic Loop Estates**

THIS ADDENDUM is made to that instrument recorded in Vol. 3499, Page 410 [et seq] of the Bexar County Deed Records, and is made a permanent part thereof. To wit:

(1) All streets, roads, taxiways and alleys are sanitary sewer easements.

(2) All common areas including clear zones and runway safety areas may be utilized as drain fields. These areas include all that raw land situated between those lines delineating the 420 feet wide Building Restriction Line, and said areas shall remain in native grasses.

(3) The introductory paragraph to the aforementioned document, which describes the recording of the plat of the subdivision, is amended to read, "Volume 9510, Page 199" rather than Volume 9910.

This concludes Declarant's First Addendum.

[Executed by Robert H. Bruce, Declarant, this 14<sup>th</sup> day of October, 1985. File Vol. 3930 Page 1079 Bexar County Deed and Plat Records.]

### **Declarant's Second Addendum to the Covenants, Conditions and Restrictions of Scenic Loop Estates**

THIS ADDENDUM is made to that instrument recorded in Vol. 3499, Page 410 [et seq] of the Bexar County Deed Records, and is made a permanent part thereof. To wit:

(1) Operation of ultralights is prohibited.

(2) Declarant may not vary any land use under any circumstance that would cause, as a result of such variance, the emission of smoke, chemicals, or other such pollutants into the air or the ground or the surrounding area that is harmful to the environment.

(3) All of that land depicted on the filed plat is defined as "Public Access Airport Property", in accordance with the State Property Tax Board's definition of such. Permission to land is not required. That instrument which is on file with the Federal Aviation Administration defining and identifying for aeronautical charts and other purposes the platted property also shall publish the property as public access. This restriction shall run with the other sections of this instrument for perpetuity, or may be modified according to Section Three, Paragraph I.

(a) This clarifies the use of the phrase "non-exclusive, perpetual easement" to be in accord with the State of Texas definition of "public access", which differs slightly from the Federal Aviation Administration who defines a "Public Use" landing area thus: "Permission to land is not required."

(b) This does not mean that the Owner or Operator of the Airfield cannot restrict or control access from the ground for reasons of safety, security, or other circumstances common to the operation of landing areas and the appurtenances thereto. Said control being defined as (but not limited to) remote controlled gates, electronically released latches, and other items used to secure areas in common with airport property.

(c) This delineation of public access does not waive, impede, dilute, modify, change or do any other such similar thing to the Standing Operating Procedures, Pattern Procedures, or any other similar procedure

promulgated for the orderly conduct and safe use of the Airfield. The right to charge landing fees, use fees, or any other such fee, to transient aircraft, whether such fee be in effect or not at any time, and to levy use and maintenance fees to adjoining property owners, remains with Declarant, or the Owner/Operator of the airfield, his successors, assigns, heirs or designees.

This concludes Declarant's Second Addendum.

[Executed by Robert H. Bruce, Declarant, 15 Oct 1985 and filed Bexar County Deed & Plat Records]  
{Note: Filed in part to fix certain "good neighbor" noise control agreements, and to meet Property Tax abatement rules}

**Declarant's Third Addendum to the Covenants, Conditions and Restrictions of  
SCENIC LOOP ESTATES  
Operating the Boerne Stage Airfield**

THIS ADDENDUM is made to that instrument recorded in Vol. 3499, Pages 410 et seq. of the Bexar County Deed Records, and is made a permanent part thereof. To wit:

**Correction Declaration Pertaining to Public Access Airport Property**

The Property being held and restricted to Public Access Airport Property was defined as "all of that land depicted on the filed plat". The property is further described for all purposes hereinbefore and hereafter as follows:

**Being 97.713 acres of land being 71.952 Acres and 25.761 Acres as recorded in Volume 3141, Page 10 and Volume 3141, Page 12, respectively, of the Bexar County Deed Records. The land has been filed as a land use plat and plan and recorded in said Bexar County Plat Records Volume 9510, Page 199.**

This plat details lots numbered 1 through 44 which may also be held as Public Access Airport Property by the individual owners. Application for same being the responsibility of the record title holder, and determination of which may be on a case by case basis in accordance with the State of Texas Property Tax Board guidelines for special valuation. Payment of Use and Maintenance fees to the airport for operations on the airport improvements is a requirement of fee simple Deed holding. Compliance with Federal Aviation Regulations and the airport Rules of Conduct and Pattern Procedures are applicable to all users of the facility.

Those parcels numbered R1 through R13 inclusive, are vacated as platted and said land is in use for airport operations as clear zones, parking zones, airport expansion zones, utilities and drainage, as may from time to time be required.

This clarifies the preceding Declaration, but does not alter the original intent of the entire property's use as a Public Access Airport.

This concludes Declarant's Third Addendum.

[Executed by Robert H. Bruce, Declarant, 30 April 1997, filed Bexar County Deed & Plat records Vol 7072 Page 2045]

{Note: Filed to further clarify things for struggling appraisers at the Property Tax office.}

**Declarant's Correction to Section Three, Article IV  
of the Covenants, Conditions and Restrictions of  
SCENIC LOOP ESTATES  
Operating the Boerne Stage Airfield**

THIS CORRECTION is made to that instrument recorded in Vol. 3499, Pages 410 et seq. of the Bexar County Deed Records, and is made a permanent part thereof. To wit:

Section Three, Article IV as previously recorded is deleted and replaced entirely by this corrected Article IV, this 28<sup>th</sup> day of June, 2007.

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**IV**

While Declarant, the airport or successors maintains the water system, there shall be no fee charged or assessed for the water until such time that a CCN is issued establishing a public utility. Other one-time assessments shall be supported with good cause and used solely for the purpose for which they are intended. But no assessments may be made for water service until a CCN is issued by the State of Texas. Declarant may hand over operation of the private use water system to the owners or another public utility if in the best interests of the airfield, or may continue status quo indefinitely.

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Executed this 28<sup>th</sup> day of June, 2007, by Robert H. Bruce, Declarant

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State of Texas §  
County of Bexar §

Before me, the below signed authority, did personally appear Robert H. Bruce, Declarant and Chair of the Architectural Review Committee, who executed this document for the purposes and considerations herein expressed.

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Notary Public, State of Texas

**STANDING OPERATING PROCEDURES**  
**&**  
**Traffic Patterns**

**The following procedures are based on published FARs and Advisory Circulars, normal takeoffs and landings as detailed in the AIM, with slight variations for maximum noise abatement in accordance with agreements with the neighborhood and adjoining land owners.**

**Rwy 17 Departures**, follow runway centerline and imaginary extended centerline to 2400 MSL before turning to heading. Purpose is to NOT turn out low over neighboring homes.

**Rwy 35 Departures**, follow runway centerline and imaginary extended centerline to I-10, or 2400 MSL, whichever occurs first. Do NOT turn out low over neighboring homes.

**Right traffic Rwy 17. Left to 35.** Finals to both runways are a mirror image of departures. Make downwind at least 1.5 miles off runway. Avoid overhead approaches. Approach airfield from I-10 if arriving from that area (North thru South to the East), for prevailing winds landing to 17. If safe to execute, get on the radio and announce 5 miles out and make a straight in, especially if during the week when there's little traffic, as this eliminates the downwind noise footprint. Approach with a wide birth over the hill country if arriving from that area to either runway. Purpose: minimize cumulative exposure to immediate, neighboring homes.

Pull props and power back on arrivals, especially if you arrive over airport. Full blast arrivals over the airport are unnecessary and bad technique. Cruise prop settings and reduced power are quite adequate until established on final. No low approaches. Pattern altitude is 1000 AGL, or 2400 indicated. No buzzing. No fly bys. No touch-and-goes (except for airport familiarization or initial solo at this field). Purpose: Minimize cumulative noise footprint.