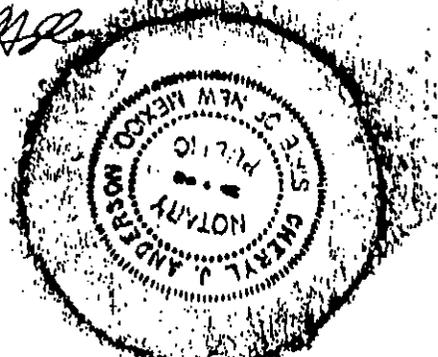


1239881

IN WITNESS WHEREOF, Declarant has executed this Declaration the day, month and year first above written.

DIAMOND LIMITED PARTNERSHIP,
A NEW MEXICO LIMITED PARTNERSHIP
BY: DIAMOND DEVELOPMENT, INC., A NEW
MEXICO CORPORATION, AS GENERAL PARTNER

Danny R. Holley
Its President



STATE OF NEW MEXICO)

) ss.

County of SANTA FE)

SUBSCRIBED AND SWORN to before me this 5th day of February, 1996, by
Danny R. Holley as President of DIAMOND DEVELOPMENT, INC.,
a New Mexico Corporation, as General Partner of DIAMOND LIMITED PARTNERSHIP,
a New Mexico Limited Partnership, on behalf of said partnership.

My Commission Expires:

1/18/99

Cheryl J. Anderson
Notary Public
Cheryl J. Anderson

EXHIBIT "A"

1239882

LOTS NUMBERED ONE (1) THRU FIFTY (50) OF THE TIERRA COLINAS SUBDIVISION,
ALL AS SHOWN ON PLAT OF SURVEY ENTITLED " TIERRA COLINAS SUBDIVISION
LOT EIGHT-B (8-B) ELDORADO AT SANTA FE WITHIN A PORTION OF CANADA DE
LOS ALAMOS GRANT AND BISHOP JOHN LAMY GRANT, TOWNSHIP 15 NORTH, RANGE 9EAST,
N.M.P.M.", BY CIPRIANO MARTINEZ, DATED APRIL 10, 1995, AND RECORDED IN PLAT
BOOK 315, PAGE 031, RECORDS OF SANTA FE COUNTY, NEW MEXICO.



T.OI-01/22/96:TIERRA COLINAS:PX(0) 147855.1

THIS IS TO CERTIFY that the aforementioned appearing in this book are accurate and complete reproductions
of the records of the Santa Fe County and are approved in the regular course of business for recording
DATE: 1239 FILE: 2-05-96
Thomas Sanchez

AMENDMENT TO COVENANTS

1598068

This amendment, made this 28th day of January, 1999, by Diamond United Partnership, a New Mexico Limited Partnership, ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain properties located in Santa Fe County, New Mexico as described on Exhibit "A" attached hereto and made a part hereof;

AND WHEREAS, the Declarant desires to amend the Covenants recorded of record with Santa Fe County as Document Number 1151325 dated March 31, 1995, and Document Number 1239863, dated January 31, 1996, which encumber said property ("Covenants");

AND WHEREAS, pursuant to a two-thirds vote of the property owners, the Declarant hereby amends said Covenants as detailed below.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Declarant hereby declares the Covenants amended as follows:

- 1.) The following lots have a minimum square footage of each dwelling unit on each lot of 1,500 square feet of interior heated floor space; Lots: 1,2,3,4,5,6,17,18,28,29,30,31,32,33
- 2.) The following lots have a minimum square footage of each dwelling unit on each lot of 1,800 square feet of interior heated floor space; Lots: 7,8,9,10,11,12,13,14,15,16,19,20,21,22,23,24,25,26,27, 34,35,36, 37,38,39,40,41,42,43,44,45,46,47,48,49,50
- 3.) The following lots shall be designated horse lots: 1,2,3,4,5,6,17,28,29, 30,31,32
- 4.) No modular homes shall be permitted on any lot in the Property.
- 5.) The provisions of this amendment shall supersede and replace any provisions of the Covenants to the contrary. All other provisions of the Covenants shall remain in full force and effect.



COUNTY OF SANTA FE 1099 155 701
 STATE OF NEW MEXICO
 I, hereby certify that this instrument was filed for
 record by the _____ day of _____, A.D.
 19____ at _____ o'clock _____ m and
 was duly recorded in book _____ page
 _____ of the records of Santa Fe County.
 Witness my Hand and Seal of Office
 Rebecca Dustanik
 County Clerk, Santa Fe County, N.M.

 Deputy

In Witness Whereof, Declarant has executed this Amendment the date first above written.

1590069

Diamond Limited Partnership, a New Mexico Partnership,

By Diamond Development Inc., a New Mexico Corporation, as General Partner

By: [Signature]
Its: Garnett Partners

STATE OF COLORADO)
COUNTY OF EL PASO)

Subscribed and sworn before me this 28th day of January, 1999, by Dennis R. Helber as Diamond Limited Partnership a New Mexico Corporation, as General Partner of Diamond Limited Partnership, a New Mexico Limited Partnership, on behalf of said partnership.

[Signature]
Notary Public

My Commission Expires: Dec. 22, 2001



SECOND AMENDMENT TO COVENANTS

This amendment, made this 25 day of FEBRUARY, 2005, by Tierra Colinas Homeowners Association (the Association) and its duly elected Board of Directors.

WITNESSETH:

WHEREAS, the Association is authorized under Section 18.5 of the 1996 Covenants of the Association of record with Santa Fe County as Document #1239859 dated February 8, 1996 which encumber said property within the Association, to amend said Covenants upon receiving approval of at least 2/3 of the Members of the Association;

AND WHEREAS: the minutes of the Board of Directors Meetings for March 13, 2002 and April 10, 2002 recommended an amendment to the Covenants,

AND WHEREAS: the subsequent absentee ballot vote count of 34 votes constituting 2/3 of the membership per Section 18.5 of the Covenants, the Membership approved the terms and conditions of the recommended amendments,

AND WHEREAS; pursuant to a 2/3 vote of property owners, the Association hereby amends said Covenants as detailed below.

NOW THEREFORE: In consideration of the completion of procedures for amending the said Covenants the Association hereby declares the Covenants amended as follows:

1. The accrued "late charge" referred to paragraph 4.8 in said Covenants as "... fifteen percent (15%) ..." per month" is hereby changed to "... two percent (2%) ..." per month". All other portions of that Section 4.8 shall remain the same.

In witness thereof, The Association had executed this Amendment the date first above written.

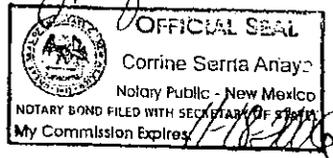
Tierra Colinas Homeowners Association, a not-profit New Mexico Corporation,

By: [Signature]
Its, President, Board of Directors

STATE OF NEW MEXICO)
COUNTY OF SANTA FE)

Signed before me this 25th day of February, 2005

C:\GEO\TERRACOLINA\AMENDMENT\AMENDMENT03/03/2005



Corrine Serra Anayo
Notary Public

SFC CLERK RECORDED 03/03/2005



COUNTY OF SANTA FE) SECOND AMENDMENT
STATE OF NEW MEXICO) ss PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On The 3RD Day Of March, A.D., 2005 at 09:38
And Was Duly Recorded as Instrument # 1369298
Of The Records Of Santa Fe County

Deputy Frank Quella Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

When recorded, return to:

Nancy M. Harlan, Esq.
THE PRESLEY COMPANIES
19 Corporate Plaza
P. O. Box 6110
Newport Beach, CA 92658

1239859

933-856



COUNTY OF SANTA FE)
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 6 day of Feb A.D.
19 96 at 9:31 o'clock A m
and was duly recorded in book 1239
page 859-882 of the records of
Santa Fe County.

Witness my Hand and Seal of Office
Jona G. Armijo
County Clerk, Santa Fe County, N.M.

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Locutv

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND CHARGES
FOR
TIERRA COLINAS SUBDIVISION
SANTA FE COUNTY, NEW MEXICO

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DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND CHARGES
FOR
TIERRA COLINAS SUBDIVISION
SANTA FE COUNTY, NEW MEXICO

1239863

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND CHARGES (the "Declaration") is made this 31 day of January, 1996, by DIAMOND LIMITED PARTNERSHIP, A NEW MEXICO LIMITED PARTNERSHIP, ("Declarant"),

A. Declarant is the Owner or Optionee, of certain real property in Santa Fe County, State of New Mexico, which is more particularly described as:

See Exhibit "A" attached hereto and incorporated herein, which real property may be referred to as the "Property."

B. Declarant intends to construct improvements upon the Property and to sell and convey the same, subject to the covenants, conditions, restrictions, easements, uses, limitations, obligations, equitable servitudes, charges and liens set forth herein (collectively, the "Restrictions"), each of which is for the benefit of the Property, the Lots and the subsequent Owners thereof.

C. Declarant declares that the Property shall be held, conveyed, encumbered, leased and used subject to the following Restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. The Restrictions shall run with the Property, shall be binding upon all persons having or acquiring any interest therein, and shall inure to the benefit of, be binding upon and enforceable by all Owners, Declarant, the Association and their successors in interest.

D. No provision herein shall be construed to prevent or limit Declarant's right to complete development of the Property and construction of improvements thereon, nor Declarant's right to maintain model homes, construction, sales or leasing offices, nearby parking areas or similar facilities on the Property, nor Declarant's right to post signs incidental to construction, sales or leasing, nor Declarant's right to do anything that is reasonably necessary and proper for the full development of the Property.

**ARTICLE 1
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases shall have the following meanings:

Section 1.1 Architectural Committee. "Architectural Committee" or "Committee" shall mean and refer to the Architectural Committee as set forth in Article 5 hereof.

Section 1.2 **Articles.** "Articles" shall mean the Articles of Incorporation of the Association and amendments thereto which are or shall be filed in the Office of the New Mexico Corporation Commission

1239864

Section 1.3 **Assessment.** "Assessment" or "Assessments" shall mean the assessments described in Article 4 hereof.

Section 1.4 **Association.** "Association" shall mean and refer to Tierra Colinas Homeowner's Association, a New Mexico nonprofit corporation, its successors and assigns.

Section 1.5 **Board.** "Board" shall mean the Board of Directors of the Association.

Section 1.6 **Bylaws.** "Bylaws" shall mean the Bylaws of the Association, together with any amendments thereto.

Section 1.7 **Common Area or Common Areas.** "Common Area" or "Common Areas" shall mean all real property and improvements thereon designated as Common Area on the Plat, owned and controlled by the Association for the common use and enjoyment of the Owners.

Section 1.8 **Dwelling Unit or Unit.** "Dwelling Unit" or "Unit" shall mean any improvements placed within the confines of any Lot.

Section 1.9 **First Mortgagee.** "First Mortgagee" shall mean the holder of any Mortgage under which the interest of any Owner of a Lot is encumbered and which mortgage has first and paramount priority (referred to herein as a First Mortgage), subject only to the lien of general or ad valorem taxes and assessments and such other matters as are recognized in such First Mortgage as permitted exceptions.

Section 1.10 **Lot.** "Lot," unless otherwise indicated by the context, shall mean and refer to any numbered parcel of real property within the Property shown on the Plat, together with the Dwelling Unit, if any, thereon, and in the event of annexation shall include all additional lots annexed and shown on a plat for the annexed land. The term "Lot" shall also include any Lots combined to become a single lot, in which case the Lots so combined shall be considered one (1) Lot for all purposes, including voting and Assessments.

Section 1.11 **Member.** "Member" shall mean and refer to every person who holds membership in the Association.

Section 1.12 **Mortgagee.** "Mortgagee" shall mean any mortgage, deed of trust or other security instrument by which a Lot or any part thereof is encumbered.

Section 1.13 **Owner.** "Owner" shall mean and refer to (1) the record Owner, whether one (1) or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same has merged) of any Lot, or (2) the purchaser of a Lot under a recorded contract for the sale of real property. The foregoing does not include persons or entities who hold an interest in any Lot merely

a security for the performance of an obligation, or a lessee or tenant of an Owner as defined above, or a purchaser or vendee under any executory contract of sale which has not been fully consummated with a deed to the purchaser recorded in the office of the County Recorder of Santa Fe County, New Mexico.

1239865

Section 1.14 **Person.** "Person" shall mean a natural individual, corporation or other entity with the legal right to hold title to real property.

Section 1.15 **Plat.** "Plat" shall mean the plat of the real estate that is subject to this Declaration recorded in the office of the County Recorder of Santa Fe County, New Mexico, and any amendment thereto or resubdivision thereof.

Section 1.16 **Rules and Regulations.** "Rules and Regulations" shall mean any and all rules and regulations adopted by the Board pursuant to the Bylaws.

ARTICLE 2 PROPERTY RIGHTS

Section 2.1 **Members' Easement of Enjoyment.** Each Member shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a) The right of the Association to suspend a Member's voting rights and right to use the Common Area for any period during which any Assessment against such Member's Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its Rules and Regulations;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to Santa Fe County, New Mexico or any public agency, public authority, or public or private utility or company providing utility services, for such purposes and subject to such conditions as may be agreed to by two-thirds (2/3) of the Members. Such purposes may include, but shall not be limited to, the provision of utility easements for utility structures and utility lines such as water tanks, water distribution lines, and electric, telephone, television and cable structures and lines. No dedication or transfer pursuant to the provisions of this paragraph shall be effective unless an instrument approved by two-thirds (2/3) of the Members agreeing to such dedication or transfer has been recorded;

(c) The right of the Association, after notice to a Member, to exclude from the Property any agent, employee or guest of any Member who the Association determines to be disruptive to the quiet enjoyment of the Property.

Section 2.2 **Delegation of Use.** Any Member may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Area to the members of his family, his tenants, or contract purchasers of a Lot who reside on the Lot. Guests of Members may also use the Common Area.

ARTICLE 3
ASSOCIATION

123986j

Section 3.1 **Membership in the Association.** Each Owner (including Declarant) of a Lot, by virtue of being an Owner, shall automatically be a Member of the Association. Membership in the Association shall be appurtenant to each Lot owned and shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership to a Lot, and then only to the transferee thereof. Any transfer of ownership of a Lot shall operate automatically to transfer said membership to the new Owner thereof. Any attempted transfer of membership separate from the appurtenant Lot or Lots shall be void.

Section 3.2 **Voting Rights and Classes of Membership.** The Association shall have two (2) classes of voting membership.

Class A: Class A Members shall be all owners other than Declarant and each such Owner shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners may determine, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Class A Member.

Class B: The Class B Members shall be Declarant, who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of the earliest of the following events:

- (1) Ninety (90) days after such time as the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (2) Four (4) years following the conveyance of the first Lot to an Owner, other than the Declarant.

Section 3.3 **Purpose of Association.** The Association is a nonprofit corporation which will serve as the governing body for all Owners and Members for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Common Area, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles, the Bylaws, and the Rules and Regulations.

Section 3.4 **Articles and Bylaws.** The manner in which the Association holds meetings and attends to other corporate formalities shall be controlled by the provisions of the Articles and Bylaws.

Section 3.5 **Board of Directors.** The Board of the Association shall be elected by majority vote of the total votes cast by both classes of the membership at a meeting attended by a

quorum as called for by the Bylaws, except that so long as Declarant retains the Class B membership, Declarant reserves the exclusive right, to appoint the officers and directors of the Association and may do so without calling a meeting of members.

1239867

Section 3.6 **Rules and Regulations of the Association.** The Board shall be empowered to adopt, amend or repeal Rules and Regulations as it deems reasonable and appropriate, which shall be binding upon all persons subject to this Declaration and shall govern the use and/or occupancy of the Property. The Rules and Regulations may include the establishment of a system of fines and penalties for violation of the Rules and Regulations, which shall be levied only after the offending Owner has been given notice and an opportunity to be heard in accordance with the terms of the Bylaws of the Association. The Rules and Regulations shall govern such matters as the Board deems to be in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area. The Rules and Regulations may be amended at any special or regular meeting of the Board.

Section 3.7 **Non-Liability of Officials.** To the fullest extent permitted by law, neither Declarant, the Board, nor any committees of the Association nor any member thereof, nor any officers, directors or employees of the Declarant or of the Association, shall be liable to any Owner or to the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, act, inaction, omission, error, negligence or the like made in good faith and which Declarant, the Board or such committees or officers reasonably believed to be within the scope of their respective duties or rights.

Section 3.8 **Managing Agent.** All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement; provided, however, that no such delegation shall relieve the Association of its obligation to perform any such delegated duty. Any agreement for professional management shall not exceed a term of one (1) year, which term may be renewed by agreement of the parties for successive one (1)-year periods. Any such agreement shall provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days' written notice. The Association is expressly authorized to contract with Declarant or an affiliate of Declarant to provide management services or to perform other duties of the Association or the Board.

Section 3.9 **Records and Accounting.** The Association shall keep, or cause to be kept, true and correct books and records of account at the sole cost and expense of the Association in accordance with generally accepted accounting principles. Such books and records, together with current copies of this Declaration, the Articles, Bylaws and Rules and Regulations shall be available for inspection by all Owners and First Mortgagees of record at reasonable times during regular business hours.

ARTICLE 4 ASSESSMENTS

Section 4.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board.

Section 4.5 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board to prepare or adopt a budget for any fiscal year shall not constitute waiver or release in any manner of a Member's obligation to pay his allocable share of the Assessment as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Member shall continue to pay each periodic installment at the rate established for the previous fiscal year.

1239869

Section 4.6 Accounts. Sums collected by the Board with respect to Assessments against the Members or from any other source may be commingled into a single fund, provided that all reserves shall be held in a separate account.

Section 4.7 Payment of Assessment. Each Member shall pay the Assessment pursuant to the provisions of this Declaration. On or before the first day of January, April, July, and October in each year, each Member shall be obligated to pay the Association one-fourth (1/4) of such Assessment. No Member shall be liable for the payment of any part of the Assessment assessed against his Lot after the date of recordation of a conveyance by such Member in fee of such Lot. Before or at the time of any such conveyance, all liens, unpaid charges and Assessments shall be paid in full and discharged. The purchaser of a Lot shall be jointly and severally liable with the selling Member for all unpaid Assessments against the lot or the Lot up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Member amounts paid by the purchaser. Each First Mortgagee who comes into possession of a Lot by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid Assessments or charges against such Lot which accrue before the time such First Mortgagee or purchaser comes into possession thereof, but this shall not relieve such First Mortgagee as purchaser from the Assessments accruing after such date.

Section 4.8 Collection of Assessments. The Board may take action to collect any Assessment due from any Member which remains unpaid for more than thirty (30) days from the due date. Any Assessment, or installment thereof, not paid within ten (10) days after due shall accrue a late charge in the amount of fifteen percent (15%) of the overdue Assessment or installment for each month the Assessment or installment is unpaid. No Member may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 4.9 Statement of Assessments. The Board shall promptly provide to any Member, contract purchaser or First Mortgagee so requesting the same in writing, with a written statement of all unpaid Assessments due from any Member. Such statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Board and every Member. The Board may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 4.10 Maintenance, Repair, Replacement and Other Common Expenses. The Board shall be responsible for the maintenance, repair and replacement of all of the Common Area improvements, the cost of which shall be charged to all Members as part of the Assessments. If, in the opinion of not less than two-thirds (2/3) of the Board, such expense was caused by the



PAID TO CERTIFY THIS INSTRUMENT BEING RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF LOS ANGELES, CALIFORNIA. DATE: 12/31/96. TIME: 2:05 PM. BY: [Signature]

negligence or misconduct of a Member, then such expense shall be assessed against that Member. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board.

1239870

Section 4.11 Lien for Assessments. The Assessment of each Owner or any special assessment made pursuant to this Declaration is declared to be a lien levied against the Lot and each Owner thereof. The Board shall file or record notice of any such lien, or other appropriate document to establish the priority of the lien.

If an Assessment against an Owner is payable in installments, upon a default by such Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such Assessments may be accelerated, at the option of the Board, and the entire balance of the Assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner and his First Mortgagee by the Board.

The lien for Assessment may be enforced and foreclosed in the manner provided by the laws of the State of New Mexico for the foreclosure of mortgages by action in the name of the Board, acting on behalf of the Association. The Board in any such proceeding shall have the right to the appointment of a receiver for collection of rents and preservation and maintenance of the Lot.

A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

ARTICLE 5 ARCHITECTURAL REVIEW

Section 5.1 Composition of Committee. The Architectural Committee shall consist of the Board or three (3) or more persons appointed by the Board to serve as such; provided, however, that except as otherwise provided, so long as Declarant retains the Class B membership, Declarant shall appoint the Architectural Committee without a meeting and without a vote of the Members, and during said period, no election of the Members of said Committee shall be held unless Declarant has in writing relinquished its rights of exclusive appointment. A majority of the Committee may designate a representative to act for it.

Section 5.2 Review by Committee. No Dwelling Unit, structure, improvement, (including but not limited to any building, fence, wall, driveway or other surfaced area), or any attachment to an existing structure, shall be made, placed or constructed upon any Lot or the Property (except by the Association upon the Common Area); no change of the exterior (including the color) of a Dwelling Unit, structure, or improvement shall be made; no change in the final grade of any Lot shall be made; and no landscaping shall be installed or changed (except in enclosed rear yards), unless complete plans and specifications (including a construction schedule) showing the nature, design, kind, quality, shape, height, materials, color scheme and location of any such Dwelling Unit, improvement, structure, attachment, or landscaping, shall have first been submitted

to and approved in writing by the Architectural Committee. The Architectural Committee shall exercise its best judgment to the end that all Dwelling Units, attachments, improvements, construction, landscaping and alterations to structures or lands located within the Property (collectively referred to herein as "Architectural Improvements") conform to and harmonize with the existing surroundings and structures. All decisions of the Architectural Committee shall be binding and conclusive.

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Notwithstanding the foregoing, the Declarant shall not be required to submit any plans or specifications whatsoever to the Architectural Committee, nor shall any consent or approval of the Architectural Committee be required for the construction of any improvements by the Declarant, including installation of improvements in any yard area.

Section 5.3 Procedures. The Architectural Committee shall approve or disapprove all plans within thirty (30) days after submission and issuance by the Committee of a receipt therefor. In the event the Architectural Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval shall be deemed denied, except that the party submitting the plans may resubmit the plans and if no response is given for a period of fifteen (15) days after a written request by certified mail for a decision, approval shall be deemed given. The Architectural Committee may establish its own rules amplifying or supplementing the foregoing procedures. The Architectural Committee may from time to time, without notice, establish, add to, delete or amend separate standards, rules and procedures, which shall not be contrary to or inconsistent with these Restrictions, providing for or otherwise relating to the submission, processing, review and approval of plans and specifications for Architectural Improvements or various portions or stages thereof. The Architectural Committee shall not be bound by previous standards or interpretations of its standards; and any consent or approval of a prior set of plans and specifications shall not preclude disapproval of a subsequent identical or similar set of plans and specifications.

Section 5.4 Vote. A majority vote of the Architectural Committee is required to approve a proposed change or improvement, unless the Committee has designated a representative to act for it, in which case the decision of the representative shall control.

Section 5.5 Liability. The Architectural Committee and the members thereof shall not be liable in damages to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 5.6 Variances. The Architectural Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the Restrictions contained in this Declaration. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the Property and shall not militate against the general intent and purpose hereof.

Section 5.7 Fee. The Board may establish a reasonable processing fee to defer the costs of the Architectural Committee in considering any requests for approvals submitted to the Architectural Committee.

**ARTICLE 6
BUILDING STANDARDS**

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Section 6.1 General Building Standards.

(a) No structure of any kind, except (i) one (1) single family Dwelling Unit of not less than eighteen hundred (1800) square feet of interior heated floor space (excluding porches, garages and similar areas), (ii) one (1) attached or semi-attached studio of not more than six hundred (600) square feet of interior heated floor space (excluding porches, garages and similar areas), and (iii) one (1) private two or three (2 or 3)-car garage, shall be built, placed, erected or maintained on any Lot.

(b) No auxiliary structure (except utility structures and utility lines) shall be built, placed, erected or maintained nearer than twenty-five (25) feet from any Lot line and the Dwelling Unit shall not be built, placed, erected or maintained nearer than seventy-five (75) feet from any Lot line. All auxiliary structures must be approved by the Architectural Committee.

(c) All construction and architecture shall adhere to the traditional Pueblo style, Territorial style, or Northern New Mexico style architecture, except that other architectural styles may be permitted by the Architectural Committee as long as they complement the architectural character and quality of the Property. The use of construction materials having the appearance of local, indigenous and traditional building materials are favored, but other materials may be used where their use reflects sound architectural practice. All decisions as to style and materials shall be made by the Architectural Committee.

(d) All extensions of utilities, including electrical and telephone lines, shall be underground. Other than this restriction requiring that extensions of utilities be underground, the laws and regulations of New Mexico and Santa Fe County shall govern the construction of all utility structures and utility lines.

(e) No exterior floodlights or lamps shall be located more than fifteen (15) feet above the existing ground. All exterior floodlights and lamps shall be adequately shielded so that the lighting does not adversely affect other Lots.

Section 6.2 Special Building Standards. In addition to the general building standards and restrictions set forth above, the following standards shall also apply to Lots:

(a) The siting of all structures shall be accomplished with a minimum of clearing and/or grading of the existing environment to protect the visual integrity of the site.

(b) Multilevel structures must conform to the existing topographic conditions of the site in order to minimize visual impact.

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(c) Access drives shall be designed to minimize grading by following the contours of the site as much as possible to achieve a more natural appearance and minimize road scarring.

(d) Materials permitted for structures shall include stucco, adobe, brick, natural stone, integrally colored or painted masonry or concrete. This designation of materials does not apply to utility structures and utility lines.

(e) Colors for exteriors of structures shall be of earthtones, creams, and pastels of earthtone hues including, but not limited to adobe, buckskin, peach, saddle, and cottonwood. This designation of colors does not apply to utility structures and utility lines. Roof colors for metal roofs must be approved by the Architectural Committee.

(f) No structure shall exceed twenty-eight (28) vertical feet in height above the Lot high point.

ARTICLE 7 OTHER RESTRICTIONS

Section 7.1 ~~Insurance Hazards and Waste~~. Nothing shall be done or kept on any portion of the Property which will result in the cancellation of or increase in the rate of any insurance without the prior written consent of the Board. No waste shall be committed anywhere on the Property.

Section 7.2 ~~Nuisances~~. No noxious or offensive activities shall be carried on and nothing shall be done or placed on the Property which may be or become a nuisance, disturbance or annoyance to any residents of the Property. This provision shall be liberally construed to include situations which are offensive to reasonable persons, such as the retention or disposal of trash within the Property, retention of parked vehicles or vehicles not in service, loud activities, and activities which produce interference with ordinary television reception including, but not limited to, having improperly tuned HAM or CB reception or transmission stations.

Section 7.3 ~~No Oil, Quarrying or Mining Operations~~. No oil drilling, oil development operations, oil refining, quarrying, mining operations, oil wells, tanks, tunnels, or mineral excavations or shafts shall be permitted within the Property. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted within the Property.

Section 7.4 ~~Animals~~. No animals or poultry shall be kept or raised within the Property, except as provided in this Section 7.4. Household pets may be kept or raised on any Lot but only in reasonable numbers. Horses may not be kept or raised anywhere on the Property, except on Lots 6, 17, 28, 29, 30, 31, 32. In no event shall the number of horses on any Lot exceed four (4). Horses are prohibited from open grazing on the Lot where the horse is kept and on any other Lot. The barns, stables and corrals shall be of good design and sound construction and shall be subject to the prior

written approval of the Architectural Committee. Horses and pets shall be under the control of their owners at all times. Owners shall prevent their horses or pets from becoming a nuisance due to excessive noise, waste or other occurrences.

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Section 7.5 **Tree Removal.** Trees having a diameter greater than four (4) inches or trees more than ten (10) feet from any residence shall not be removed without the prior written approval of the Architectural Committee.

Section 7.6 **Parking and Storage of Vehicles.**

(a) **General Rule.** Any and all motor vehicles not prohibited by the provisions hereof shall be stored in a garage so as to conceal the same from view from adjoining Lots or from the street or public way, except that vehicles (other than recreational vehicles, commercial vehicles, motorhomes, campers, trailers, boats and similar vehicles, as provided below) may be parked upon the delineated driveway surfaces of each Lot when there is insufficient room within an enclosed garage.

(b) **Recreational Vehicles.** Parking and/or storing of recreational vehicles, commercial vehicles, motorhomes, campers, trailers, boats and similar vehicles is prohibited on all portions of the Property, except as otherwise approved by the Architectural Committee. As a condition for approval, the Architectural Committee will require that recreational vehicles be parked in an inconspicuous place, and trees or other landscaping be planted so that such parking area is sufficiently screened from other Lots, the Common Area, and the roadway.

(c) **Use of Recreational Vehicle as Living Quarters.** The use or occupancy of a recreational vehicle, motorhome, van, camper, trailer, or boat as living quarters on either a temporary or permanent basis is strictly prohibited on any portion of the Property. At no time shall there be any outside storage of motor vehicles in stages of construction, reconstruction, modification or rebuilding of parts of motor vehicles such as frames, bixies, engines or other parts or accessories.

(d) **Common Area Parking.** No vehicle of any type, motorized or otherwise, shall be operated on any Common Area except the roadways. No automobile or other motor vehicles shall be parked on any Common Area except in designated parking areas during use of Common Areas.

Section 7.7 **Garages.** Each Owner shall have the right to use any garage portion of the Owner's residence for parking of automotive vehicle(s) (including cars, passenger vans and trucks) and the storage of non-hazardous materials. Neither the Association nor any Owner shall convert any garage to any use which prevents its use for vehicular parking of the number of vehicles used by the Owner. No garage door shall remain open except when necessary for access to and from garage.

Section 7.8 **Drainage.** There shall be no interference with the established drainage pattern over any Lot unless approved by the Architectural Committee or unless adequate provision is made for proper drainage conforming to applicable State and County rules, regulations, ordinances, and drainage criteria. For purposes hereof, "established drainage" is defined as the

drainage which exists at the time the overall grading of the Property is completed, or which is shown on any plans conforming to applicable rules, regulations, ordinances, and applicable drainage criteria

Section 7.9 Electrical Service and Telephone Lines. All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead; provided, however, that the Declarant shall not be prohibited from erecting temporary power or telephone structures incident to construction. 1239875

Section 7.10 Burning. No brush, trash or other materials shall be burned, except in compliance with applicable fire regulations.

Section 7.11 Protection of Wildlife. In order to protect the naturally occurring wildlife within the Property, the killing or hunting of birds and animals is prohibited.

Section 7.12 Signs. All signs shall be in conformance with the applicable Santa Fe County, New Mexico rules, regulations and ordinances and no signs shall be placed or displayed on any Lot without the prior written consent of the Architectural Committee, except:

- (a) a sign which indicates the name and address of the residents of the Lot;
- (b) a sign advertising the Lot for sale or rent, provided the sign is not more than two (2) feet by four (4) feet; and
- (c) any sign required by law.

Section 7.13 Tanks. Butane tanks and water storage tanks must conform to New Mexico and Santa Fe County laws and regulations and shall be located and screened in such a manner so that they will not detract from the appearance of the Lot or Property.

Section 7.14 Wells. No wells may be drilled on any Lot.

Section 7.15 Guest Houses. There shall be no guest houses within the Property.

Section 7.16 Other Prohibited Structures. No tents, shacks, trailers (except for Declarant's construction trailers), campers, motor homes, mobile homes, outbuildings, or garages shall be lived in or used for residence within the Property. No residence of a temporary character shall be built or used within the Property.

Section 7.17 Toilets. No outdoor toilet facilities (except for Declarant's chemical toilets during construction) are permitted on the Property. All toilets shall be in structures approved by the Architectural Committee and shall be connected with septic tanks that conform to New Mexico and Santa Fe County laws and regulations.

Section 7.18 Antennae and Cable Television. No Owner shall construct or otherwise maintain within the Property any external or internal radio or television antennae, saucers, or other reception devices or equipment, except as otherwise permitted by the Architectural Committee as to the location, size, color and screening of such devices or equipment. No Owner shall install any equipment or apparatus which in any way interferes or otherwise impedes the normal reception of radio and/or television transmission signals upon or to other portions of the Property. 1239376

Section 7.19 Storage. Except for building materials used in connection with and during the term of construction, there shall be no storage of any materials outdoors.

Section 7.20 Subdivision of Lots. No Lot shall be subdivided or resubdivided, except by Declarant, or except for the purpose of combining portions of a Lot with an adjoining Lot, provided that no additional building site is created thereby.

Section 7.21 Trash Containers. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size, and style which have been approved by the Architectural Committee, and containers shall at all times be hidden from view except on days of trash pick-up. All rubbish, trash or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be allowed.

Section 7.22 Solar Devices. No solar devices of any type shall be placed, erected or installed on any Lot without the approval of the Architectural Committee.

Section 7.23 Other Uses, Exemption of Declarant. No other uses are permitted that are or would be inconsistent with the residential character of the Property. However, nothing in this Declaration shall limit the right of Declarant to complete excavation, grading and construction of improvements to the Property or to construct such additional improvements as Declarant deems advisable in the course of development of the Property so long as any Lot therein remains unsold. Further, nothing in this Declaration shall limit the right of Declarant to use any structure as a sales model, sales office or construction office or parking area and to place any sign, banner, flag or similar method of advertisement to promote sales within the Property. Without limitation, the Declarant may maintain sales, administrative and construction offices on any Lot within the Property and may maintain parking areas and parking lots on any Lot or Common Area within the Property. The rights of Declarant hereunder or elsewhere in this Declaration may be assigned by Declarant to another developer which acquires for resale more than one (1) Lot.

ARTICLE 8 CONSTRUCTION

Section 8.1 Limitations on Construction. Construction of a Dwelling Unit or other improvements on a Lot shall begin within ninety (90) days after approval of the plans and specifications is given by the Architectural Committee. In the event construction is not timely begun, plans and specifications must be resubmitted for approval by the Architectural Committee before construction is begun. Once begun, exterior construction of any structure and revegetation and landscaping of any excavated area shall be completed within one (1) year. Revegetation shall

consist of planting or replanting plants indigenous to the area. In any event a Dwelling Unit shall be completed on each Lot within two (2) years of conveyance thereof from Declarant to an Owner.

Section 8.2 **Protection of Vegetation.** Lot Owners are responsible for ensuring that during construction all contractors refrain from damaging or removing trees and other vegetation, except as may be reasonable and unavoidable for clearance of a building site and construction of driveways, parking areas and turnarounds. In this regard, the Architectural Committee may require as part of its approval that temporary construction fencing be installed prior to commencement of any construction.

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ARTICLE 9 SOLAR RIGHTS

Lot Owners shall have the right to the use and enjoyment of radiant energy from the sun unobstructed from construction or development on an adjacent Lot within twenty-five (25) feet of the adjacent Lot line.

ARTICLE 10 PERMITTED COMMERCIAL ACTIVITIES

Nothing herein shall be construed to prohibit the use of space within a Dwelling Unit for a professional or other office employing not more than one (1) employee, subject to the prior approval of Santa Fe County, New Mexico as may be required.

ARTICLE 11 APPROVAL OF CONSTRUCTION SITES

The selection of all construction sites and building pads on any Lot shall be subject to approval by the Architectural Committee. Such approval may be withheld if the site selected would unreasonably interfere with drainage patterns or archaeological sites, would result in excessive cutting or filling, would be inappropriate for location of on-site sewage disposal systems, or would require excessive removal of native vegetation.

ARTICLE 12 LIQUID WASTE DISPOSAL

All on-site liquid waste disposal systems shall comply with the requirements of Santa Fe County and the New Mexico Environmental Improvement Division.

ARTICLE 13 SOLID WASTE DISPOSAL

All Lot Owners are to dispose of their solid waste in an approved sanitary landfill or to contract for solid waste collection services. All Lot Owners shall adhere to rules and times for solid waste pickup as may be established by the Board.

ARTICLE 14
COMMON AREA RESTRICTIONS

Without the express advance written approval of the Architectural Committee, Lot Owners may not build, place or store any structure upon the Common Area, roadways or utility or drainage easements as shown on the Plat.

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ARTICLE 15
WATER CONSERVATION

Lot Owners and occupants shall refrain from excessive water use and waste and comply with any water conservation guidelines adopted by the Board.

ARTICLE 16
ANNEXATION

Additional residential property and Common Area may be annexed to the Property with the consent of two-thirds (2/3) of each class of Member. Nothing contained in this Declaration shall obligate the Association or its Members to annex any additional phase, land or improvements. Effectuation of any such annexation shall take place when a Declaration of Annexation describing the property to be annexed, referring to this Declaration by reference, setting forth the number and description of the Lots included within such phase is recorded. Thereafter, the property described in such Declaration of Annexation shall be deemed a part of this property. Upon completion of any such annexation, all Owners of Lots in any such annexed phase shall have those rights and obligations set forth in this Declaration, and shall be treated as if the entire project had been developed at the same time. Upon each such annexation, a new budget shall be prepared and the Assessments shall be adjusted and levied as required, in accordance with this Declaration.

ARTICLE 17
INSURANCE

Section 17.1 Insurance to be Obtained by the Association.

(a) **Hazard Insurance.** The Association shall make a good faith effort to obtain and maintain at all times insurance for all insurable improvements on the Common Areas or in which the Association otherwise has an insurable interest, against loss or damage by fire or other hazards, casualties and risks embraced within the coverage of the standard "extended coverage" policy available from time to time in the State of New Mexico, against all other perils customarily covered for similar types of projects, and against loss or damage due to vandalism and malicious mischief, in amounts to be determined by the Board.

(b) **Liability Insurance.** The Association shall make a good faith effort to obtain and maintain at all times a comprehensive general liability policy insuring the Association against any liability for death, bodily injury and property damage arising out of or incident to the ownership or use of the Common Areas or arising out of or incident to the performance by the Association of its maintenance and other obligations and rights hereunder. The Board shall periodically review the

amounts of coverage afforded by any such policy or policies and adjust the amounts of coverage as the Board deems appropriate, but in no event shall the policy or policies provide coverage of less than One Million Dollars (\$1,000,000.00) for death, bodily injury and property damage for any single occurrence. The policy or policies providing insurance shall, by specific endorsement or otherwise, preclude denial by the insurer(s) providing insurance of a claim under the policy or policies because of negligent acts or omissions of the Association or any Owner(s).

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(c) **Other Insurance.** The Association may also obtain such other insurance including, but not limited to, fidelity bond coverage, worker's compensation insurance and directors' and officers' liability insurance, as the Board deems appropriate.

(d) **Cost of Insurance.** All premiums for the insurance or bonds required or permitted to be obtained by the Board by this Article 17 shall be common expenses made a part of the Assessments. The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Article 17, or for any loss or damage resulting from such a failure, if the failure is due to the unavailability of insurance coverage from reputable companies authorized to provide insurance in the State of New Mexico, or if such insurance coverage is available only at an unreasonable cost.

Section 17.2 **Additional Insurance by Owner.** In addition to the insurance required to be carried by the Association, each Owner shall, at his own expense, carry any other insurance deemed advisable. The Association shall have no duty to insure real or personal property located upon any Lot. It shall be the individual responsibility of each Owner, at his own expense, to provide Owner's liability and property damage insurance, theft and other insurance covering personal and real property of the Owner, and such other insurance which is not carried by the Association as the Owner desires.

Section 17.3 **Destruction/Insurance Proceeds.** In the event of damage or destruction of any part of the Common Area, no Owner or other party shall have priority over a First Mortgagee with respect to the distribution of any insurance proceeds.

ARTICLE 18 ENFORCEMENT, NONWAIVER AND ATTORNEY'S FEES

Section 18.1 **Enforcement.** The Association, or any Member, shall have the right to enforce, by any proceeding at law or in equity, the provisions of this Declaration. Failure by the Association or by any Member to enforce any covenant or restriction shall not be deemed a waiver of the right to do so thereafter. Any condition existing on the Property on the date of recording this Declaration which violates any provision of the Declaration shall be deemed a legal non-conforming use and shall not be subject to enforcement.

Section 18.2 **Binding Effect.** By acceptance of a deed or acquiring any ownership interest in any of the Lots included within this Declaration, each person or entity, for himself, or his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal

representatives, successors, transferees and assigns to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the Property and hereby evidences his intent that all the restrictions, conditions, covenants, rules, and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignee, and transferees thereof.

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Section 18.3 **Severability.** The invalidation of any provision of this Declaration by judgment or court order shall not affect any other provisions. Such other provisions shall remain in full force and effect.

Section 18.4 **Term.** The Restrictions in this Declaration shall remain in full force and effect for a period of twenty (20) years from the date of recordation thereof. Thereafter, the Restrictions shall be deemed to have been renewed and automatically extended for successive periods of ten (10) years each, unless repealed by the written consent of the Owners of at least seventy-five (75%) percent of the Lots.

Section 18.5 **Amendment.** This Declaration may be amended by an instrument approved by not less than two-thirds (2/3) of the Members, but subject to the rights of approval by the Board of County Commissioners or the County Development Review Committee of Santa Fe County, New Mexico as to "Building Standards" set forth in Article 6. Any amendment shall be effective from the time of recording in the Office of the Clerk of Santa Fe County, New Mexico.

Section 18.6 **Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision thereof.

Section 18.7 **Conflict with Articles or Bylaws.** If any of the provisions of the Articles or Bylaws conflict with any of the provisions of this Declaration, the provisions of this Declaration will control.

Section 18.8 **Violation of Law.** Each and every provision of this Declaration and any amendment hereto shall be subject to all applicable governmental ordinances and subdivision regulations and any future amendments thereto. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Lots is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein or in the Articles or Bylaws.

In the event any judicial or non-judicial enforcement action is undertaken to enforce the terms of this Declaration, the non-prevailing party shall pay to the prevailing party its reasonable attorney's fees and other costs incurred in such enforcement action.