2296904

AMENDED AND RESTATED

DECLARATION OF RESTRICTIVE COVENANTS

FOR

LAS DOS SUBDIVISION, PHASE I

TABLE OF CONTENTS

ARTICLE		PAGE
1	Incorporation of Recitals and Preamble	1
	1.1 Recitals	1
	1.2 Preamble	1
2	Duration and Amendment	2
	2.1 Duration	2
	2.2 Amendment	2
3	Definitions	2
	3.1 Homeowners Association	2
	3.2 Driveway	2
	3.3 Lot	3
	3.4 Member	3
	3.5 Owner or Owners	3
	3.6 Road or Roads	3
	3.7 Structure	3
4	Use of Lots and Prohibitions on Use of Lots	3
	4.1 Structures and Improvements	3
	4.2 Common Ownership & Contiguous Lots	4
	4.3 Size	5
	4.4 Maximum Coverage	5
	4.5 Height	5
	4.6 Siting	5
	4.7 Setbacks from Ridge Lines	6
	4.8 Grading and Landscaping	6
	4.9 Driveways	7
	4.10 Patios	7
	4.11 Materials and Colors	8
	4.12 Skylights, Solar Panels and Glazing	8
	4.13 Fencing	8
	4.14 Exterior Lighting	8
	4.15 Utilities	9
	4.16 Antenna, Satellite Dishes, Alarms	9
	4.17 Division of Lots	10
	4.18 Setbacks	10
	4.19 Commercial Activities	10

	4.20	Animals	11
	4.21	Mobile Homes	11
	4.22	Tanks and Cisterns	11
	4.23	General Screening	11
	4.24	Vehicles	11
	4.25	Aircraft	12
	4.26	Flagpoles, Sculptures, Outdoor Art	12
	4.27	Windmills, Towers	12
	4.28	Storage	12
	4.29	Hunting, Shooting	12
	4.30	Drainage Easement	12
	4.31	Signs	12
	4.32	Gates	12
	4.33	Trash	12
	4.34	Nuisance	13
	4.35	Recreation Courts	13
	4.36	Destruction of Improvements	14
	4.37	Construction of Residences	14
	4.38	Rentals	14
	4.39	Other Structures	14
	4.40	Pre-existing Structures	14
5		Architectural Review	15
	5.1	Architectural Control Committee	15
	5.2	Construction Subject to Architectural Control	15
	5.3	Submittal Requirements	16
	5.4	Review of Plans	16
	5.5	Rules and Regulations	17
	5.6	Fees	17
	5.7	Judgment by Architectural Control Committee	17
	5.8	Non-waiver	18
	5.9	Approval Not a Guarantee	18
	5.10	Construction Regulations	18
6		Construction	19
	6.1	Construction Styles	19
	6.2	Damage to Landscape	19
	6.3	Commencement	19
	6.4	Construction Fees	19
	6.5	Temporary Housing	20
	6.6	General Construction Rules	20
	6.7	Access	20

	6.8	Interim Submitted to Architectural Control Committee	20
	6.9	Halted Construction	21
7		Homeowners Assessments	21
	7.1	Determination of Common Expenses And Assessments Against Members	21
	7.2	Assessment And Payment of Common Expenses	21
	7.3	Reserves/Special Assessments	22
	7.4	Effect of Failure to Prepare or Adopt Budget	22
	7.5	Accounts	22
	7.6	Payment of Common Expenses	22
	7.7	Collection of Assessments	23
	7.8	Statement of Common Expenses	23
	7.9	Maintenance, Repair, Replacement And Other Common Expenses	23
	7.10	Subordination of The Lien to Mortgages	23
8		Conservation	24
	8.1	Water Use	24
	8.2	Wells	24
	8.3	Water-saving Appliances	24
	8.4	Cooling Systems	24
	8.5	Gardens, Landscape	24
	8.6	Water Features	25
9.		General Provisions	25
	9.1	Enforcement	25
	9.2	Governing Law	25
	9.3	Severability	25
	9.4	Notices	25
	9.5	Captions	26

AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS FOR LAS DOS SUBDIVISION, PHASE I

2296908

THIS AMENDED AND RESTATED DECLARATION ("the Declaration") is made on the following terms and conditions.

RECITALS

A. On the 25th day of September, 1979, those certain Las Dos Subdivision (Phase I) Restrictive Covenants ("the Covenants") duly recorded in the records of the Clerk of Santa Fe County, New Mexico on September 26, 1979 in Book 387, pages 884-893 were imposed on the real estate described therein and known as the Las Dos Subdivision, Phase I ("the Subdivision").

B. The Covenants were thereafter amended by the then Owners of all Lots within the Subdivision by documents duly recorded in the records of the Clerk of Santa Fe County, New Mexico in Book 412, pages 179-183, Book 414, page 677 and Book 705, pages 735-772.

C. Pursuant to paragraph 2 of the Covenants, the Owners of fifty-one percent (51%) of the Lots in the Subdivision may elect to terminate or modify the Covenants upon written proposal of any Lot Owner made not more than 60 days nor less than 30 days prior to January 1, 2003.

D. The members of the Board of Directors of the Homeowners Association, each of which are Owners of Lots in the Subdivision have, not more than 60 days nor less than 30 days prior to January 1, 2003, proposed the adoption of this Declaration.

E. The undersigned, being the Owners of fifty-one percent (51%) or more of the Lots in the Subdivision, have approved and hereby adopt this Declaration.

F. This Declaration shall supersede and in all respects replace the Covenants and all prior amendments thereto.

NOW, THEREFORE, the undersigned hereby declare as follows:

ARTICLE 1
INCORPORATION OF RECITALS AND PREAMBLE

1.1 Recitals. The foregoing Recitals are incorporated herein as if fully restated.

1.2 Preamble. The Las Dos Subdivision was designed by Bergere Alfred Kenney and Dolores Kornder Kenney in 1979 to take advantage of and to preserve the character of the piñon-juniper-covered hills sloping westward toward the Rio Grande. Ours is a fragile landscape, vulnerable to erosion and drought. The effects of overgrazing by livestock in the century past are still evident. The drought of the 1950s left skeletons of piñons scattered along ridge lines, and the

most recent drought has again taken a toll. The Las Dos landscape has recovered from much of the damage caused by careless use in the past and possesses great natural charm and richness of plant and animal life. The nearby hills and distant mountain ranges provide magnificent, unobstructed views that we treasure. These are natural assets that we, as residents of Las Dos, intend to protect and enhance. These covenants are designed to help the Las Dos community achieve this goal and shall be interpreted and applied in that spirit.

2296909

ARTICLE 2
DURATION AND AMENDMENT

2.1 Duration. The covenants and restrictions contained in this Declaration, as the same may be amended from time to time, shall run with and bind the Subdivision and shall inure to the benefit of and be enforceable by the Homeowners Association, the Owners of the Lots, and their respective heirs, successors or assigns until January 1, 2028 and shall be extended automatically for successive periods of twenty-five (25) years unless the Owners of not less than thirty (30) of the Lots in the Subdivision vote to terminate this Declaration. The termination shall be proposed in writing by the Owner of any Lot in the Subdivision and delivered to the President of the Homeowners Association not more than sixty (60) nor less than thirty (30) days before January 1, 2028. Thereupon, the Homeowners Association shall cause an election to be held to determine whether the Declaration shall be terminated. If a proposed termination of the Declaration is approved by the Owners of not less than thirty (30) Lots in the Subdivision, then upon certification of such approval by the Secretary of the Homeowners Association, the President of the Homeowners Association may execute the approved termination, in recordable form, on behalf of the Homeowners Association and the Lot Owners, and cause such termination or modification to be recorded in the records of the Clerk of Santa Fe County, New Mexico.

2.2 Amendment. This Declaration may only be amended if an amendment resolution is adopted by the Owners of not less than thirty (30) Lots in the Subdivision. An amendment resolution so adopted shall be effective upon the recording in the records of the Santa Fe County Clerk, a copy of the amendment resolution, signed by the President of the Homeowners Association following written certification by the Secretary of the Homeowners Association of the requisite approval.

ARTICLE 3
DEFINITIONS

3.1 "Homeowners Association" shall mean the Las Dos Homeowners Association duly incorporated by the filing of those certain Articles of Incorporation for the Las Dos Homeowners Association with the New Mexico State Corporation Commission on or about April 8, 1986.

3.2 "Driveway" shall mean a private roadway or other means of vehicular access constructed on a Lot leading from one of the Roads in the Subdivision to one or more Structures on

a Lot. "Driveway" shall also describe private roadways constructed on Lot between Structures on the Lot.

3.3 "Lot" shall mean each and every numbered Lot in the Subdivision as shown on the plat of survey of the Subdivision filed in the office of the County Clerk of Santa Fe County, New Mexico, at Plat Book 69, Page 21, under Reception No. 440,001. "Lots" shall not include property withheld from sale by the subdivider for dedication to the County of Santa Fe or property withheld from sale by the subdivider for the exclusive use of the residents of Las Dos Subdivision.

3.4 "Member" shall refer to members of the Homeowners Association. Each Owner of a Lot is a Member of the Homeowners Association.

3.5 "Owner" or "Owners" means and refers to the Owner, whether one or more persons or entities, of the fee simple title to any platted Lot in the Subdivision. Owners shall not include those having an interest merely as security for the performance of an obligation.

3.6 "Road" or "Roads" shall refer to the primary roads in the Subdivision: Vuelta Maria, Mamie's Mile, Placita Anita and Calle Adelina.

3.7 "Structure" shall include anything which is constructed or placed on a Lot whether temporary or permanent, or which is visible from another Lot or any Road in the Subdivision, including, but not limited to, a building, residence, exterior feature of a building or residence, fencing, object used for recreational purposes (i.e. swing set, outdoor furniture), Driveways and wells, together with any appurtenances.

ARTICLE 4
USE OF LOTS
and
PROHIBITIONS ON USE OF LOTS

4.1 Structures and Improvements.

4.1.1 Upon each Lot in the Subdivision there may be erected a principal residence consisting of one detached single-family dwelling together with such Structures and outbuildings as are commonly and customarily appurtenant thereto. For purposes of this Declaration "detached single-family dwelling" or "single-family dwelling" shall mean a building erected and maintained in conformance with the requirements of this Declaration for private residential purposes and designed for occupancy by a single family. It shall not mean or include any flat, apartment, multi-family dwelling or duplex, lodging house, rooming house, hotel, church, hospital, sanatorium, even though intended for residential purposes, none of which shall be permitted on any Lot. All plans for every Structure to be built, placed or situated on a Lot shall be approved by the Architectural Control Committee in accordance with Article 5, below, before construction shall begin.

4.1.2 Additionally, upon each Lot in the Subdivision there shall be permitted the following:

a. one private garage
b. one barn or stable
c. one corral and horse paddocks
d. one studio
e. one workshop
f. one guesthouse

4.1.3 The square footage of the ground coverage of all Structures taken together, with the exception of the corral, shall not exceed eight thousand (8,000) square feet in total.

4.2 Common Ownership & Contiguous Lots. In the event two or more adjoining and contiguous Lots are titled in the same Owner, subject to the conditions set forth in this paragraph 4.2, and provided the Owner of the Lots has constructed a principal residence on one of the Lots, the Owner may, subject to prior approval of the Architectural Control Committee in accordance with Article 5, below, construct on the adjoining and contiguous Lot (herein "the Non-Principal Lot"), a guesthouse, other outbuilding or Structure, particularly a corral, barn and stable. The construction of such guesthouse, outbuilding or Structure shall be subject to the following conditions:

4.2.1 The guesthouse, outbuilding or Structure must, in all respects, be compliant with this Declaration and otherwise permissible on the Lot on which the principal residence is constructed.

4.2.2 Set-back restrictions applicable to single Lots, as well as all other restrictions, including, but not limited to, prohibitions against Lot line adjustments, division, subdivision, partition, or consolidation of Lots shall be observed.

4.2.3 Upon the sale, assignment, conveyance, lease or transfer of one but not both of the adjoining and contiguous Lots by the Owner to another, the guesthouse, outbuilding or Structure constructed on the Non-Principal Lot pursuant to the provisions of this paragraph 4.2 shall be removed and the landscape on the Non-Principal Lot restored to its original condition within one hundred eighty (180) days of the effective date of the sale, assignment, conveyance, lease or transfer. Notwithstanding the foregoing, if construction of a principal residence, duly approved by the Architectural Control Committee, has commenced on the Non-Principal Lot within one hundred eighty (180) days after the effective date of the sale, assignment, conveyance, lease or transfer of one but not both of the Lots, and such construction shall continue to completion in accordance with Article 6, below, then the guesthouse, outbuilding or Structure may remain on the Non-Principal Lot.

The provisions of this paragraph 4.2.3 shall be binding upon both the Lot Owner and its successors, assigns and lessees. Both the Owner and its successors, assigns and lessees shall be

jointly and severally liable for the remediation and removal of structures required hereunder. In addition to any other rights granted hereunder, the Homeowners Association shall have the right to seek judicial enforcement of this provision against the Owner and its successors, assigns and lessees, including equitable relief (injunction). The Owner and its successors, assigns and lessees, shall be jointly and severally liable for all expenses incurred by the Homeowners Association relating to such enforcement, including reasonable attorney fees and costs which enforcement costs shall be a charge on the land and shall be a continuing lien upon both Lots in addition to the personal obligations of the Owner, and its successors, assigns and lessees.

4.3 Size. Any principal residence shall have not less than one thousand five hundred (1,500) square feet interior heated space, and any guesthouse shall be of no less than five hundred (500) square feet nor more than two thousand (2,000) square feet interior heated space.

4.4 Maximum coverage. As set forth in Paragraph 4.1.3, the square footage of the ground coverage of all structures on any Lot taken together, with the exception of a corral, if any, shall not exceed eight thousand (8,000) square feet in total.

4.5 Height. Structures shall have a height of no more than twelve (12) feet. Residences and guest houses shall have a height of no more than twelve (12) feet to the roof deck or fourteen (14) feet to the peak of a pitch from the average grade calculated as described in Schedule I, attached hereto and incorporated herein by reference. Parapets may be placed on residences and guest houses but shall not exceed two (2) feet in height in addition to the roof deck height limitation. All other buildings shall have a height of no more than twelve (12) feet from the average grade of the building site, including any parapets; and, in the event of a pitched roof, shall have a height of no more than twelve (12) feet from the average grade of the building site to the peak of the pitch. Allowance above these height limitations may be made to allow for chimneys to meet applicable building codes. The ultimate goal of these height restrictions is to minimize the visual impact of any Structure from both near and distant viewing points. The Lots in the Subdivision were designed so that the building sites would be level or have low sloping topography suitable for building. The height limit is consistent with existing vegetation so that in time the intrusion of the structures will be less noticeable. In those cases where a topographic break occurs within the footprint of the proposed Structure, minor adjustments may be made in the height limitation, in the discretion of the Architectural Control Committee.

4.6 Siting. Existing major vegetation, topographic features, and drainage patterns are to be maintained. Structures shall be set into the natural topography of the Lot rather than dominate it, and offsetting the plane and heights of the walls is an appropriate method of achieving this massing. Placement of Driveways within the side or rear one hundred (100) foot setbacks is discouraged. Consideration shall be given to minimizing the visibility of the Structures from other Lots. Structures other than buildings, such as sculpture, objects of art, solar collectors, antennas, satellite terminals, and other improvements, shall be situated or screened so as not to be visible from other Lots or Roads. The selection of all construction sites or placement of Structures on any Lot

shall be subject to approval of the Architectural Control Committee. Said approval may be withheld if the site selected will (1) unreasonably interfere with drainage patterns or archeological sites; (2) will violate setback restrictions; (3) will result in excessive cutting and filling in accordance with the provisions of paragraph 4.8, below; (4) will require excessive removal of native vegetation; or (5) will violate any other provision of this Declaration. An important consideration in the site planning is to minimize the disturbance of the native vegetation and topography.

4.7 Setbacks from Ridge Lines.

4.7.1 On Lots where a ridge having a twenty-five percent (25%) or greater slope on any side exists, the Architectural Control Committee shall have the discretion to establish appropriate setbacks for buildings, Structures or other improvements from such ridge to reduce the visual impact on other Lots and Roads and to avoid the breaking of skylines by such building, Structure or other improvement as viewed from any Lot or Road in the Subdivision. In the event such setbacks are established, no object or Structure shall be installed, placed or situated on nor extend above such ridge line as viewed from the vantage point of other Lots and Roads in the Subdivision.

4.7.2 The one hundred (100) foot setback requirements from side and back Lot boundaries set forth in paragraph 4.18 below, on Lots containing a ridges having a twenty-five (25%) or greater slope on any side, may be waived by the Architectural Control Committee with regard to construction of a Driveway if, in the opinion of the Architectural Control Committee, the visual effect of the Driveway on other Lots of the subdivision is reduced by such waiver.

4.8 Grading and Landscaping. The native live growth of the Subdivision, including cacti, piñon and juniper trees, shall not be destroyed or removed from the Subdivision or any Lot, except such native growth as it may be necessary for the construction and maintenance of Driveways, residences, outbuildings, gardens and patios. Such removal shall occur only in conjunction with and concurrent with construction, reconstruction or alteration approved by the Architectural Control Committee. Cutting and filling is to be kept to a minimum and may not, in any event, exceed four (4) feet of filling or cutting for any purpose or six (6) feet of cutting to situate a primary residence at any point if such cutting and filling would be visually prominent or visually offensive when viewed from other Lots and Roads of the Subdivision. Existing major vegetation, topographic features and drainage patterns are to be maintained. During construction, the Owner is responsible for insuring that the builder and all other parties to the construction project refrain from damaging or removing trees and other vegetation or altering the natural grade and landscape, except as may be reasonably necessary and unavoidable for clearance of a building site and construction of Driveways and parking areas. The Architectural Control Committee may direct and require the installation and maintenance of vegetation and landscaping features such as terracing, retaining walls or grading as a condition for approval of the construction, exterior modification of or addition to any Structure if, in the judgment of the Architectural Control Committee, such vegetation would reduce or minimize the visual impact of the Structure in question. With the exception of a thirty-five (35) foot garden

area directly adjacent to the house contemplated in paragraph 4.10 below, vegetation planted by Owners on Lots shall be indigenous to the area.

4.9 Driveways.

4.9.1 Driveways shall only be constructed on a Lot in conjunction with but not prior to the construction of a residence.

4.9.2 No Driveway shall be constructed without prior submission of plans to the Architectural Control Committee and receipt of approval. One Driveway leading from a Road is permitted on each Lot except in cases where the construction of a second Driveway for access to a guesthouse, barn, corral or other outbuilding will result in(1) less visual impact on other Lots and Road; (2) less removal of vegetation; and (3) less cutting and filling.

4.9.3 No Driveway shall exceed sixteen (16) feet in width, nor shall it be less than twelve (12) feet in width, such widths including the surface of the Driveway and all adjoining disturbance of the land, shoulders, bar ditches, clearing of vegetation or grading of the land.

4.9.4 A limited number of spaces for pullovers or off-road parallel parking along a Driveway may be permitted when topography, length of the Driveway or other construction considerations indicate the need for such features.

4.9.5 Construction of any Driveway within the one hundred (100) foot setback shall be kept to a minimum. In the event a Driveway is abandoned, its site shall be restored as nearly as possible to its original condition.

4.9.6 An Owner shall site his or her Driveway providing as much distance as possible from an existing Driveway on another Lot whether adjacent to or across a Road from the Owner's Lot. Optimally, Driveways shall be constructed not closer than one hundred (100) feet from other Driveways.

4.9.7 Because concrete or blacktop Driveways create heavy runoff when it rains and accelerate soil erosion, they are prohibited with the exception of a concrete or asphalt apron approaching a garage; base course and gravel Driveways are required. In any event, parking areas sufficient to accommodate the occupants, visitors and customary service, maintenance and construction vehicles shall be constructed.

4.10 Patios. A privacy barrier, wall or fence, of not more than seven (7) feet in height, may be erected and maintained within, but not exceeding a thirty-five (35) foot distance from any residence or guesthouse. Other than as provided in paragraph 4.13, below, or such as may be required to screen a Structure in accordance with the terms of this Declaration, no other wall or fence may be erected on a Lot.

4.11 Materials and colors. Designs shall call for predominately opaque walls finished in stucco or stone similar in color to surrounding earth. Exposed log construction or wooden, metal, vinyl or other siding is not permitted, except barns, corrals and outbuildings other than the residence and guesthouse may be constructed of exposed wood. Trim may be painted in subdued colors appropriate to the architecture. Except for glass, no material shall have more than a thirty (30) percent reflectivity, including any Structure, installation or appurtenance to the Structure, unless screened from view from the Roads and other Lots of the Subdivision. Glare or reflection viewable from other Lots is to be avoided.

4.12 Skylights, solar panels and glazing. Skylights shall be limited in size to no more than sixteen (16) square feet per light and no more than two (2) percent of the heated area. They shall be low-rise in profile and tinted. They may not be situated on a pitched roof and shall be behind parapet walls on any flat roof. Solar panels shall not be roof-mounted and shall be situated so as to be concealed or screened from view from the Roads or other Lots of the Subdivision. Glazing shall be no more than thirty (30) percent of any façade and shall be installed only in such manner as to be non-reflective as to Roads and other Lots in the Subdivision.

4.13 Fencing.

4.13.1 A fenced area for one (1) to four (4) domestic hoof stock is limited to five thousand four hundred (5,400) square feet and shall not be graded, although trees may be removed. Any barn and corral shall be located inconspicuously on the Lot with preference given to a site that requires minimal removal of trees, away from the Road, and shall be adequately screened from view from any Road or other Lot in the Subdivision. Corrals shall not be lighted except by down lighting from a fixture on an adjoining barn or stable.

4.13.2 A fenced area for dogs shall be situated within and not exceeding a thirty-five (35) foot distance from the primary residence. A fenced area resembling a dog kennel or other animal cage or pen, and not constituting a walled or fenced garden area adjoining the house (1) shall not exceed one hundred fifty (150) square feet; (2) shall be located inconspicuously on the Lot within the thirty-five (35) foot perimeter of a residence of guesthouse as described in paragraph 4.10, above; (3) shall be painted in a color similar to its immediate surroundings (the color of an adjoining structure or a dark green to blend in with vegetation); and (4) shall be situated so as not to be visible from any Road or other Lot in the Subdivision. Where screening or concealment is dictated by these covenants, the use of stucco, coyote fencing or landscaping are the preferred materials.

4.13.3 Beyond the thirty-five (35) foot perimeter of the residence or guesthouse, only vegetation may be used as screening. Retaining walls may be permitted in limited instances to accommodate the siting of a residence or guesthouse.

4.14 Exterior lighting. The darkness of the night sky shall be preserved in the Subdivision.

4.14.1 No exterior floodlights or other exterior lighting shall be installed, operated or maintained on any Lot in such manner that light therefrom shall directly illuminate nor the source be visible from Roads or Lots other than those of the Owner thereof. Floodlights shall not be mounted bare, but shall be contained in a canister or similar fixture so as to insure down lighting. No pole-mounted lighting, streetlight, or other freestanding lighting fixture shall be installed or operated; however, lighting associated with a privacy wall, or otherwise integrated into the architecture of the primary residence is permitted. Lighting on the exterior of a residence, guesthouse or other improvements shall be incandescent down lighting, with the source (bulb, globe, lens or reflector) hidden from view from lands or Roads other than those of the Owner thereof. Installation, operation or maintenance of exterior lighting fixtures other than incandescent lighting fixtures is prohibited. Security and motion-activated lighting shall be on a timer of no greater than five (5) minutes duration.

4.14.2 No Driveway entrance lighting or Driveway lighting, which would be visible from the Road that the Driveway intersects or any other Lot in the Subdivision, shall be permitted in any manner.

4.14.3 Direct illumination of exterior walls, structures or tall vegetation for the purpose of accenting these elements as a landscaping feature is prohibited. Indirect illumination of exterior walls, structures or tall vegetation resulting from the operating of down lighting associated with a building shall be kept to a minimum.

4.14.3 Intensity and extent of interior lighting that is visible from lands or Roads other than those of the Owner thereof should optimally not create undue glare or distraction.

4.15 Utilities. All extensions of utilities shall be underground to all Structures at all locations on a Lot. No electrical or telephone lines shall be maintained above ground except during construction.

4.16 Antenna, Satellite Dishes, Alarms. Satellite or telecommunications earth terminals or home television, ham radio or other antennas of any kind shall either be positioned so as to conceal them from being seen from other Lots or Roads or shall be screened from view. No terminal or antenna shall be higher than the parapet, if any, or if there is no parapet, shall not exceed four (4) feet in height and shall be mounted in such manner as to minimize visibility from other Lots or Roads and, if visible from other Lots or Roads, shall be a subdued color and non-reflective and shall be screened. No satellite or telecommunications terminal shall be roof mounted if its diameter exceeds three (3) feet. No exterior siren or alarm shall be mounted or operated in connection with a security system or for any other purpose.

4.17 Division of Lots. No Lot shall be split, divided, subdivided, partitioned, or separated into smaller Lots, nor in any manner shall the ownership of any portion thereof be severed from the ownership of any other portion thereof. One or more Lots shall not be consolidated nor shall the Lot line between any Lots be adjusted.

4.18 Setbacks.

4.18.1 Except for Lots numbers fifteen (15), sixteen (16) and twenty-one (21), no Structure (including, but not limited to, landscaping fixtures, rockwork, boulders, art objects, mail boxes, newspaper or delivery receptacles, fencing or signs) shall be erected or placed, nor shall any disturbance of natural ground cover and vegetation be permitted within one hundred (100) feet of any Lot line, except for the following: (a) a house number, a column or pillar of dimensions not exceeding two (2) feet by two (2) feet square by five (5) feet in height for designation of the house number; (b) a gate up to six (6) feet in height, with supporting columns (but no walls) set back twenty (20) feet from the front Lot line or a gate up to six (6) feet in height, with wing walls of no greater length than eight (8) feet and no greater height than four (4) feet set back fifty (50) to one hundred (100) feet from the front line; and (c) a Driveway that shall not be more than sixteen (16) feet nor less than twelve (12) feet in width at any place and may be located within the front Lot line setback. No Structure shall be erected on or within twenty (20) feet of the centerline of any trail easement as shown on the plat of the Subdivision filed and recorded as aforesaid.

4.18.2 On Lots fifteen (15), sixteen (16) and twenty-one (21), no Structure (including, but not limited to, landscaping fixtures, rockwork, boulders, art objects, mail boxes, newspaper or delivery receptacles, fencing or signs) shall be erected or placed, nor shall any disturbance of natural ground cover and vegetation be permitted within fifty (50) feet of any Lot line except for the following (a) a house number, a column or pillar of dimensions not exceeding two (2) feet by two (2) feet square by five (5) feet in height for designation of the house number; (b) a gate up to six (6) feet in height, with supporting columns (but no walls) set back twenty (20) feet from the front Lot line or a gate up to six (6) feet in height, with wing walls of no greater length than eight (8) feet and no greater height than four (4) feet set back fifty (50) to one hundred (100) feet from the front line; and (c) a Driveway that shall not be more than sixteen (16) feet nor less than twelve (12) feet in width at any place and may be located within the front Lot line setback; no Structure shall be erected on or within twenty (20) feet of the centerline of any trail easement as shown on the plat of the Subdivision filed and recorded as aforesaid.

4.19 Commercial Activities. No commercial activities shall be conducted nor storage of inventory or materials used in business shall be permitted, provided that nothing herein shall be construed to prohibit the use of space within a residence or guesthouse for a professional or other office in which (1) the Lot Owners are the sole employees; (2) the use does not substantially increase the flow of traffic to such Lot to a level greater than normally generated by a residence; (3) the use remains secondary to the single family residential use of the Lot; and (4) the home office use is

approved by the Board of Directors of the Homeowners Association and the County of Santa Fe, if required.

4.20 Animals. With the exception of such animals as an Owner may maintain exclusively within a residence, animals on any Lot shall be limited as follows: (a) no more than four (4) domestic hoof stock (excluding pigs, which are prohibited); (b) no more than three (3) dogs over ten (10) weeks old; (c) no more than three (3) cats over ten (10) weeks old; and (d) no more than ten (10) rabbits and ten (10) fowl (excluding fowl which make excessive noise such as peacocks, geese and guineas which are prohibited) shall be kept on any Lot. Carnivorous animals, such as dogs and cats, shall be trained or restrained from interfering with or killing wildlife native to or found in the Subdivision. No grazing shall be permitted in any unfenced area within the Subdivision. No animals may be kept on any Lot for any commercial use or purpose; nor shall a commercial training arena for horses, dogs or other animals be permitted. No commercial farming, ranching or other agricultural activity shall be permitted. No animals may be kept or maintained on any Lot in any manner or number that are a nuisance or offensive to the neighboring Lots, whether by reason of noise, odors, run-off of animal waste or otherwise, anything to the contrary herein notwithstanding. The Homeowners Association, through its Board of Directors, reserves the right to enforce the removal of any animals that constitute a nuisance to residents of other Lots in the Subdivision. Dogs shall be restricted to their Owner's Lot or shall be under voice or leash control at all times and shall be restrained from entering onto other Lots.

4.21 Mobile Homes. No pre-fabricated building or mobile homes, even if proposed to be placed on a non-mobile permanent foundation, shall be permitted for any purpose.

4.22 Tanks and Cisterns. No tanks of any kind shall be erected, placed or permitted upon any Lot or any part of the Subdivision, other than tanks for the storage of liquefied petroleum gas, underground septic tanks, or cisterns for the collection of rainwater or for storage of water for fire protection. Such tanks must be buried except tanks for liquified petroleum gas tanks which may be placed above ground not in excess of five (5) feet in height, if the tank is screened sufficiently to conceal it from the view of other Lots or Roads.

4.23 General Screening. All clotheslines, clothes drying facilities, mechanical and other equipment, storage piles, campers, horse trailers, boats, boat trailers, recreational homes and motor coaches and objects of similar size or visual effect shall be screened and/or concealed at all times so that they may not be seen from any point beyond the Lot on which they are located, including other Lots and Roads. If screening is required under the terms of this paragraph, only vegetation, and no other screening material, may be used beyond the thirty-five (35) foot perimeter of the residence or guesthouse.

4.24 Vehicles. Buses, commercial vehicles, tractor trailers, farm machinery and equipment (other than customarily used for maintenance of the barn and corral), inoperable vehicles, collections of vehicles and heavy construction equipment are not permitted to be maintained, situated or parked

in the Subdivision; except, such vehicles are permitted to enter and leave a Lot in connection with services being performed on the Lot for an Owner, over a reasonable period of time, considering the services to be performed.

4.25 Aircraft. No helicopters or similar aircraft may be operated on any part of the Subdivision.

4.26 Flagpoles, Sculptures, Outdoor Art. Flagpoles, flags and sculpture or objects of art shall not be visible from Roads or other Lots. Flagpoles shall be unlighted.

4.27 Windmills, Towers. No windmill, power pole, telecommunications tower, cellular tower, derrick or other similar installation shall be permitted.

4.28 Storage. No storage of building materials, other than during construction, shall be permitted. No storage yard for any materials other than those commonly and regularly in residential use shall be permitted.

4.29 Hunting, Shooting. No hunting shall be permitted in the Subdivision. No skeet shooting, target practice with a firearm or recreational discharge of a firearm is permitted on any Lot or in the Subdivision.

4.30 Drainage Easement. No residence, guesthouse, Structure or other improvements shall be built or placed in nor any disturbance made of any drainage easement as shown on the plat of the Subdivision, recorded as aforesaid.

4.31 Signs. No signs except an unlighted sign not exceeding five (5) square feet indicating the name and address of the residents of any Lot and an unlighted sign not exceeding one (1) square foot indicating the presence of an electronic alarm on a Lot shall be maintained or installed. No billboards or advertising signs, including real estate advertising signs or sale signs of any type, for reasons of home security and neighborhood aesthetics, shall be permitted on any Lot or on any building on a Lot; provided, however, an "Open House" sign for a showing of a house for sale may be displayed for the limited number of days appropriate to the open house event. One unlighted signboard limited to five (5) square feet in size may be erected on a building site during the course of construction, which shall be removed immediately upon completion of such construction.

4.32 Gates. Except as set forth in paragraph 4.18, above, all gates on Driveways shall be set back from Roads at least twenty (20) feet.

4.33 Trash. No trash, solid waste of any kind or other unsightly, unsanitary or dangerous refuse or substance shall be left on or beneath the surface of any Lot or any portion of the Subdivision. The Homeowners Association shall provide trash removal on a contract basis or otherwise. Should it do so on a basis other than requiring direct billing of each property Owner by

the hauler, the Homeowners Association shall have the power to make assessments therefore, as provided in Article 7. All trash shall be contained in receptacles designed for that purpose, and the receptacles shall be removed from the Roads and concealed from view within twenty-four (24) hours of trash collection.

4.34 Nuisance. No Lot Owner shall permit or allow to exist any condition on the Lot that constitutes a nuisance as to any other Lot Owner or occupant of a Lot. The Homeowners Association Board of Directors shall have the authority and discretion to determine whether a particular condition constitutes a nuisance within the Subdivision, and the decision of the Board shall be final and shall bind the parties involved. Without limiting the foregoing authority, the following are examples of conditions prohibited by this paragraph 4.34:

4.34.1 No Lot shall be used in whole or in part for the storage or dumping of rubbish of any character whatsoever, or for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye.

4.34.2 No substance, thing or material may be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise that will disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

4.34.3 Excessive or unreasonable noise from any Lot or Road within the Subdivision is prohibited. Excessive, recurrent, persistent or prolonged barking of dogs is considered a nuisance that must be abated.

4.34.4 Barns and corrals and fenced areas for dogs and other animals shall be maintained in such manner that animal waste is regularly removed, fly abatement measures are observed and run-off of water from the barn, corral or fenced area for dogs or other animals is contained and prevented from depositing animal waste or residue on other Lots or Roads.

4.34.5 There shall be no open or outdoor burning of vegetation, debris, garbage, construction waste, or any other material.

4.34.6 No bicycles, dirt bikes, motorcycles, all-terrain vehicles, four-wheelers, snow mobiles or any other vehicles shall be operated off of the Roads or Driveways nor shall they be operated at excessive speed, in a manner that causes excessive or persistent noise, or in manner that constitutes a nuisance.

4.35 Recreation Courts. Due to the lighting and fencing typically associated with such structures, no tennis courts, handball, paddleball or racquetball courts, basketball courts or any similar structure shall be permitted. A basketball backboard may be installed under the same guidelines which apply to all other structures.

4.36 Destruction of Improvements. In the event of the destruction of any improvements on a Lot, whether by accident, intent or natural disaster, the Lot Owner shall clear the Lot of all unsightly conditions resulting therefrom within one hundred eighty (180) days of the destruction.

4.37 Construction of Residences. The initial home or guesthouse constructed on a Lot shall not be less than one thousand five hundred (1,500) square feet of heated living space. Upon completion of any stage, the Structure that is so built shall have the exterior appearance of finished construction. No construction of any guesthouse shall commence until substantial exterior completion of the principal residence, provided that the Architectural Control Committee may waive the provisions of this requirement upon a showing of good faith simultaneous or contemporaneous construction of a principal residence and guesthouse.

4.38 Rentals. Nothing herein shall be deemed to prevent the Owner from leasing the primary residence or guesthouse on the Owner's Lot for single family purposes, provided, however, that neither a guesthouse nor any other Structure on a Lot shall be leased or rented out separately from the principal residence; and provided further, any such rental or lease must be by written agreement which requires the tenant to observe this Declaration and makes a breach of these covenants a breach of such rental agreement or lease. No primary residence, guesthouse or other Structure may be leased or rented for a period of less than ninety (90) days. A summary of all leases must be submitted to the Homeowners Association, and such summary shall name the tenant (together with a telephone number for the tenant), the Owner (togther with a telephone number for the Owner), and the term of the lease. In the event an Owner violates this provision, the Board of Directors of the Homeowners Association may enforce this provision by Court order with injunctive relief. An Owner who violates this provision shall be liable to the Homeowners Association for all costs and expenses of any enforcement action including but not limited to reasonable attorneys fees, paralegal fees, gross receipts taxes thereon, and court cost.

4.39 Other Structures. No derrick or other structure designed for use in drilling for oil or natural gas, and no radio, telephone or television transmission or receiving towers or wind generators or windmills shall be erected, placed or permitted upon any Lot or part of the Subdivision. No oil, natural gas, petroleum, asphalt or hydrocarbon product, gravel, rock or other natural substances shall be produced or extracted therefrom. This paragraph shall not prohibit water well drilling equipment when drilling is in process.

4.40 Pre-existing Structures. The physical features of all pre-existing, approved and conforming Structures in place on January 1, 2003, shall be grand fathered and deemed conforming under the terms of this Declaration provided that nothing herein shall relieve the Owner from compliance with prohibitions or affirmative obligations in the maintenance of a Lot. No Lot Owner shall be required to alter an existing structure to cause it to conform to provisions of this Declaration which constitute modifications of the Covenants and any prior amendments thereto.

ARTICLE 5
ARCHITECTURAL REVIEW

5.1 Architectural Control Committee. There shall be appointed by the Board of the Homeowners Association to serve at the pleasure of the Board of Directors, upon receipt of a request for approval from a Lot Owner, an Architectural Control Committee for the Subdivision, which shall consist of not less than three (3) persons, at least two (2) of whom must be Owners of a Lot within the Subdivision and the third member shall be an architect licensed by the State of New Mexico and who has practiced substantially full-time as an architect within twenty-five miles of the City of Santa Fe for not less than five years. No member of the Committee shall sit in consideration of plans relating to a Lot owned by him or development of a Lot immediately adjacent to a Lot owned by him. When any member is not qualified to serve for any reason, the Board of Directors shall designate a member pro tem to serve in his or her place. The members of the Architectural Control Committee shall not be liable to any person for any damage to persons or property or other damages for any reason resulting from or relating to the exercise of the powers or performance of obligations required or authorized by the Declaration, and by acceptance of a deed for any Lot, every Owner on his own behalf and on behalf of his heirs, successors, assigns and agents, releases each Committee member from said liability; provided, however, that such release shall not apply to any such injury or damage resulting from willful misconduct of a Committee member of the Architectural Control Committee. The Architectural Control Committee is authorized to retain the services of consulting architects, landscape architects, engineers, inspectors, contractors and/or attorneys in order to advise and assist the Architectural Control Committee in performing its functions as set forth herein.

5.2 Construction Subject to Architectural Control. No construction, modification, alteration of any Structure or other improvement of any nature whatsoever on any Lot, except for interior alterations not affecting the external appearance of any Structure, other improvement or Lot, shall be undertaken on any Lot unless and until a plan of such construction or alteration shall have been approved in writing by the Architectural Control Committee and the Architectural Control Committee has visited the Lot to verify that the siting of the Structure of improvement will comply with this Declaration. Modifications and alterations subject to Architectural Control Committee approval specifically include, but are not limited to, painting or other alteration of a residence or guest house (including doors, windows and roof), installation of solar panels or other devices, construction of fountains, whirlpools, or other pools, installation or modification of septic drainage fields, construction of privacy walls or other walls, addition of shutters, gates, statues, lighting or other outdoor ornamentation including sculpture and works of art, any alteration of the landscaping or topography of the Lot, including without limitation excavation, cutting or removal of extensive vegetation, disturbance of the land of an area greater than 100 square feet, and all other modifications, alterations or improvements visible from any Roads in the Subdivision or other Lots. It is the Lot Owner's responsibility to secure prior approval of all such actions. Failure to secure approval shall obligate the Lot Owner to remove the structure, modification or addition, or to restore a modified structure to its original state, at the Lot Owner's expense.

5.3 Submittal Requirements. The Architectural Control Committee shall have the authority to specify the content, scope and manner in which plans shall be prepared and submitted, including staking and marking of proposed construction on the site prior to approval, followed by any documents, plans or information deemed necessary by the Architectural Control Committee to make a determination on the proposal. In addition to other documentation which may be requested by the Architectural Control Committee for a particular project, the following must be provided:

5.3.1 Three copies of the site plan, plan and elevation, prepared at a scale of at least forty feet equals one inch (40' = 1"), showing setbacks, proposed footprint of any Structure, Driveways, patios, fences and walls and accessory-use spaces. The plan shall show existing and proposed contours at five (5) foot intervals for the entire site and two (2) foot intervals within fifty (50) feet of the building. The plan shall also indicate the work area allotted to the contractor during construction and the approximate locations of the septic system, propane tank and well.

5.3.2 The location of buildings, Driveways and fenced corral, and other structures, if any, as well as the location of the pertinent set-back boundaries, shall be staked on the site prior to approval of the Architectural Control Committee. Accessory buildings are limited to those specified in this Declaration.

5.3.3 With respect to submittals on placement of Structures other than buildings, such submittals shall indicate the scale, location, materials, colors and reflectivity of the Structure, installation or object, and such other information as the Architectural Control Committee may request.

5.3.4 Proof of preliminary, tentative site approval by the Santa Fe County Land Use Office for all construction of buildings and Driveways is required.

5.3.5 Final plans shall show the location of all Structures and improvements on the Lot, exterior elevation drawings of all sides of the building(s), a floor plan, exterior color scheme, description of roof treatment, location and materials for the Driveway, plans for the waste disposal system, and a detailed grading plan reflecting all vegetation to be removed and all planned changes in grade. Floor plans and elevations of the residence, accessory buildings and patios shall be submitted at a scale of not less than one-eighth inch equals one foot (1/8'=1"), showing basic plan and overall dimensions. Rough sketches and incomplete plans shall not be accepted by the Architectural Control Committee.

5.4 Review of Plans. The Architectural Control Committee shall conduct reviews of plans at such times as it deems appropriate provided that the plans are in accordance with the foregoing requirements and any other requirements of the rules and regulations promulgated and published by the Architectural Control Committee for preliminary and final approval. Should the drawings submitted be in preliminary stages of design, a final set containing all changes required by the Architectural Control Committee shall be submitted for final review. Upon submission of

completed plans, the Architectural Control Committee shall notify adjacent Lot Owners of the submittal including Owners of Lots directly across a Road. The committee shall render a written determination on the proposal within approximately thirty (30) days. The applicant shall be notified of the determination. A decision by the Architectural Control Committee shall be in writing and shall specify what, if any, aspect of the submittal is approved or disapproved and, if disapproved, the reasons for the same. The Architectural Control Committee may approve or disapprove of submittals in whole or in part and may authorize commencement of construction on such aspects of the proposed plan and specifications as are approved. A determination by the Architectural Control Committee may be appealed to the Board of Directors or reviewed by the Board of Directors on its own initiation, which shall render a final decision in writing. The Architectural Control Committee and the Board of Directors shall interpret and apply the provisions of the restrictive covenants in good faith for the benefit of the Owners of Lots in the Subdivision.

5.5 Rules and Regulations. The Board of Directors of the Homeowners Association shall adopt, publish and make available to all Owners upon request, rules and regulations governing all required submittals, the review and approval process, inspection of work in progress and after completion, and such other matters governing the affairs and duties of the Architectural Control Committee. Such rules and regulations may be amended from time to time as the Board of Directors of the Homeowners Association shall deem appropriate, but such amendments shall not effect completed submittals already before the Architectural Control Committee.

5.6 Fees. The Architectural Control Committee may establish a fee sufficient to cover the expenses of reviewing and copying plans and related data, to compensate any consulting architects, landscape architects, inspectors, or attorneys retained in accordance with the terms hereof and to insure compliance by the Owner of the provisions of this Declaration. The Owner applying for approval shall pay or reimburse the Homeowners Association for all expenses incurred in considering applicant's proposal, including but not limited to duplication expense, fees of the architect, and fees of any other professional advisors to the committee which, if unpaid or unreimbursed shall constitute a lien against the Owner's Lot. Alternatively, the Architectural Control Committee may waive the review fee, in its discretion, for minor projects which do not warrant a fee.

5.7 Judgment by Architectural Control Committee. In evaluating any proposed construction, modification, alteration, excavation or other improvement of any nature whatsoever on any Lot, the Architectural Control Committee shall look to the spirit of this Declaration, as embodied in the Preamble and in the totality of the provisions of this Declaration. That spirit is predicated on the principal of moderation, environmental harmony, minimal intrusion, respect for the privacy of neighbors and preservation of the aesthetic qualities of the geography of the Subdivision, including view sheds, ridge lines and the general appearance of undisturbed native vegetation. These tenets find value in being less conspicuous and seek to favor the understated character of the Subdivision. Any construction, modification, alteration, excavation or other improvement on any Lot should be as unobtrusive as possible in color, scale, height and visual

impact on the landscape, horizon and skyline. The Architectural Control Committee, acting in good faith for the benefit of the Owners of the Lots in the Subdivision shall have the right to disapprove plans or proposals that do not conform to the Declaration. The Architectural Control Committee and the Board of Directors of the Homeowners Association shall not be liable in damages to any Owner of a Lot by virtue of any approval or disapproval.

5.8 Non-Waiver. The approval by the Architectural Control Committee of any plan, drawings, or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Architectural Control Committee under the design guidelines or the Declaration, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification, or matter whenever subsequently or additionally submitted for approval, it being the intent of this Declaration to allow the Architectural Control Committee to consider such proposals on a case-by-case basis.

5.9 Approval Not a Guarantee. Any approvals under or any compliance with this Declaration is no guarantee that any structure or construction complies with any applicable regulation promulgated by any governmental authority. Compliance with such regulations is each Owner's sole responsibility. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in soundly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or other improvement built in accordance therewith will be built in accordance with applicable building codes or other governmental requirements or in good and workmanlike manner. Neither the Homeowners Association, nor the Architectural Control Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Declaration, nor any defects in construction undertaken pursuant to such plans and specifications.

5.10 Construction Regulations. The Architectural Control Committee may adopt regulations governing construction on all Lots in addition to those set forth in Article 6, below, this Declaration. Said regulations shall be adopted, printed and available to an Owner upon request. The Architectural Control Committee shall have the right to amend such regulations as it deems necessary, but the amendment shall not apply to residences or improvements already under construction at the time of the amendment. The Architectural Control Committee shall serve as the primary contact with the property Owner or his agents on behalf of the Board of Directors on all issues governed by this Declaration until completion of construction and shall implement the policies and directives of the Board.

ARTICLE 6
CONSTRUCTION

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6.1 Construction Styles. Construction of all buildings shall be in the Northern New Mexico vernacular, Pueblo Revival or, Territorial Revival styles, given particular popularity by Santa Fe architect John Gaw Meem. This tradition reflects minimal intrusion on place and was inherent in the goals of the Kenney family as they established the Subdivision: Modesty of scale, additive organization of elements, siting for privacy, climatic comfort, minimal disturbance of the land and the use of primarily local materials. The Northern New Mexico architectural tradition is alive and growing richer with each new insight and innovation of designers and craftsmen. Existing residences in the Subdivision at the time of proposed construction shall serve as heavily weighted examples of acceptable style to which the proposed construction shall conform. Particular aspects of this tradition are required for all structures built in the Subdivision and shall be incorporated in accordance with the following provisions:

6.2 Damage to Landscape. During construction, the Owner is responsible for insuring that the builder and all other parties to the construction project refrain from damaging or removing trees and other vegetation or altering the natural grade and landscape, except as may be reasonably necessary and unavoidable for clearance of a building site and construction of Driveways and parking areas.

6.3 Commencement. Construction shall begin within ninety (90) days after approval of plans is given by the Architectural Control Committee. In the event substantial construction is not begun, bona fide and in earnest, within ninety (90) days, such approval is automatically nullified, withdrawn and without any future binding effect, and plans and specifications shall be resubmitted to the Architectural Control Committee for approval before construction is begun. Once begun, exterior construction of a house or guesthouse shall be completed within one (1) year after the date of commencement. All other Structures or improvements must be completed within one hundred eighty (180) days of approval.

6.4 Construction Fees. Prior to the commencement of any construction or substantial remodeling of a residence, guesthouse, major outbuilding or Structure, the Lot Owner shall pay an amount equal to the annual assessment due to the Homeowners Association in payment of a non-refundable construction fee to defray direct and indirect expenses to the Homeowners Association as a result of the wear and tear on the Roads. This fee does not pertain to or excuse fees assessed in connection with the Architectural Control Committee's consideration of plans, including costs incurred by the Architectural Control Committee and associated fees and expenses of an architect and professional advisors. The Homeowners Association's receipt of such payment shall not constitute a waiver or limitation of the Homeowners Association's right to seek additional amounts from the Lot Owner that may be necessary to satisfactorily complete cleanup or repair of Roads or lands leading to and from the Lot Owner's site, or any other amounts that become due and payable by the Lot Owner to the Homeowners Association under the terms of this Declaration in the event

of damage to any common property, including Roads, signage, trees or culverts, caused by a construction crew or subcontractors.

6.5 Temporary housing. No temporary house, dwelling, garage, outbuilding, trailer, mobile home or any removable structure shall be placed or erected upon any Lot. No residence placed or erected on any Lot shall be occupied in any manner while in the course of construction, or at any time prior to the time when the exterior is fully finished and is fully functional for residential purposes. Nor shall any residence be occupied until made to comply with the approved plans and all other conditions and restrictions. During and after the construction period required for any dwelling, the continuous storage of construction material, supplies and equipment shall be prohibited unless placed on the Lot under construction and out of view of other Lots and Roads.

6.6 General Construction Rules. During construction, an area on the Lot that is not within setbacks, arroyos, or Driveways shall be designated for cement dumping and for other materials that will be used or carried away after construction is completed. Sufficient space shall be provided for the movement of trucks and other heavy equipment and shall be roped off to protect trees and ground cover in areas beyond the construction area. Portable toilets shall be situated in a place not visible from the Roads. A commercial construction waste receptacle or dumpster shall be placed on the site at the commencement of construction for the containment of all waste materials resulting from construction. No burning of waste materials is permitted. Use of radios and other audio equipment are prohibited on the construction site. Noise from power equipment, etc., shall be kept at the minimal achievable levels so as not to disturb residents of the area. All construction parking shall be on the property Owner's Lot and shall not be permitted on the Roads or community lands of the Subdivision. Permitted construction working hours are as follows: Monday-Friday, 7:00 a.m. to 6:00 p.m. or thirty minutes after sunset, whichever is later; Saturday, 8:00 a.m. to 4:00 p.m. Working on Sunday is prohibited.

6.7 Access. The Lot Owner shall permit the Homeowners Association Board of Directors and Architectural Control Committee and their advisors to visit, without notice, the Lot and construction site of an approved construction project at any time beginning on the date of application by the property Owner and continuing until completion.

6.8 Interim Report to Architectural Control Committee. The Owner shall submit an inspection report certified by a licensed surveyor to the Architectural Control Committee at the footing stage, typically called a stem wall survey, to insure that Structures do not extend into the setbacks and are located in the areas shown on the site plan submitted to the Architectural Control Committee. At the completion of the construction, the Owner shall submit to the Architectural Control Committee the final surveyor's report showing the location of all Structures, walls, fences, patios, drives, wells and surfaced areas in relation to the Lot and setback lines. The Lot Owner shall request a final inspection by the Architectural Control Committee upon substantial completion of construction.

6.9 Halted Construction. Construction halted for more than twelve (12) months, or abandoned indefinitely without completion of the structure as approved, must be removed from the premises at the Owner's expense, including all roofs, walls and foundations. Remaining excavations must be filled in and native vegetation must be restored to the site at Owner's expense.

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ARTICLE 7
HOMEOWNERS ASSESSMENTS

7.1 Determination of Common Expenses and Assessments Against Members.

7.1.1 Common Expenses. The term "common expenses" shall refer to the amount necessary to pay the cost of maintenance, management, operation, repair and replacement of the Roads and common area (the "Common Area"), and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be common expenses by this Declaration or a resolution of the Board of Directors of the Homeowners Association.

7.1.2 Fiscal Year. The fiscal year of the Homeowners Association shall be the calendar year unless otherwise determined by the Board of Directors.

7.1.3 The Budget. At least eighty (80) days before the beginning of the fiscal year, the Board of Directors shall adopt a budget for the Homeowners Association containing an estimate of the total amount considered necessary to pay the common expenses that will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the common area and the rendering to the Members of all related services. The budget may include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. No later than sixty (60) days before the beginning of the fiscal year, the Board of Directors shall send to each Member a copy of the budget in a reasonably itemized form that sets forth the amount of the common expenses and any special assessment payable by each Member. The Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget not less than fifteen (15) nor more than thirty (30) days after mailing of the copy of the budget. Unless a majority of the Members reject the budget, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall continue until such time as the Members ratify a subsequent budget proposed by the Board of Directors.

7.2 Assessment and Payment of Common Expenses. Subject to the provisions of this Declaration, the total amount of the estimated funds required for the operation of the Homeowners Association set forth in the budget adopted by the Board of Directors and ratified by the Members shall be assessed against each Member equally for each Lot owned by the Member, and shall be a lien against each Member's Lot. On or before the first day of each fiscal year or on such date specified by the Board of Directors, each Member shall be obligated to pay to the Homeowners Association such assessment. Any amount accumulated in excess of the amount required for actual

expenses and reserves shall be maintained as a reserve. If the Board of Directors determines that a net shortage will result, the Board of Directors shall prepare a revised budget and provide a copy to each Member. The Board of Directors shall set a date for a meeting of the Members to consider ratification of the revised budget not less than fifteen (15) nor more than thirty (30) days after mailing of the copy of the budget. Unless a majority of the Members reject the revised budget, the budget shall be deemed ratified, whether or not a quorum is present. The shortage shall be assessed equally against each Lot promptly after ratification of the revised budget and shall be payable within thirty (30) days of the date of mailing of the assessment or as the Board of Directors may determine. In the event the proposed revised budget is rejected, the Board of Directors may use reserves to cover the shortage.

7.3 Reserves/Special Assessments. The Board of Directors may create and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget, but approved by a majority of the Members, that may become necessary during the year may, in the discretion of the Board of Directors, be charged first against such reserves. If the reserves are deemed inadequate for any reason, including non-payment of any Member's assessment, then the Board of Directors may levy a special assessment, which shall be assessed against the Members and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such special assessment on all Members by a statement in writing giving the amount and reasons therefore, and such special assessment shall, unless otherwise specified in the notice, become effective with the next periodic payment, which is due more than ten (10) days after the delivery of such notice of such special assessment. All Members shall be obligated to pay the special assessment or such special assessment shall be a lien on the Member's Lot against which the special assessment is made.

7.4 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Member's obligation to pay his allocable share of the common expenses as herein provided whenever the same shall be determined; and, in the absence of any annual budget or adjusted budget, each Member shall continue pay at the rate established for the previous fiscal year until notice of the such new annual or adjusted budget shall have delivered to the Member.

7.5 Accounts. Sums collected by the Board of Directors with respect to assessments against the Members or from any other source may be commingled into a single fund.

7.6 Payment of Common Expenses. Each Member shall pay the common expenses assessed by the Board of Directors pursuant to the provisions of this Declaration. No Member shall be liable for the payment of any part of the common expenses assessed against his Lot after the date of recordation of a conveyance by him in fee of such Lot, provided notice is given to the Homeowners Association prior to conveyance. 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 latter for his proportionate share of the common expenses 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 therefore. Each 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 that accrue before the time such mortgagee comes into possession thereof.

7.7 Collection of Assessments. All assessments, together with interest and costs of collection when delinquent, shall be a charge on the land and shall be a continuing lien upon the Lot against which the assessments are made, and shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessments were levied. Such lien may be reduced to writing and recorded in the records of the Clerk of Santa Fe County, New Mexico by the Board of the Homeowners Association at any time after the effective date of the assessment. Each Owner of a Lot, by acceptance of a deed or other transfer document therefor, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay the Homeowners Association the assessments established or described in this paragraph 7.7. The Board of Directors may take action to collect any assessment for common expenses due from any Member that remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment, or installment thereof, not paid within thirty (30) days after due shall accrue a late charge in the amount of one and one-half (1½ %) percent 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.

7.8 Statement of Common Expenses. The Board of Directors shall promptly provide any Member, contract purchaser or mortgagee so requesting the same in writing with a written statement of all unpaid assessments for common expenses due from such Member. Such statement shall be furnished within ten (10) business days after receipt of the request and is binding on the Homeowners Association's Board of Directors and every Member. A purchaser shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

7.9 Maintenance, Repair, Replacement and Other Common Expenses.

7.9.1 The Board of Directors shall be responsible for the maintenance, repair and replacement of all of the Common Area, the cost of which shall be charged to all Members as a common expense. If, in the opinion of not less than two-thirds (2/3) of the Board of Directors, such expense was caused by the negligence or misconduct of a Member, then such expense shall be assessed against that Member.

7.9.2 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 of Directors.

7.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage in favor of an institutional lender. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any conveyance in lieu thereof, shall extinguish the lien of such assessments as to payments that become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due, or from the lien thereof.

ARTICLE 8
CONSERVATION

8.1 Water Use. All Lot Owners and occupants shall refrain from excessive water use and waste. All Lot Owners and occupants shall in good faith employ such water-saving techniques as may be reasonable in the circumstances.

8.2 Wells. All wells shall be equipped with totalizing meters that shall be subject to reading and inspection at reasonable intervals as may be required by ordinances of the Santa Fe County; in the event more than one Lot is served by a well, service to each Lot shall be separately metered and subject to reading and inspection; all Santa Fe County ordinances or laws of the State of New Mexico that apply to the Subdivision properties shall be observed by the property Owners.

8.3 Water-Saving Appliances. Water-saving appliances shall be installed and used when, at the time of construction or replacement of appliances, water-conserving models, otherwise conforming to the needs of the Lot Owner or occupant, are commercially available.

8.4 Cooling Systems. Evaporative coolers are permitted, if properly screened from view from Roads or other Lots in the Subdivision and if prior approval for such coolers is obtained from the Architectural Control Committee. Due to noise considerations and to encourage historical architectural design that takes advantage of the temperate climate of Santa Fe, the installation, operation or maintenance of a refrigerated air system or heat-exchange or heat pump air conditioning or heating unit is not permitted.

8.5 Gardens, Landscape. No lawns shall be permitted in excess of six hundred (600) square feet; and no lawns of any grasses other than native grama grasses or other grasses that consume water at the same or lower rates than grama grasses shall be permitted. The design and maintenance of decorative or vegetable gardens and landscaping should be limited to a scale proportionate to the primary residence and guesthouse and irrigated gardens and plantings shall not exceed three thousand (3,000) square feet. Water-saving watering systems, including drip irrigation

and timers, should be utilized, and drought-tolerant plant material should be favored. Use of captured water and gray water, consistent with applicable ordinances and laws, is encouraged.

8.6 Water Features. Swimming pools, lap pools and exercise pools are not permitted; however, subject to approval of the Architectural Control Committee, fishponds, landscape water features and hot tubs are permitted, but shall not have a capacity in excess of one thousand (1,000) gallons.

ARTICLE 9
GENERAL PROVISIONS

9.1 Enforcement. The enforcement of this Declaration contained herein shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to enjoin or restrain the violation, to cause the removal of structures or improvements in violation of this Declaration, or to recover damages. The failure to enforce any right, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement; however, approval of any construction or use in writing by an Architectural Control Committee duly appointed by the Homeowners Association Board of Directors or by the Board of Directors itself shall be binding on all parties. The Homeowners Association shall be entitled to recover reasonable attorney's fees in any suit brought to enforce the provisions of this Declaration or to recover damages hereunder, if the Homeowners Association is successful in such suit.

9.2 Governing Law. This Declaration shall be interpreted under the laws of the State of New Mexico. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform consistent plan for the use of Lots in the Subdivision. Any legal action concerning this Declaration shall be brought in State District Court, in the First Judicial District Court, County of Santa Fe.

9.3 Severability. If any term, covenant or condition of this Declaration or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and such term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law. in accordance

9.4 Notices. Any notice required to be sent to the Owner of any Lot under the provisions of this Declaration shall be deemed to have been properly sent when mailed, first-class postage prepaid, or hand delivered to the last known address of the person who appears as Owner of such Lot on the records of the Homeowners Association at the time of such mailing.

9.5 Captions. The descriptive captions of the several Articles, sections and paragraphs contained in this Declaration are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Executed in counterparts on the date set forth below each signature:

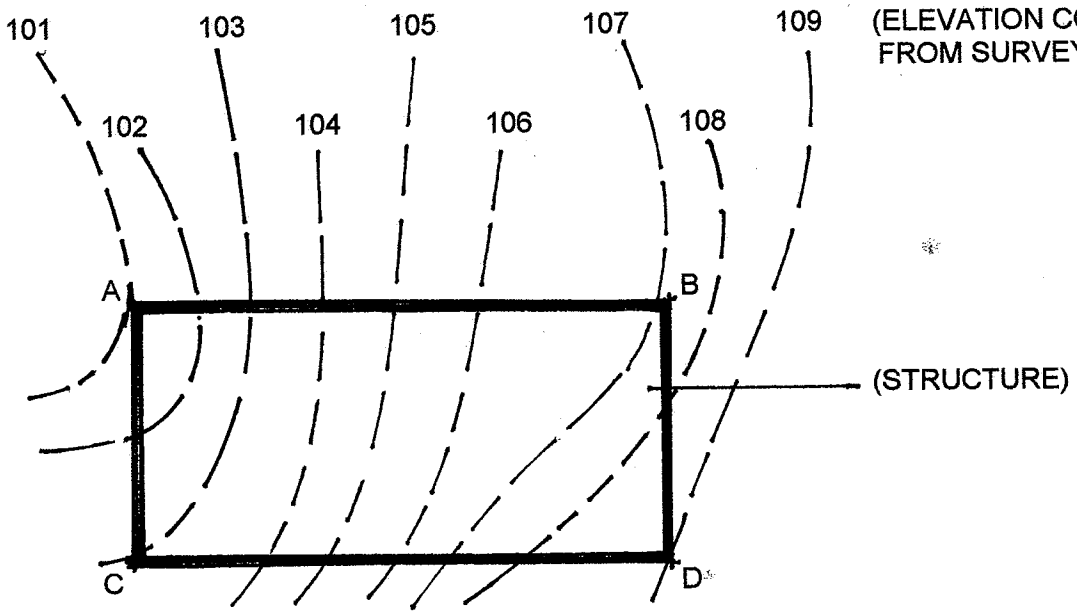
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SCHEDULE I

2296955

2296956

EXAMPLE OF CALCULATION OF AVERAGE GRADE AND MAXIMUM HEIGHT OF ROOF DECK FOR EACH MASS OR FLOOR LEVEL



A+B+C+D /4 = 105 AVERAGE GRADE
MAX HEIGHT OF ROOF DECK 105+12= 117

1240 370

COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE 23 DAY OF Dec A.D. 20 03 AT 1:10 O'CLOCK P M AND WAS DULY RECORDED IN BOOK 2296 PAGE 961-956 OF THE RECORDS OF SANTA FE COUNTY
WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.
Krystal Kelly
DEPUTY

COUNTY CLERK
REBECCA BUSTAMANTE
SANTA FE COUNTY NEW MEXICO
CRESCIT EUNDO