

DEED RESTRICTIONS
EDEN RANCH, SECTION FIVE

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FILED FOR RECORD

1998 DEC -2 AM 10:20

THE STATE OF TEXAS

COUNTY OF COMAL

KNOWN ALL MEN BY THESE PRESENTS:

POSITIVE RECORDS
COUNTY CLERK COMAL COUNTY

BY: *Patoy Banks*

THAT, PATTEN CORPORATION SOUTHWEST, a Delaware Corporation hereinafter referred to as "Patten", for the purpose of instituting and carrying out a uniform plan or scheme for development and sale of tracts within EDEN RANCH, SECTION FIVE, a subdivision in Comal County, Texas, according to the map or plat thereof recorded in Volume 9, Page 160-164 Comal County Plat Records, does hereby declare, adopt, impose and designate, and by these presents has declared, adopted, imposed and designated, in behalf of itself and its successors and assigns as the owner thereof covering all such tracts or parcels thereof, with it being expressly here provided that all such restrictive covenants and use deed, deeds, and other legal instruments whereby the title or possession on any part or portion of such property as hereafter conveyed or transferred. The restrictions are as follows:

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(A) Property shall be used for residential purposes only, and no commercial enterprise of any kind or character except agriculture shall be carried on upon any part of such property.

(B) No building shall be erected, altered, placed or permitted to remain on any tract other than one dwelling unit per each 5 acres contained in the tract, except that one guest/servants house may be built, but said guest/servants house must contain a minimum of 500 square feet and be approved by the Architectural Control Committee. Detached garages, work shops, and barns may be constructed on the property so long as they are of good construction, kept in good repair, and are not used for residential purposes. (i) All dwellings, detached garages, work shop, and barns must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. The term "dwelling" shall be constructed to include manufactured home(s) provided such manufactured home(s) contains at least 1000 square feet of living area, is a double wide with a minimum width of 24 feet, was manufactured within 5 years of the date it is placed on the Property, and is completely under pinned with rock or concrete plaster in a neat, good and workmanlike manner within thirty days from the time the home is placed on the tract. Any other type material used for under pinning must be approved by the Architectural Control Committee. All other dwellings must have at least 1000 square feet. No home over 5 years old may be moved onto the property without the express written consent of the Architectural Control Committee. (ii) A camper or recreation vehicle may be kept on the property for no longer than 14 consecutive days out of a 30 day period, without the express written consent of the Architectural Control Committee.

(C) No building of any kind shall be located on any tract nearer than 50 feet to any property line. No homes shall be located on any tract nearer than 100 feet to any public road; provided, however, as to any tract, Architectural Control Committee may waive or alter any such setback line if, the Architectural Control Committee in the exercise of the Architectural Control Committee sole discretion, such waiver or alteration is necessary to permit effective utilization of a tract. Any such waiver or alteration must be in writing and recorded in the Deed Records of Comal County, Texas. All dwellings placed on Subject Property must be equipped with septic tank or other sewage disposal system meeting all applicable laws, rules, standards and specifications, and all such dwellings must be served with water and electricity.

(D) Septic tanks will be permitted on the property, but their construction and location shall comply with all existing state, county or other laws relating thereto. In any event, however, no septic tank shall be constructed and maintained closer than fifty (50') feet from any dedicated road way. No septic tank may be shared with any other property owners. No more than two (2) septic tanks may be constructed and maintained on the property unless the owner secures a certificate from a registered professional civil engineer that the construction, location and maintenance of more than two (2) septic tanks will not pose any pollution, danger, or nuisance to adjoining property owners. There shall be no outside toilet built or used on the premises.

(E) In the event any livestock are kept on Subject Property, not more than one head of livestock per acre shall be kept on any tract, and any tract containing livestock must be fenced; Provided, however, than no hogs or pigs may be kept on the premises. No poultry shall be kept or raised on

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Subject Property except for personal use of the owner.

- (F) On any Tract or contiguous Tracts with one owner with a total acreage of less than 10 acres, legal hunting will be allowed with bow and arrow only; On any Tract or contiguous Tracts with one owner with a total acreage of 10 acres or more, legal hunting will be allowed with bow and arrow and shotgun only; and no other type firearms shall be discharged on any tract.
- (G) The Term "tract" as used herein shall mean a tract as shown on the plat, any such tract may be resubdivided into tracts of not less than five acres until January 1, 2000. Thereafter, tracts may be resubdivided in tracts of less than five (5) acres provided such resubdivision conforms to State and County laws. The term "tract" shall mean any tracts resulting from any such resubdivision. Nothing herein shall be constructed to affect the duration of these restriction. Each individual tract shall be individually subject to these restrictions.
- (H) No inoperable vehicles or machinery, or vehicles or machinery on blocks shall be left on any tract for more than ten (10) consecutive days. No machine parts or household appliances or any other such material may be kept on any tract in an exposed manner or other unsightly items incompatible with residential, farming, or ranching usage. All materials must be kept in an enclosed workshop, storage building, or garage.
- (I) All driveways off public roads to a tract shall be constructed and installed so as not to obstruct drainage or flow of water. If necessary, the owner of the tract being served by the driveway will install appropriate culverts or drainage pipe under the driveway.
- (J) No oil drilling or development operations or refining, quarrying or mining operations of any kind shall be permitted upon any part of the property, nor shall oil wells, tanks or tunnels, mineral excavations or shafts be permitted thereon. No derrick or other structure designed for use in boring for oil or natural gas or other minerals shall be erected or maintained upon said property. No exploratory work may be performed upon, above or under the property.
- (K) Dams may be built on creeks or natural waterways only if:
- (1) Written permission is obtained from the Owner of land adjacent to such waterways on both sides;
 - (2) Such dam will not be built so as to back water up or inundate the land of another owner, unless a written easement is obtained from such other owner;
 - (3) Such dam will not cause the flooding of any roadway; and
 - (4) Any necessary governmental permits are obtained.
- (L) No junk yard, pipe yard, wrecking yard or other similar business activity shall be allowed on the property.
- (M) No noxious or offensive activities shall be carried on upon any tract, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood.
- (N) No tract shall be used or maintained as dumping ground for rubbish, trash, garbage, or other waste and the same shall not be kept, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.
- (O) Architectural Control Committee shall have the right to negotiate necessary utility easements for the benefit of the property and said utility easements may be placed where possible so as not to detract from the premises. Any signs displayed on the property shall be approved by the Architectural Control Committee.
- (P) These covenants are to run with the land, however, the Architectural Control Committee may grant a variance if, the Architectural Control Committee determines that such variance is necessary to permit effective utilization of a tract, and shall be binding upon the property unless a vote of sixty six and two thirds percent (66 2/3%) of the owners of the property so restricted agree to change the covenants or restrictions in whole or in part, or to grant a variance, which must be done in writing and filed of record in Comal County Deed Records.
- (Q) A violation or breach of any condition, restriction or covenant contained herein shall give the owner of any tract or parcel within the subject Property the right to proceed at law or in equity to compel

compliance with the terms of said conditions, covenants or restrictions, and/or to prevent the violation or breach of any of them.

(R) Invalidation of any one of these covenants by judgment or court order shall in nowise affect any of the other provisions, which shall remain in full force and effect.

(S) Architectural Control Committee.

(a) An Architectural Control Committee consisting of three individuals is hereby established. The terms of office of the initial members shall continue until the first to occur of the following events: (i) the date on which fifty-one percent (51%) of all of the tracts shall have been conveyed to owners other than a person or persons constituting or affiliated with Patten; or (ii) the surrender in writing by Patten of its right to appoint or remove members of the Architectural Control Committee as set forth below. Thereafter the terms of each Architectural Control Committee member shall be for a period of two (2) years or until the appointment of his successor. Any new member appointed to replace a member who has died, resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed, or whose terms have expired may be reappointed.

(b) The right to appoint and remove all members of the Architectural Control Committee at any time shall be and is hereby vested solely in the owners of tracts in the subdivision, including Patten (the "Owners"); provided, however, that Patten reserves the right to appoint and remove the members until the expiration of the terms therefore set forth above, and no initial member of the Architectural Control Committee, nor any successor appointed by Patten for an initial member who dies, resigns, or is removed, may be removed except by Patten prior to the expiration of his terms of office as set forth above. Any member of the Architectural Control Committee may at any time resign from the Committee by giving written notice thereof to Patten, if, pursuant to this paragraph, Patten has the right to appoint a successor to such member, or if Patten does not have the right, to the Owners.

(c) Except as otherwise provided above, vacancies on the Architectural Control Committee, however caused, shall be filled by vote of a majority of the Owners. The Owners shall be entitled to one vote per tract owned at the time of such vote. A vacancy shall be deemed to exist in case of the death, resignation or removal of any member. Failure of the Owners to fill any vacancy in the Architectural Control Committee shall not prevent action by the Architectural Control Committee on any matter to the extent that two members thereof each join in and consent thereto.

(d) Two (2) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or a proxy at a meeting of the Architectural Control Committee on any matter before it.

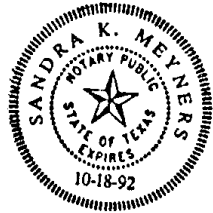
DATED this the 2nd day of December 19 88
PATTEN CORPORATION SOUTHWEST


Charles D. Patterson
Regional President

THE STATE OF TEXAS
COUNTY OF Comal

This instrument was acknowledged before me on this 2nd day of December, 1988, by CHARLES D. PATTERSON, Regional President of Patten Corporation Southwest.


NOTARY PUBLIC, STATE OF TEXAS



Print or stamp name of Notary
My Commission expires _____