DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS, CONDITIONS, AND ESTABLISHMENT OF ARCHITECTURAL CONTROL AND LOT AND BUILDING GUIDELINES

For

ORGAN MESA RANCH,

DOÑA ANA COUNTY, NEW MEXICO

AND ANY ANNEXATIONS THERETO

ARTICLE A – DECLARATION:

The undersigned owners of the following-described real estate located in Doña Ana County, New Mexico (hereinafter called "Grantor" or "Declarant(s)") do hereby declare the creation and existence of restrictive and protective covenants (hereinafter called "Covenants"), as hereinafter set forth. The Declarants also wish to establish an independent Architectural Control Committee with Design Guidelines for the administration and enforcement of certain provisions of these Covenants.

The Declarants are: Organ Mesa Development, LLC., a
Limited Liability Corporation organized and existing under the laws of the
State of New Mexico
2511 N. Telshor Drive,
Las Cruces, New Mexico 88011

NOW THEREFORE, Grantor hereby declares that all property within the Subdivision is and shall hereafter be held, conveyed, encumbered, leased, developed, improved, and used subject to the following covenants, conditions, restrictions, and equitable servitudes imposed in furtherance of a plan for the subdivision, improvement, and sale of lots within the Subdivision, and to enhance and maintain the value, desirability, and attractiveness of such property. The restrictions set forth herein shall run with the real property included within the Subdivision and shall be binding upon all persons having or acquiring any interest in such real property or any part thereof and shall inure to the benefit of every portion of such real property and any interest therein and shall further inure to the benefit of and be binding upon Grantor, its successors in interest, and any person whose interest in property within the Subdivision derives from Grantor=s interest.

ARTICLE B – THE PREMESIS (hereinafter called “Property” or “Subdivision”):

The Property so named herein and burdened by the Covenants is as follows:

Organ Mesa Ranch, Doña Ana County, New Mexico; which, by the act of Subdivision, is now known as Phases 1A and 1B of the Organ Mesa Ranch Subdivision, Doña Ana County, New Mexico. (hereinafter called the “Property” and/or the “Subdivision”) as the same is shown and designated on the Plat thereof, filed in the office of the County clerk of Doña Ana County, New Mexico on _____ _____, 2004 in Plat Book _____, Page _____. Any further replat, re-subdivision of change in name or address shall not alter the burden of these Covenants on the Property.

ARTICLE C – BINDING EFFECT, TERM AND FUTURE ANNEXATIONS

All the restrictions and covenants set forth herein shall be binding upon the owners and their successors and assigns and all persons claiming by, through or under them ownership in the Property, for a period extending to December 31, 2030, at which time said covenants and restrictions shall be automatically extended for successive period of ten (10) years, unless revoked or amended by an instrument in writing, executed and acknowledged by the owners of not less than 66.67% of the lots in the Subdivision and any annexations thereto, which instruments shall be recorded in the office of the County Clerk of Doña Ana County, New Mexico, within ninety (90) days prior to the expiration of the initial term hereof or any ten-year extension; provided, however, that during the initial period the owners of not less than 66.67% of the lots in the Subdivision may at any time and from time to time release all of the lots hereby restricted from any one or more or all of the restrictions and covenants, and may release any lot or lots from any of the restrictions and covenants or may modify, change or amend restrictions and covenants or may modify, change or amend these restrictions by executing and acknowledging an appropriate agreement in writing (amended declaration) for such purpose and filing the same for record in the office or the County Clerk of Doña Ana County, New Mexico.

The foregoing provision does not apply to the Declarant, their heirs or assigns, who may file an amended declaration of these Covenants at any time, so long as they own an equitable or legal ownership in any of the Property. The Declarants may, from time to time, annex other portions, lots, phases or lands of Organ Mesa Ranch landholdings into these Covenants by execution and recordation of an instrument declaring same. If so provided, the annexed Property shall have the same force and effect as the Property declared under this instrument, including any amendments thereto.

ARTICLE D – DEFINITIONS

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

D.1.1 **AArchitectural Review Committee@** shall mean the committee created pursuant to these Covenants.

D.1.2 **AArchitectural Committee Rules@** shall mean any rules or guidelines adopted by the Architectural Review Committee pursuant to these Covenants.

D.1.3 **AAssessments@** shall mean any assessments that may be levied upon any of the lots within the Subdivision as provided in these Covenants.

D.1.4 **"Courtyard or Backyard Walls"** shall mean those permitted enclosures, including fences, gates, retaining and extended structural walls, which are installed by the Owner in conjunction with plans and specifications approved by the Committee on a case by case application basis. These enclosures are differentiated from Perimeter Walls in that they may not follow lot or easement lines and are restricted as to the amount and nature of the enclosure.

D.1.5 **ABeneficiary@** shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and/or the assignees of such mortgagee, beneficiary, or holder.

D.1.6 **ADeclaration@** shall mean this instrument as it may be amended from time-to-time.

D.1.7 **"Equestrian Lot"** shall mean those specific lots and easements allowing horse and/or large-animal facilities as designated by the Declarant and consistent with the Subdivision Master Plan approved by Doña Ana County.

D.1.8 **AGrantor@** shall mean Organ Mesa Development, LLC, a New Mexico Limited Liability Corporation.

D.1.9 **AImprovement@** shall mean any structures and appurtenances thereof of every type and kind, including, but not limited to, the following: buildings, outbuildings, garages, carports, driveways, parking areas, perimeter walls, fences, screening walls, retaining walls, stacked rock soil retention

systems, stairs, decks, windbreaks, poles, signs, exterior air conditioning or heating units, utility meters, water softener fixtures or equipment, dog houses, satellite dishes, solar panels, and play equipment (e.g., swings, slides, playhouses, tree houses, jungle gyms, and basketball backboards), but excluding landscaping.

D.1.10 **ALot@** shall mean that area, parcel, piece, or division of real property within the Subdivision intended for development with a single-family dwelling which is specifically detailed or shown on the Subdivision plat map and designated by number.

D.1.11 **AMortgage@** shall mean any mortgage or other conveyance of a Lot to secure the performance of an obligation, which conveyance will become void and be reconveyed upon the completion of such performance, and which has been recorded.

D.1.12 **AOwner@** shall mean any person who owns a Lot within the Subdivision as shown in the deed records of Doña Ana County, New Mexico, but does not include a mortgagee under a Mortgage unless such mortgagee has acquired title to a Lot as a result of foreclosure or a deed in lieu of foreclosure. Owner shall also include a person who acquires any interest in a Lot under a real estate contract, and a person who retains any interest in a Lot that is the subject of a real estate contract. Where a provision of this Declaration requires the vote or consent of the Owner of a Lot, or imposes an obligation on the Owner of a Lot, all persons who hold record title to such Lot shall, in the aggregate, be considered the AOwner@ of such Lot.

D.1.13 **APad Elevation@** shall mean the elevation of the designated area on each Lot as shown on the approved "Grading and Drainage Plan@ for the Subdivision on file with the City of Las Cruces and Doña Ana County.

D.1.14 **"Perimeter Wall"** shall mean the wall, fencing, gates, landscaping or any portion or combination thereof encompassing and subscribing any contiguous development portion or phase of the Subdivision as directed or erected by the Declarant. Said Wall shall include any entryway returns, offsets, footings, drainage provisions and portions of the Subdivision improvements supporting same.

D.1.15 **APerson@** shall mean a natural individual or any other entity with the legal right to hold title to real property in the State of New Mexico.

D.1.16 **ARecord,@ Arecorded,@ and Arecordation@** shall mean, with respect to any document, the recordation of such document in the office of the County Clerk, Doña Ana County, New Mexico.

D.1.17 **ASingle-Family Dwelling@** means a permanent house with foundation and related walls, drives, parking areas and structures (such as attached guest or caretaker quarters) designed and utilized as a residence for owner-occupied living and does not include any type of multi-family dwelling (including, for example, a duplex, triplex, quadplex, or apartment house), boarding or lodging house, sanitarium, hospital, day care facility, half-way house, extended care facility, trailer, mobile home or manufactured home, tent, teepee, yurt, shack, garage, barn, dome, A-frame structure, pyramid, or Quonset hut. Nothing contained in the Declaration shall be construed to prevent an Owner from leasing or renting the single-family dwelling located on his, her, or its Lot under the Uniform Owner-Resident Relations Act.

D.1.18 **ASubdivision@** shall mean all that certain real property identified and described in this Declaration, as the same is now and as may from time-to-time be developed and improved, located in Doña Ana County, State of New Mexico, and as shown on the Subdivision plat map, together with any amendments, replat or annexations thereto, so made pursuant to any independent declaration.

D.1.19 **ASubdivision Map@** shall mean the plat referred to in this Declaration, as such plat may be amended from time-to-time.

ARTICLE E – PERMITTED AND PROHIBITED LAND USE

E.1.1. Except as otherwise expressly set forth herein, all Lots are hereby designated for use solely as single-family lots. Lots shall be used and improved exclusively for residential purposes in conformance with this Declaration. Only single-family dwellings and Improvements commonly constructed in connection with single-family dwellings may be constructed on Lots. All Lots and any Improvements thereon shall be held, used, and enjoyed subject to the limitations and restrictions set forth in this Declaration.

E.1.2. No more than one single-family dwelling shall be erected or maintained on any one Lot, together with no more than two (2) detached outbuildings (including any detached garages).

If allowed by applicable zoning, one outbuilding per Lot may contain a dwelling for temporary guests, caregivers and caretakers, provided, however, that such guest quarters shall not be rented separately from the primary residence. As used in this Declaration, No dwellings other than single-family dwellings shall be erected, placed, permitted, or maintained in the Subdivision.

E.1.3. Each single-family dwelling shall have at all times an enclosed garage sufficient for the parking of a minimum of two (2) cars. Subject to any zoning restrictions, this may be an enclosure attached to the principal residence or a detached building.

E.1.4. The minimum floor area of the heated/air-conditioned area of any single-family dwelling shall be 1800 square feet, excluding garage, decks, or open porches. On all Lots, if the principal residence is more than one story, it shall have a minimum enclosed heated or air-conditioned area on the ground floor of 1100 square feet, excluding garage, decks, or open porches. Outbuildings, including garages, may be limited in size and location by the Architectural Control Committee.

E.1.5. No portion of the Subdivision shall ever be occupied or used for any commercial or business purpose other than a home office with no sign, or for any noxious or illegal activity, and nothing shall be done or permitted to be done on any Lot which is a nuisance or might become a nuisance to the Owner or Owners of any of adjoining Lots.

E.1.6. The Declarant may designate certain lots or combinations thereof for other land uses including land areas (lots) reserved for community uses, common areas, signage and landscaping and Lots designated for Equestrian use in conjunction with a dwelling (including barns, paddocks and exercise areas) providing, however, such land use designations conform with approved Doña Ana County zoning allowances and any Master Plan or Development Plan approved with the Subdivision.

ARTICLE F – GENERAL RESTRICTIONS ON USE, CONSTRUCTION LIMITS AND ACTIVITIES

F.1.1. All construction shall comply with the building and setback requirements of all applicable codes and ordinances, unless those contained in this Declaration are more restrictive, in which case the more restrictive requirements shall apply.

F.1.2. No building constructed in the Subdivision shall be higher than thirty feet (30') higher than slab or specified grade elevation as shown on the approved Grading and Drainage Plan.

F.1.3. No odor or noise shall be emitted from any Lot, which is noxious or offensive to others in accordance with generally recognized standards for rural or semi-urban lifestyle.

F.1.4. With the exception of Equestrian Lots, no animals, livestock, or poultry or any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept on a Lot, provided that they are not kept, bred, or maintained for any commercial purpose. No more dogs or cats shall be permanently kept on any Lot than is/are allowed under county ordinance. Excessively barking dogs shall be considered a noxious or illegal activity, and such dogs are subject to expulsion or removal from the Subdivision. When allowed to be kept, all pets must be kept within a fenced or bounded area upon the Owner=s Lot or must be on a leash.

F.1.5. No portion of any wall of the single-family dwelling (including the attached garage) on any Lot shall be constructed closer than 35 feet from the front lot line, 15 feet from the nearest side lot line, and 25 feet from the rear lot line; provided, however, that no portion of any wall of the single-family dwelling on any corner Lot shall be closer than 25 feet from the side lot line nearest the street. The foregoing restrictions shall not apply to courtyard walls and shall not be applied to prevent the construction or placement of roof overhangs, fireplaces, or air-conditioning/heating units closer than 15 feet from the nearest side lot line (15 feet from the street-side side lot line on corner Lots), but in no event shall any portion of an roof overhang, fireplace, chimney, or air- conditioning/heating unit be placed or constructed closer than 10 feet from the nearest side lot line (12 feet from the street-side side lot line on corner Lots).

F.1.6. No firearms shall be discharged from within the Subdivision.

F.1.7. Lots shall not be further subdivided, and no portion of any Lot may be sold separately from

the rest of that Lot. Subject to compliance with all applicable ordinances, two or more adjoining Lots under the same ownership may be combined to create one lot (ANew Lot@). Setback requirements would then pertain only to the New Lot. The New Lot shall be considered as one residential lot for all of the purposes of this Declaration and may not thereafter be split or developed as two or more parcels but shall be developed as, and remain, a single parcel.

F.1.8. No unsightly articles including propane tanks and emergency generators shall be permitted to remain on a Lot so as to be visible from any adjoining Lot. No Lot shall be used or maintained as a dumping ground for rubbish. Refuse, garbage, and trash shall be kept at all times in a sanitary, covered, noiseless container, and any such container shall be kept within an enclosed structure (such as a garage) or appropriately screened from view from ground level of all streets and other Lots; provided, however, trash containers may be placed at the street for pickup no more than twenty-four (24) hours prior to the scheduled pick-up time. Service areas, storage piles, compost piles, and facilities for hanging, drying, or airing clothing or household fabrics shall be screened from view from all other Lots. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any Lot except within an enclosed structure or screened from view from all other Lots. No dumpsters shall be permitted, except for temporary use during construction. No garbage or household trash or debris shall be burned in the Subdivision.

F.1.9. No light shall be emitted from any Lot that is unreasonably bright, or which would constitute an annoyance to a person of ordinary sensitivities. Flood lights and bright exterior lights shall not be left on all night. No sound shall be emitted from any Lot that is unreasonably loud or annoying to another in the Subdivision. The New Mexico “Dark Sky” Act standards shall apply to all light emitted as measured at the lot lines.

F.1.10. Every Owner, whether or not his Lot contains any Improvements, shall take all action necessary to restrict the growth of, and to remove, noxious weeds or grasses in accordance with any local, state, or federal requirements. Whenever practical, weed control actions shall not be chemically dependent but shall utilize plantings and other means of control. All Lots shall be maintained at all times by the Owner thereof, both prior to and after construction of Improvements thereon, in an attractive manner, free of trash, debris, weeds, and other unsightly material.

F.1.11. All power, telephone, and other service lines installed by or at the direction of an Owner shall be located underground.

F.1.12. No quarrying, tunneling, excavating, or drilling for any substances within the earth, including for oil, gas, minerals, gravel, sand, or rock shall ever by permitted within the Subdivision, and no derrick or other structure designed for use in drilling shall be erected, maintained, or permitted to remain on any lot.

F.1.13. All Owners shall maintain any ponding or drainage easements on their lots. No Owner shall interfere with the established drainage pattern over any Lot unless adequate provision is made for alternative drainage and is approved by the Architectural Review Committee. No structure, fence, planting, or other material shall be placed or permitted to remain which may damage or interfere with the direction or flow of drainage channels, easements or ponds, which may obstruct or retard the flow of water through drainage channels, easements, or ponds.

F.1.14. No Improvement upon any Lot within the Subdivision shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair.

F.1.15. Notwithstanding any other provision in this Declaration, no vehicle, wagon, trailer, motor home, camper trailer, boat, windmill or other mechanical equipment of any type, which is abandoned or inoperative, shall be stored or kept on any Lot unless it is screened from view from outside the Lot (when viewed from ground level). No such item may be kept on any street in the Subdivision. No vehicles, recreational vehicles, wagons, trailers, motor homes, camper trailers, boats, or other mechanical equipment may be dismantled or repaired on any Lot or on any street in the Subdivision.

F.1.16. No recreational equipment or playground equipment of any kind shall be installed, stored, or, left in the front yard of any Lot or the street-side yard of any corner lot or in any street right-of-way, except that one basketball goal may be used on a Lot. Tennis courts may be allowed in the Subdivision with specific approval by the Architectural Review Committee.

F.2 The following provisions apply with respect to the storage, maintenance, and use of vehicles and

recreational equipment:

F.2.1. An Owner shall park his, her, or its cars in the garage or on the driveway parking pad, but not on any other portion of the Lot unless enclosed by an approved wall or structure or with an area approved by the Architectural Review Committee.

F.2.2. No commercial vehicle (excluding sedans or standard-sized pickup trucks which are used both for business and personal use) nor any boat, camper trailer, motor home, wagon, trailer, recreational vehicle, or other mechanical equipment (collectively, an AItem@ or AItems@) may be kept on any Lot unless it is kept in a fully enclosed garage or motor court, except that an Item may be temporarily parked outside a garage or motor court, not to exceed 28 days in the aggregate during any calendar year. House guests may park and use their recreational vehicle for up to 14 days in any thirty-day period while visiting an Owner.

F.2.3. Any motor court shall conform to the following standards: (1) the height of the walls enclosing the Items shall be at least 12 inches higher than the highest point of the tallest Item stored or parked in the motor court, but in no event less than 8 feet; (2) the gate to the motor court shall be steel with wood veneer unless the motor court does not house a recreational vehicle or motor home, in which case the gate may be wrought iron; and (3) the motor court shall otherwise comply with the provisions of this Declaration.

F.3 No signs or other advertising shall be displayed on any Lot unless the size, form, and number of same are first approved in writing by the Architectural Review Committee; provided however, an Owner may, without such prior approval, erect the following:

F.3.1 One sign identifying the Owner or occupant, and containing no other language other than Awelcome,@ Ami casa es su casa,@ and words or phrases of similar meaning, not exceeding two (2) square feet in area and pertaining only to the Lot of the Owner or occupant thereof upon which the sign is located.

F.3.2 Two (2) unlighted signs, not exceeding four (4) square feet in area each, to advertise the lease, rental, or sale of the Lot upon which it or them is or are located. Such sign(s) may show the name, address, and telephone number of the Owner or his authorized agent.

F.3.3 In addition to the signs mentioned in subparagraph (2) above, one Aopen house@ sign, not exceeding four (4) square feet in area, which invites the general public to inspect the

premises for lease, rent, or sale, provided that, at the time such property is open for inspection and the Aopen house@ sign is displayed, the Owner, his tenant, or his agent is in attendance to display any such house or building thereon. Such Aopen house@ sign shall only be displayed on or from the Lot being leased, rented, or sold; provided however, an Aopen house@ or directional sign (in addition to an Aopen house@ sign) may be placed in a median in the Subdivision by an Owner or his, her, or its agent if, but only if, such sign is removed from the median at the end of each day. No Owner shall place any other sign in any median in the Subdivision, or allow anyone else to place any other sign in any median.

F.3.4 Upon approval of the Architectural Review Committee, an Owner may allow contractors who are performing work on his, her, or its Lot to erect no more than two (2) signs, not to exceed four (4) square feet each, identifying the contractor and the type of work the contractor is performing on the Lot or, if the Owner is also the contractor, to advertise the home or other buildings the contractor/Owner is building in the Subdivision. No Owner shall allow any contractor performing work on the Owner=s Lot to imply by such signs that the contractor represents the Grantor or other contractors. For example, a sales center shall be identified as that of the particular contractor who owns it.

F.3.5 Notwithstanding anything in this Declaration to the contrary, nothing in this Declaration shall be construed to prevent Grantor from erecting, placing, or maintaining signs within the Subdivision as may be determined necessary or desirable by Grantor to promote the sale and development of Lots and homes within the Subdivision.

F.3.6 Nothing in this Declaration shall be construed as prohibiting an Owner from placing on his, her, or its Lot on a temporary basis a sign or signs urging the election of a candidate for public office, or urging the passage or defeat of any proposition or proposal put before the voters in any election.

F.3.7 Subject to the approval and any rules of the Architectural Review Committee, Grantor and an Owner=s contractor may use flags and pendants to identify their particular projects.

F.3.8 Each Owner hereby authorizes Grantor and the Architectural Review Committee to remove any sign, after notice to such Owner, that is placed by an Owner on his, her, or its Lot or elsewhere in the Subdivision in violation of this Declaration, and releases Grantor and the Architectural Review Committee (and its members) from any liability for doing so.

ARTICLE G – ARCHITECTURAL REVIEW COMMITTEE

There is hereby created the Architectural Review Committee. Such committee shall consist of three (3) members. The initial members shall be Timothy A. Curry, Paul B. Curry, and John R. Curry. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. If the remaining members fail to designate a successor or if all committee members die or resign, then Grantor may appoint successor members by recording an instrument appointing such members specifying their names, addresses, and telephone numbers. If Grantor fails to appoint successor members, then any three Owners may form a committee by recording an instrument identifying such Owners (serving as an interim committee) and then call for elections by the Owners for a standing Committee. In the case more than one group of Owners attempts to form the Committee, the first recorded instrument identifying the members shall prevail.

G.1.1 The vote or written consent of a majority of the Architectural Review Committee members shall constitute action of the committee.

G.1.2 Except as expressly authorized in this Declaration, no Owner shall make, permit, or allow, with regard to his, her, or its Lot, any change in the existing state of the Lot, including any scraping or vegetation removal, without first obtaining the written approval of the Architectural Review Committee. Changes in the existing state of a Lot that require approval shall include, without limitation, (a) the construction of any building, structure, or other Improvement, including utility facilities or parking or storage areas; (b) the excavation, filling, or similar disturbance of the surface of the land including, without limitation, change of grade or elevation, ground level, or drainage pattern; or (c) the exterior appearance of any previously approved change in the existing state of the Lot provided, however, landscaping plans need not be submitted to the committee or approved by the committee.

G.1.3 The Architectural Review Committee shall have broad discretion to approve or disapprove any change in the existing state of the Lot. The committee shall exercise such discretion within the bounds of reasonableness and to carry out the following objectives: (a) to implement the general purposes expressed in this Declaration; (b) to prevent violation of any specific provision of this Declaration or any amendments thereto; (c) to prevent any change which would be unsafe or hazardous to any persons or property; (d) to assure that any change will be of good and attractive design and in harmony with the natural setting of the area and will serve to preserve and enhance architectural consistency within the Subdivision; (e) to assure that material and workmanship for all Improvements are of high quality comparable to other

Improvements in the vicinity of the Subdivision; and (f) to assure that any change will require as little maintenance as possible so as to assure a better appearing area under all conditions. The committee may adopt written rules or guidelines regarding the design, specifications, and construction of Improvements.

G.1.4 On a case-by-case basis, the Architectural Review Committee shall have the power, but shall not be required, to authorize variances from the provisions of this Declaration that pertain to the design or construction of Improvements on a Lot. An Owner desiring such a variance must demonstrate to the satisfaction of the Architectural Review Committee that compliance with a particular provision would be impractical or would impose an undue and inequitable hardship on such Owner. Hardship or expense resulting from an Owner=s failure to follow the provisions of this Declaration requiring the submittal of plans and specifications of proposed Improvements to the Architectural Review Committee, and the approval of such committee, prior to commencement of construction, shall not be adequate grounds to justify a variance. Any variance granted by the Architectural Review Committee shall be in writing and shall be the minimum variance necessary to mitigate the hardship demonstrated by the requesting party.

G.1.5 Prior to expenditures of any substantial time or funds in the planning of any proposed change in the existing state of a Lot, the Owner of such Lot shall advise the Architectural Review Committee in writing of the general nature of the proposed change and shall, if requested by the committee, meet with a member or members of the committee to discuss the proposed change. Such Owner shall read or become familiar with any guidelines or rules which may have been prepared or formulated by the committee and shall, if requested by the committee, furnish the committee with preliminary plans and specifications for comment and review. After the nature and scope of a proposed change in the existing state of the Lot is determined and prior to the commencement of work to accomplish such change, the Architectural Review Committee may require the Owner to furnish, and the Owner shall furnish, if so required, three (3) copies of a complete and full description of the proposed change in writing and with final working drawings, drawn to such scale as may be reasonably required by the Architectural Review Committee, showing all boundaries, existing and proposed contour lines and elevations at reasonably detailed intervals, all existing and proposed Improvements, the existing and proposed drainage pattern, the existing and proposed utility facilities, and the existing substantial trees and shrubs. The Owner shall also furnish to the committee any and all further information with respect to the existing state of the Lot, which the committee may reasonably require to permit it to make an informed

decision on whether or not to grant approval of the change.

G.1.6 With respect to any buildings and other structures, the Architectural Review Committee shall require submission of, and Owners shall submit, in duplicate, floor plans, elevation drawings, and final working drawings, all drawn to such scale as may be reasonably required by the committee, descriptions of exterior materials, and final construction specifications. Where buildings or structures or other Improvements which reasonably require plans and specifications are proposed to be constructed or built, a reasonable fee, as shall be determined from time-to-time by the committee, shall be paid to the committee to cover costs and expenses of review. No proposed change in the existing state of a Lot shall be deemed to have been approved by the committee unless its approval is in writing executed by a majority of the members of the committee, provided that approval shall be deemed given if the committee fails to approve or disapprove a proposed change or to make additional requirements or request additional information within *45* days after a full and complete description of the proposed change and all additional instruments, documents, and plans have been furnished in writing to the committee with a written and specific request for approval.

G.1.7 After approval by the Architectural Review Committee of any proposed change in the existing state of a Lot, the proposed change shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed change and any proposed plans and specifications therefore given to the committee. Failure to accomplish the change strictly in accordance with the description thereof and approved plans and specifications therefore shall operate to automatically revoke the approval of the proposed change, and, upon demand by the committee, the Lot shall be restored by the Owner as nearly as possible to its state existing prior to any work in connection with the proposed change. The committee and its duly appointed agents may enter upon any Lot at any reasonable time or times to inspect the progress or status of any changes in the existing state of a Lot being made or which may have been made. The committee shall have the right and authority to record a notice to show that any particular change in the existing state of a Lot has not been approved or that any approval given has been revoked.

G.1.8 The Architectural Review Committee shall not be liable in damages to any person or entity submitting any proposed plans for approval or to any Owner or other person or entity, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such plans, the granting or failure to grant a variance, or the enforcement or

non-enforcement of any of the provisions of this Declaration. Any person or entity acquiring any interest in any property in the Subdivision, or any person or entity submitting plans to the Architectural Review Committee for approval, by so doing, agrees and covenants that he, she, or it will not bring any arbitration proceeding or civil action seeking any relief from or against Grantor, the Architectural Review Committee, its members, or its advisors, employees, or agents.

G.1.9 The Architectural Review Committee shall keep and safeguard for at least two (2) years complete permanent written records of all applications for approval submitted to it (including one set of all preliminary sketches and all plans so submitted) and of all actions taken by it.

G.1.10 The Architectural Review Committee may establish, and from time-to-time amend, a fee schedule for reviewing plans as herein provided for, which fee shall be exacted from the Owner, other person, or entity requesting plan approval. Said fees shall be paid over to committee or its designee.

G.1.11 The Architectural Review Committee is hereby granted the power to make assessments as set forth herein.

ARTICLE H – STRUCTURE, LANDSCAPE DESIGN AND ARCHITECTURAL COMMITTEE GUIDELINES

These guidelines are to be used, as a minimum, in the evaluation of submitted plans and for enforcement of these Covenants. These guidelines can be amended, modified, expanded and revised as they apply to the entire Subdivision only by a unanimous vote of the Committee and after notification to all Owners of the Property. Any variance or waiver to any provision of these guidelines may by granted by the Committee on a case by case basis and must be in writing.

These guidelines are enforceable in the same manner as the Covenants and if legally challenged, constitute additional general restrictions and allowances for the Property as provided for by the Declarant. All buildings and structures shall comply with the following specifications:

H.1.1. No building or Lot in the Subdivision shall be decorated in an outlandish, distasteful, garish, extreme, or otherwise offensive style which is not in harmony with the character of the Subdivision as determined by the Architectural Review Committee. This section shall not be construed or applied so as to prohibit temporary holiday displays during Christmas, Hanukah, Easter, or other well-recognized religious holidays, and Thanksgiving and Halloween.

H.1.2. All buildings must be site-built frame, adobe, rammed earth, or ICF (foam) block construction. No manufactured homes, metal pre-fabricated buildings, mobile homes, trailers, tents, teepees, yurts, dome, pyramids, A-frames, or Quonset huts may be constructed or moved onto any Lot.

H.1.3. The architectural style of all single-family dwellings and outbuildings shall be that style generally characterized as ASouthwestern@ style (including Pueblo, Mission and Territorial) which style may be further defined or described by guidelines or rules adopted by the Architectural Review Committee.

H.1.4. All driveways and parking pads shall be concrete, gravel, crushed rock, or asphalt. Treated and compacted native soil may be allowed for parking areas if approved by the Committee.

H.1.5. Exterior covering materials on buildings shall be of stucco or stucco appearance or such other material (such as brick or other masonry treatments) as may be approved by the Architectural Review Committee and shall be designed so that the appearance blends and coordinates with the natural surroundings in a pleasing manner. Split face block, wood, stone, textured

and colored simulated rock or brick accents may be used with prior approval by the Architectural Review Committee. Thin appliqués (simulating brick, masonry), wood siding, vinyl siding, and aluminum siding are not permitted. Exterior colors shall be desert tones such as tones of brown, tan, beige, avocado and dusty rose. Bright, flashy, unnatural color schemes are not permitted; provided, however, contrasting color accents may be used with prior approval of the Architectural Review Committee.

H.1.6. Exposed concrete block (C.M.U.) construction is not permitted for any permanent finish. Exposed masonry units, if approved, must have integral color as part of the basic material specified.

H.1.7. Bright, reflective metal roofs are not permitted. Self-oxidizing copper or Cor-ten steel or non-reflective painted, or matte finish metal roofs are permitted (subject to the other provisions regarding roofs set forth in this Declaration) providing that the color range is muted or non-reflective upon weathering.

H.1.8. All pitched roofs shall be of only mission-style clay, metal, concrete tile, concrete, or composite tile. Asphalt built-up, asphalt shingle, fiberglass shingle, foam, wood shakes or shingles, metal tile, copper shingle, shall not be used on any pitched roof. Any building constructed in the Subdivision with a flat roof shall have parapet walls on all sides.

H.1.9. No Owner shall allow the elevation of any portion of the Lot to be increased by more than 12 inches from the highest undisturbed soil level within the footprint of the home.

H.1.10. No Owner shall allow any portion of any water retention area or area of designated water conveyance (per the Master Drainage Plan and identified easements on the final plat) on the Lot to be altered or filled without the express written permission of the Architectural Review Committee and the Doña Ana County. All owners are advised that the approved Drainage Plan calls for an average of 0.022 Acre Feet of detention ponding on the downstream portion of all lots (generally an area 40' x 20' x 2' deep, with side slopes not exceeding 3:1). Said ponding area or any revisions to any portion of the approved Drainage Plan shall be included with the Architectural Committee submittals and shall be acknowledged as a permanent maintenance responsibility of the Owner(s).

H.1.11. All heating and cooling equipment shall be mounted in the building which it serves or outside the building on the ground. No heating and cooling equipment may be mounted on the roof

or on an exterior wall of a building unless completely enclosed as part of the structure's architecture. A supply or return plenum may be constructed on an exterior wall so long as it is incorporated into the architectural design of the building, housed in a framed chase, and finished with the same finish as the building it serves.

H.1.12. Exclusive and non-exclusive easements for the installation and maintenance of utilities, drainage easements, and pending easements and other uses are reserved and are hereby expressly acknowledged and granted as shown on the Subdivision Map. Upon such easements, no structure shall be placed or permitted to remain which would interfere with the reasonable use of the easement. All portions of a Lot, including those portions subject to an easement, shall be maintained by the Owner of the Lot, including drainage easements and ponds.

H.2 The intent and spirit of provisions regulating fences, walls and yard enclosures is to provide for a general feeling of natural openness and desert beauty throughout the Organ Mesa Ranch Subdivision. The following provisions shall apply to all Lots with respect to perimeter walls, retaining walls, and fences:

H.2.1 No courtyard, backyard or perimeter wall, retaining wall, or stacked rock soil retention system may be constructed, removed, replaced, or altered in height, width, or length without the prior written approval of the Architectural Review Committee.

H.2.2 Allowable materials to be used in the construction of perimeter walls, courtyard or backyard walls, retaining walls, and fences shall be local stone, stucco, earth tone colored split face block with the rough face outward, welded steel or wrought iron, wood split rail, or a combination thereof.

H.2.3 Materials specifically disallowed for any wall or fence are chain link, gray cinderblock, vinyl rail, post and wire of any kind, tin, sheet metal, or corrugated metal.

H.2.4 Only lots designated as "Equestrian Lots" are permitted additional lot enclosures for paddocks, exercise areas and trails as provided for herein.

H.2.5 The total area enclosed on any Lot by Courtyard or Backyard walls and fences shall not be more than 10,000 square feet. The footprint of the dwelling and outbuildings shall not be

calculated as a portion of the 10,000 square feet.

H.2.6 Setbacks and dimensions for perimeter walls and fences shall conform to the County of Doña Ana Zoning Code and are generally described as property-line enclosures around designated Subdivision areas, phases and Major Street rights of way.

H.2.7 Minimum front, side, rear and side street setbacks for Courtyard or Backyard walls shall be the same as for the structural setbacks (County Zoning Code). The Committee has tentative building envelopes established whereby the general allowable areas within each lot are depicted subject to the design and placement of the structures by the Owner.

H.2.8 No perimeter or backyard wall or fence shall be placed or permitted to remain which may damage or interfere with the direction or flow of drainage channels, easements, or ponds. No perimeter wall or fence shall encroach on any drainage or ponding easement, as recorded on the Organ Mesa Ranch Subdivision plat or described on the Drainage and Grading Plan approved for the Subdivision unless a drainage and grading plan modification is approved by the Architectural Committee and Doña Ana County.

H.2.9 No perimeter wall or fence shall be more than 6 feet in height from grade level.

H.2.10 Setback requirements for all walls and fences may be modified by the Architectural Review Committee if the shape of a Lot makes compliance with such requirements unpractical.

H.2.11 All Lots adjacent to the Subdivision Perimeter(s) and Major Street rights of Way may have constructed on them lengths or portions of rock Perimeter Walls at the option of the Grantor. All such Perimeter Walls, whether constructed by the Grantor or allowed for construction by the Owner are the maintenance responsibility of the Owner.

H.2.12 All rock walls, including any allowed Perimeter walls, Backyard Walls and retaining walls shall be constructed in accordance with the standards (Adesign Standards@) set forth in Division 3, Article III, Chapter 32, of the Las Cruces Municipal Code as it may be amended from time-to-time.

H.3 Solar Collectors, HVAC Equipment, Satellite dishes, antennas, and solar collectors in the Subdivision must be well placed and in harmony with the architectural character of the structure:

H.3.1 Satellite dishes greater than 18 inches in diameter are not allowed in the Subdivision. Satellite dishes no larger than 18 inches in diameter may be installed on roofs, but not on exterior perimeter walls or exterior perimeter parapet walls. Satellite dishes should generally be an earth tone color, when possible. Such dishes may also be installed within 25 feet of side lot lines in the rear yard if they are hidden from view from the front of the residence and from adjoining Lots at ground level.

H.3.2 Solar collectors may be installed on the ground in the back yard, but must be out of sight of the street and may not be higher than the height of the lowest perimeter wall in closest proximity to the collector. Solar collectors may not be installed on pitched roofs. Solar collectors may be installed on flat roofs but only if they, (a) are installed so that the bottom edge surface of each collector panel is parallel to the roof surface; and (b) are hidden from view by the parapet walls.

H.3.3 Radio and television antennas may be installed on roofs but only if they are completely hidden from view behind parapet walls and if they are completely hidden from view from the ground elevation of adjoining Lots at a line of sight beginning at a point 6 feet above such ground elevation. Attic installations of radio and television antennas are recommended.

H.4 Play equipment, propane storage, emergency generators, accessory buildings, pre-manufactured storage units and Owner placed items of occupancy shall be diminished from view and appearance from streets and from neighboring lots.

H.4.1 No pre-manufactured storage sheds, playhouses, doghouses, dog runs, or similar or related type objects shall be located on any Lot if the height of such object is greater than the height of the lowest perimeter wall or backyard wall on said Lot.

H.4.2 If no walls are adjoining the proposed item, structure or area, the limits of visibility for required screening on side or front lot lines is within 35 feet of the lot line and on rear or side lot lines, within 25 feet of the lot line. In no case shall a storage shed, playhouse, or similar object be higher than 7 feet, even if the wall closest to such object exceeds 7 feet (as may be granted by variance or waiver). If said objects are located on a Lot which is lower in elevation than an adjoining Lot, then the object shall be located next to the party wall of the lot of higher elevation in order to make said object less noticeable from the lot of higher elevation.

H.4.3 Nothing in this section shall be construed to prohibit a gazebo, cabana, or storage shed on a

Lot so long as it is of the same materials, and architectural style and detail as the single family dwelling on such Lot and so long as the gazebo, cabana, or storage shed has been approved by the Architectural Review Committee and complies with all applicable zoning and setback ordinances.

ARTICLE I -- CONSTRUCTION OF IMPROVEMENTS

All construction shall comply with all applicable building codes, regulations, ordinances, and statutes. In addition to the provisions contained elsewhere in this Declaration, the following provisions shall apply with respect to the construction of Improvements in the Subdivision:

I.1.1 No Owner shall commence or allow construction on his, her, or its Lot of any Improvement unless and until the Owner has first submitted a construction schedule, the plans, specifications, and other information identified herein with respect to such Improvement(s), and such plans and specifications and the proposed Improvement have been approved by the Architectural Review Committee as indicated by the written endorsement of the committee on such plans and specifications. Nor shall any Owner remove, repair, replace, alter, or modify any existing Improvement unless and until written plans and specifications for same have been submitted to the Architectural Review Committee and such plans and specifications and the proposed removal, repair, replacement, alteration, or modification have been approved by the Architectural Review Committee as aforesaid.

I.1.2 The foregoing provisions shall not be construed to require the submission of plans and specifications or approval thereof by the Architectural Review Committee with respect to repair, replacement, alteration, or modification of the interior of a building, or with respect to the repair, replacement, alteration, or modification (AWork@) of an existing exterior Improvement. No material changes or deviations in or from the approved plans and specifications may be made without the express written approval of the Architectural Review Committee. Plans submitted to the committee shall be to scale and shall include, among other

things, the location(s) and dimensions of existing and proposed Improvements on the Lot, the location(s) of any drainage channels or retention ponds on the Lot, and architectural drawings including elevations.

I.1.3 Unless otherwise approved in writing by the Architectural Review Committee, construction of a single-family dwelling on a Lot and all landscaping required by this Declaration, once commenced, shall be pursued by the Owner with due diligence continually from the time of commencement until fully completed and shall be completed within nine (9) months from the date of commencement. Unless otherwise approved in writing by the Architectural Review Committee, the construction of all other Improvements on a Lot shall be completed within three (3) months from the date of commencement of construction. With respect to single-family dwellings and other buildings, construction shall be deemed to commence when the building permit has been issued by Doña Ana County; construction shall be deemed to be completed on the date a certificate of occupancy is issued or the date Doña Ana County inspects and gives final approval of the work. With respect to other Improvements, construction shall be deemed to commence on the date any required building or other permit is issued or, if no permit is required, when construction actually begins; completion will be deemed to occur when any required final inspection and approval has been obtained from the City of Las Cruces or, if no inspection or approval is required, when construction is actually completed. Permissible accessory structures shall not be constructed on a Lot prior to the construction or substantial construction of the single-family dwelling on such Lot. The Architectural Review Committee shall not approve an extension of the time limitations set forth in this section unless the Owner=s inability to comply with such limitations is the result of the scope of the proposed improvement, fire, casualty, acts of God, strikes, unavailability beyond the control of the Owner of materials specified on the approved plans and specifications necessary for the completion of the Improvement, or interference by other persons or factors beyond the control of the Owner which prevents timely completion. Financial inability of an Owner or an Owner=s contractor(s) to secure labor or materials, or discharge liens on the Lot, shall not be deemed to be a factor beyond the Owner=s control.

I.1.4 If after commencement of construction of an Improvement, such construction is not completed within the time limitations set forth in this Declaration, and if no extension of time has been given by the Architectural Review Committee, or if, after commencement of construction of a single-family dwelling on a Lot, substantial construction activities on such dwelling ceases for a period of one hundred and twenty (120) days and no extension has been given by the Architectural Review Committee, Grantor, the Architectural Review Committee, or the Owner of another Lot shall have the right to seek (without prior resort to binding arbitration) an

injunction against the Owner of the Lot compelling the completion of the construction. The plaintiff shall be entitled to an award of costs and attorney fees, and such costs and attorney fees shall become a lien on the Lot (which lien arises on the date of the award). Alternatively, Grantor or its designee may enter upon such Lot and complete any partially completed Improvement(s) (or remove them if the cost to complete would result in economic waste and if no Mortgage securing a construction loan is recorded against such Lot). Grantor shall claim a right of lien against the Lot for the expenses incurred by Grantor in performing such work, plus interest at the rate of 10% per annum from the date the work is completed. Such lien shall arise on the date the work is completed.

I.1.5 No building shall be occupied until the issuance of a certificate of occupancy with respect to such building by Doña Ana County.

I.1.6 The provisions of this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during any construction of Improvements by any Owner (including Grantor) so long as such Improvements conform in all ways with this Declaration and so long as such construction activities do not in any way damage, hinder, or delay the construction or development activities of others within the Subdivision. Specifically, no such construction activity shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary structures, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including, but not limited to, any provision prohibiting temporary structures, may be granted by the Architectural Review Committee, provided that such waiver shall be only for the reasonable period of such construction. Such waiver may, but need not, be recorded or in recordable form.

I.1.7 During construction of a single-family dwelling on a Lot, the Owner of such Lot shall ensure that construction activities are conducted in such a manner so as to not damage, hinder, or delay the construction or development activities with respect to other Lots, and so as to not impair the value of other Lots. During construction, an Owner shall keep his, her, or its Lot substantially free of weeds and excessive construction debris and shall cordon or mark the allowed limits of construction activities as approved by the Committee. Should an Owner fail to comply with this provision, Grantor retains, and each Owner grants, the right to enter upon

such Lot and remove weeds or debris or repair ground disturbance after notice has been given to the offending Owner and the Owner has failed to remedy the situation. Grantor shall claim a right of lien on such Lot for the costs incurred by Grantor in doing so, plus interest at the rate of 10% from the date the work is completed. Such lien shall arise on the date the work is completed.

I.1.8 Temporary storage and parking for contractor=s equipment during actual construction is permitted, subject, however, to rules and regulations as may be prescribed by the Architectural Review Committee and only within the construction area delimited as provided above.

I.1.9 The provisions of this Declaration shall not be construed so as to prevent or limit Grantor=s right to maintain construction, sales, or leasing offices or similar facilities on any property within the Subdivision owned by Grantor or on the property of any other Owner if such Owner consents to such use, nor to prevent or limit Grantor=s right to post signs incidental to construction, sales, or leasing.

I.1.10 Model homes, temporary real estate offices, and adjacent parking areas are permitted, subject, however, to rules and regulations as may be prescribed by the Architectural Review Committee.

I.1.11 Grantor makes no representation regarding soil compaction on Lots. Each Owner is solely responsible for ensuring that soil compaction on his, her, or its Lot meets all applicable standards.

I.1.12 An Owner of a Lot on which Improvements are constructed shall be responsible for the removal of any construction debris left by the Owner or the Owner=s contractors on any adjoining Lots. If an Owner fails to remove such debris upon completion of construction, Grantor or the Owner of the adjoining Lot may, without prior notice to such Owner, remove it at such Owner=s expense. Grantor or the Owner of the adjoining Lot shall claim a right of lien against the offending Owner=s Lot for the costs incurred in removing the debris, plus interest at the rate of 10% per annum from the date the work is completed. Such lien shall arise on the date the work is completed.

I.1.13 All Improvements shall be constructed by licensed contractors. Without the prior written approval of the Architectural Review Committee, no single-family dwelling shall be constructed

by or at the request of any Owner unless the general contractor which or who undertakes such construction or makes application for the building permit for such dwelling has held a GB98 contractor=s license issued by the State of New Mexico, or equivalent, for a period of five (5) years preceding the date on which construction is commenced and who has constructed five (5) or more single-family dwellings in Las Cruces or Doña Ana County, New Mexico, under requirements at least as stringent as those set forth in this Declaration. The purpose of this section is to ensure attractive, quality construction in the Subdivision and to minimize the possibility of unfinished dwellings in the Subdivision resulting from a contractor=s default, or failure or inability to complete a project. Accordingly, this requirement may be waived by the Architectural Review Committee on a case-by-case basis by a showing by an Owner that such Owner=s proposed contractor has the experience, knowledge, reputation, or financial wherewithal indicative of such contractor=s ability to provide quality, attractive work in a finished product in accordance with the plans and specifications approved by the Architectural Review Committee.

ARTICLE J -- LANDSCAPING

All Lots shall be landscaped in accordance with the provisions of this Declaration. Such provisions constitute the minimum landscaping necessary to fulfill the requirements of this Declaration. Owners are free to install landscaping beyond the minimums set forth herein.

J.1.1 All landscaping for front and side yards required by this Declaration shall be completed by an Owner no later than ninety (90) days after the certificate of occupancy is issued by Doña Ana County with respect to the single-family dwelling on the Lot. Should any Owner fail to landscape such Owner=s Lot within the time specified herein in accordance with this Declaration, Grantor may, but is not required to, landscape such lot. Grantor shall claim a right of lien against such Lot for the costs incurred by Grantor in ding the work plus interest at the rate of ten percent (10%) per annum from the date the work is completed. Such lien shall arise on the date the work is complete.

J.1.2 Landscaping plans need not be submitted to or approved by the Architectural Review Committee. However, the Owner of a Lot shall be responsible for ensuring that his, her, or its Lot is landscaped in accordance with the requirements of this Declaration and that any limitations on the height of vegetation set forth herein or in any deed restriction are complied with.

J.1.3 Landscaping installed or directed by the Grantor, in conjunction with Perimeter walls and Subdivision entry features, shall be by a design or plan which may incorporate any plant material, ground cover, irrigation and installation approved by the Architectural Committee.

J.1.4 No Owner shall allow, for example, a male mulberry tree or other plant type or specie which is dirty, allergenic or considered a nuisance to be planted or to remain on the Lot.

J.1.5 Non-native desert landscaping shall be limited to the setback and square footage requirements for courtyard and backyard walls and only be in locations allowed by the Committee. Non-native landscaping shall be described as grass, crushed rock or cinders, non-desert shrubs or bushes, and non-desert trees.

J.1.6 Native desert landscaping shall be required outside the setback and square footage requirements herein. Native desert landscaping shall be described as the existing naturally occurring plants and cactus, possibly enhanced with imported desert and drought tolerant plants and cactus. Scraping, blading, or paving the natural desert landscape outside the areas put forth in the requirements for courtyard walls shall be prohibited except for driveways and limited parking area. These areas shall not be covered with landscaping rocks or stone, cinders, grass, crusher fines, or other landscape covering, but shall be left in a natural vegetative state.

J.1.7 Trees shall be limited to the allowed landscape areas and shall be placed only in random order (as opposed to being planted in rows as a windbreak or sun shielding). The only trees allowed outside of these limits would be desert trees less than 12 feet in height that would qualify as native landscaping.

ARTICLE K – EQUESTRIAN LOTS

Certain Lots are designated on the approved Master Plan for the Subdivision as Lots allowing horses. Provisions for these Lots as administered by the Architectural Committee are as follows:

K.1.1 No arenas, stages, exhibition areas or rodeo areas are allowed. The location and materials for barns, stables, fencing and paddock areas are subject to the approval of the Committee and waivers for materials and walls may be granted on a case by case basis.

K.1.2 All storage buildings for hay, feed, tack and unused training equipment must be enclosed. Outdoor storage of horse trailers, shade structures and training equipment may be allowed on a case by case basis by the Committee.

K.1.3 Painted or clad (earth toned) metal post and wire fences (including limited use of barbed wire) are allowed for fencing in paddock, pasture or horse pens.

K.1.4 Fencing setback requirements for fencing or walls shall be 10 feet from any property line abutting a street or road. Unless waived by the Committee, fencing or wall setbacks from side lot lines shall be 5 feet from any other Subdivision property line.

K.1.5 Easements for Equestrian passage, as shown on the recorded Plats for the Subdivision, shall be fenced. Said easements allow for the passage of riders within the Subdivision and for passage by others. Cavaletti, unlocked gates and other devices may be installed by the Owner or directed by the Committee to discourage unauthorized use by vehicles, motorcycles, all terrain vehicles and other motorized vehicles.

K.2 Landscaping and maintenance provisions for Equestrian Lots, designated as Lots allowing horses, shall be as follows:

K.2.1 Area inside the setbacks described for backyard or courtyard walls shall be landscaped the same as put forth in Section J.

K.2.2 Area outside the setbacks described for courtyard and backyard walls but not within the front setback areas may be modified by the Architectural Committee to allow for the use by horses. This may include areas for paddocks, feeding and exercise areas where certain native plants and grasses may be injurious or harmful. Approved, irrigated areas for grasses are to be considered allowed vegetative ground cover.

K.2.3 Horses, allowed livestock and animal husbandry shall not be conducted for commercial purposes. Other household pets and large animals may be kept, provided that they are not allowed to roam or leave their owners property nor are they to be kept, bred or maintained for any commercial purposes.

K.2.4 In respect to animals, all residents must maintain their yards and their premises in such a manner that will not cause any offense to any of the other residents of the Subdivision. All fences, enclosures, barns, paddocks, exercise areas, feeding and bedding areas and forage areas are subject to the approval of the Architectural Control Committee, including ongoing maintenance. The Committee may deny uses not consistent with these guidelines based on shelter, odor, noise, debris, flies, rodents or general objection to the occupancy of the Property allowing same:

K.2.4. Up to 2 horses or approved large animals per lot will be allowed without atypical provisions for maintenance. The size of the lot and proposed construction may be the basis for additional large animals. Conventional barns, paddocks and exercise areas shall be shown on the submitted plans. For purposes of this restriction, horses, mules and llamas may be considered large animals.

K.2.5. Up to six (6) rabbits, chickens (excluding roosters), poultry, game birds or other poultry will be allowed per lot without atypical provisions for maintenance. Cage areas, roosts, barns and exercise areas shall be shown on the submitted plans.

K.2.6. Husbandry of all other animals including swine, cattle, ostrich and emus, exotic beasts and animals of burden are not allowed unless the Committee approves their husbandry, breeding, transport or storage by the submitted plans and maintenance schedules.

K.2.7. The Owners of Equestrian Lots may be burdened or in close proximity to existing overhead high voltage electric lines. Those owners as advised hereby and in the Grantor's disclosures that in order to prevent potential hazards from construction activities (including cranes, backhoes, temporary or permanent installations) that El Paso Electric (the Electric Utility for Transmission Lines) advises an additional fifty feet (50') adjacent to the easements shown on the Plat be considered a non-construction area. Accordingly, the Committee requires the approval from the Utility if any such activity is contemplated.

ARTICLE L -- ASSESSMENTS

L.1.1 Each Owner of a Lot, by acceptance of a deed therefore, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with other Owners and with Grantor to pay to Grantor or its designee periodic assessments to finance and fund the direct cost of any repair, maintenance, or replacement of any and all perimeter walls, paths, trails, landscaping or signs originally erected or required by Grantor at the entrances, perimeter and pedestrian easements of the Subdivision.

L.1.2 Temporary construction easements not to exceed ten (10) foot in width are hereby reserved on any adjacent Lot to Perimeter Walls or portions thereof constructed by Grantor for the purpose of placing, replacing, maintaining, and repairing such improvements.

L.1.3 An assessment may be made by Grantor or its designee by sending a written notice of assessment to every record Owner to the address of such Owner as indicated in the records of the Doña Ana County assessor, specifying the expenditure made, or that needs to be made in the discretion of Grantor or its designee, the pro-rata share of such expenditure attributable to such Lot, and the date of the assessment notice. Each Owner shall pay the amount so assessed to Grantor or its designee within 20 days after the date of the assessment notice. The failure of an Owner to pay an assessment so assessed shall give rise to a lien against the Owner=s Lot in favor of Grantor or its designee in an amount equal to the amount assessed plus interest at the rate of 10% per annum from the date of assessment. Such lien shall arise on the date payment is overdue. In the event Grantor ceases to exist, the Adesignee@ as used in this section shall mean the Architectural Review Committee or an Owner who undertakes to repair, maintain, or replace such improvements in the absence of Grantor or Architectural Review Committee.

L.1.4 Each Owner of a Lot, by acceptance of a deed therefore, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with other Owners and with Grantor to pay to Grantor or the Architectural Review Committee (and its members) or its designee periodic assessments to finance the defense of any suit or proceeding brought against Grantor or the committee (or its members) which seeks any damages or injunctive relief as a result of or with respect to the approval of, disapproval of, or failure to consider any Owner=s proposed plans or specifications or request for a variance or for any other action or inaction of Grantor or the committee (or its members). An assessment may be made by sending a written notice of assessment to every record Owner to the address of such Owner, as indicated in the records of the Doña Ana County assessor, specifying the costs and attorney fees incurred or anticipated by Grantor or the committee (or its members) to be incurred in the

defense of the suit or proceeding, the pro-rata share of such costs and attorney fees attributable to such Owner=s Lot, and the date of the assessment notice. Each Owner shall pay the amount so assessed to Grantor or the Architectural Review Committee (or its members or designee) within 20 days after the date of the assessment notice. The failure of an Owner to pay an assessment so assessed shall give rise to a lien against the Owner=s Lot in favor of Grantor or the committee (or its members) in an amount equal to the amount assessed plus interest at the rate of 10% per annum from the date of the assessment. Such lien shall arise on the date payment is overdue. Any amount assessed and collected in excess of the amount actually spent on defense of the suit or proceeding shall be refunded, on a pro-rata basis, to the Owners who paid such assessment.

ARTICLE M -- LENDERS= REGULATIONS

In order that the single-family dwellings erected in the Subdivision may qualify for existing subsidized lending programs, Grantor declares that the following rights exist in favor of any first mortgagee, notwithstanding contrary or conflicting provisions contained elsewhere in the Declaration.

M.1.1 For a period of no more than 3 years from the date of recordation hereof, the holder of a first Mortgage on any Lot or single-family dwelling thereon may request written notice from Grantor of any default by the mortgagor of such property in the performance of such mortgagor=s obligations under this Declaration. Such request shall state the name and mailing address of the requesting mortgagee and the official records book and page number, file number or other reference identifying the Mortgage, the Lot number encumbered by said Mortgage, and a reference to this Declaration. Each notice of default given pursuant to such request may be sent by regular mail, postage prepaid, addressed to the mortgagee at the address stated in such request.

M.1.2 Any holder of a first Mortgage who acquires title to a Lot pursuant to the remedies provided for in the Mortgage, or foreclosure of the Mortgage, shall be exempt from Grantor=s option to re-purchase the Lot for failure to commence construction within the time specified in this Declaration. Provided however, upon conveyance of the Lot by the mortgagee, such option shall reattach to the Lot and shall be exercisable upon the failure of the buyer from such mortgagee to commence construction of a single family dwelling within two years from the date of the purchase from the mortgagee.

M.1.3 Unless at least seventy-five percent (75%) of the holders of first Mortgages (based upon one vote for each Mortgage) of single-family dwellings within the Subdivision have given their prior written approval, Grantor shall not be entitled to Change the method of determining the

obligations, assessments, or other charges which may be levied against an Owner of a Lot; and,

M.1.4 By act or omission change, waive, or abandon any scheme or regulation pertaining to the architectural design or the exterior appearance of single-family dwellings and other structures, or the construction and maintenance of Improvements, where such change, waiver, or abandonment would be result in a material change in the scheme of development of the Subdivision; provided however, this provision shall not be construed as imposing a continuing obligation on Grantor to enforce the provisions of this Declaration through arbitration proceedings, judicial action, or otherwise.

M.1.5 No amendment to this Declaration shall affect the rights of any mortgagee under a Mortgage who does not join in the execution thereof so long as his, her, or its Mortgage is recorded prior to the recordation of such amendment. Provided however, such amendments shall be binding on any person or entity who acquires a Lot from a mortgagee who acquired the Lot as a result of foreclosure of a Mortgage or a deed in lieu of foreclosure.

ARTICLE N -- ENFORCEMENT

N.1.1 As to Grantor or any and all grantees deriving title to any Lots through Grantor, the covenants, conditions, and restrictions contained in this Declaration shall operate as covenants running with the land for the benefit of Grantor and all Owners of Lots.

N.1.2 Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation, or use of any property within the Subdivision is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in said Declaration.

N.1.3 Except as otherwise specified in this Declaration, each remedy provided by this Declaration is cumulative and non-exclusive.

N.1.4 Every act or omission whereby any provision of this Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated (subject to the requirement for binding arbitration set forth below), whether or not the relief sought is for negative or affirmative action, and the provisions of this Declaration may be otherwise enforced, by Grantor (or its successors in interest), the Architectural Review Committee, or any Owner or Owners; provided however, neither Grantor nor the Architectural Review Committee shall have the obligation to enforce the terms of this Declaration.

N.2 Liens:

N.2.1 Except where otherwise specified in this Declaration, no lien created or authorized by this Declaration shall be enforceable unless a claim of lien is recorded within 12 months of the date on which the lien arose. Except as otherwise provided in this Declaration, no interest in a Lot shall be taken subject to a lien created or authorized by this Declaration unless a claim of lien has been recorded by the lien claimant prior to the recordation of the instrument transferring, conveying, or creating such interest, even if the lien arose prior to the recordation of such instrument. Nothing in the foregoing sentences of this paragraph shall be construed as a limitation on the right of Grantor or of an Owner to whom an obligation is owing from another Owner to assert a claim for payment against the owing Owner; provided however, any such claim shall be asserted within 18 months of the date on which the work was performed or payment made giving rise to the obligation.

N.2.2 By taking title to a Lot, each Owner consents to the recordation in such Lot=s chain of title of a claim of lien for a lien authorized or created by this Declaration.

N.2.3 A claim of lien required to be recorded by this Declaration shall contain the name, address, and telephone number of the lien claimant, the legal description of the Lot against which the lien is claimed and the name of the then record owner thereof, an explanation of the basis of the lien (including reference to the portion of the Declaration on which the lien is based, a description of the work performed or payment made giving rise to the lien, and the date on which the lien arose), and the amount claimed.

N.2.4 Except as specifically provided otherwise in this Declaration, any lien arising from or created or authorized by this Declaration shall include the costs and attorney fees incurred by the person claiming the lien in connection with the preparation, recording, and foreclosure of the lien. If the Owner of a Lot against which a lien is asserted successfully defends a suit to foreclose the lien, such Owner shall be entitled to an award of costs and attorney fees from the lien claimant, except that no costs or attorney fees shall be awarded against Grantor or the Architectural Review Committee (or its members).

N.2.5 Liens created or authorized by this Declaration shall be foreclosed in the same manner as is provided in the laws of the State of New Mexico for the foreclosure of mortgages on real property. The redemption period shall be one month in lieu of nine (9) months.

N.2.6 Upon payment by an Owner or other person of an obligation owed by an Owner to another Owner (including Grantor), the paid Owner shall give the paying Owner (or other person), upon request, a release of lien in recordable form.

N.2.7 Unless assigned by an Owner in whose favor a lien arises, the lien rights created by this Declaration shall remain in such Owner, and shall not pass to a purchaser of such Owner=s Lot from such Owner.

N.2.8 Except as otherwise specified in this Declaration, a lien created or authorized by this Declaration shall be a cumulative remedy and shall not be construed to limit the remedies otherwise available to the person to whom the lien runs.

N.2.9 Judicial proceedings to foreclose any lien created or authorized by this Declaration may be commenced without prior resort to binding arbitration. An action to foreclose a lien created or authorized by this Declaration shall be commenced within 12 months of the date the claim of lien is recorded.

N.3 Arbitration:

N.3.1 Except as expressly set forth in this Declaration, all controversies regarding enforcement or interpretation of the provisions of this Declaration shall be submitted to binding arbitration as set forth in the Uniform Arbitration Act, NMSA ' 44-7-1 to 44-7-22 (2000), as it may be amended from time-to-time (the AAct@). For purposes of this Article, the Declaration shall be construed as a written contract between the Grantor and all persons who acquire any interest in any Lot, and between and among such persons, to submit to binding arbitration all controversies regarding the enforcement or interpretation of the provisions of this Declaration.

N.3.2 The binding arbitration required by this Article shall be conducted by the Las Cruces Better Business Bureau in accordance with the Better Business Bureau Rules Of Arbitration as are published from time-to-time by The Council Of Better Business Bureaus, Inc. Should the Las Cruces Better Business Bureau decline to accept a controversy regarding enforcement or interpretation of the provisions of this Declaration, then the controversy shall be submitted to binding arbitration under the arbitration rules of the American Arbitration Association, as such rules may be published by such association from time-to-time.

N.3.3 Any decision or award rendered by the arbitrators may be confirmed as provided in the Act and shall be enforceable as provided in the Act.

N.3.4 The prevailing party in any arbitration proceeding, or judicial confirmation or enforcement proceeding under the Act, shall be entitled to an award of costs and attorney fees, except that, no costs or fees shall be awarded against Grantor or the Architectural Review Committee or any of its members.

N.3.5 To the extent a provision of this Declaration conflicts with a provision of the Uniform Arbitration Act, the Better Business Bureau Rules of Arbitration, or the arbitration rules of the American Arbitration Association, the provisions of this Declaration shall control.

N.3.6 Subject to other provisions in this Declaration, no person shall be entitled to enforce a provision of the Declaration against a violator thereof, unless a demand for arbitration is made within 18 months after the violation or alleged violation of the provision (except where this Declaration exempts enforcement from prior binding arbitration). Should a violation involve the design, specifications, or construction of an Improvement which design, specifications, or construction does not comply with this Declaration, such non-compliant Improvement shall be deemed to fully comply with the provisions of this Declaration if demand for arbitration is not made within 18 months after the date construction of the Improvement is completed. Provided however, no such nonconforming Improvement shall constitute grounds, justification, or precedent for any other non-compliance by or variance for any Owner. Provided further, subject to the provisions of this paragraph, failure of Grantor, the Architectural Review Committee, or of any grantee taking title to any part of the Subdivision through the Grantor to enforce any of the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter as to the same breach, or as to one occurring prior to or subsequent thereto.

ARTICLE O - MISCELLANEOUS PROVISIONS

O.1.1 Subject to any contractual obligation of Grantor to persons with whom it contracts to sell a Lot, until such time as the first deed to a Lot from Grantor to a buyer has been recorded, Grantor may, by a recorded instrument, alter, amend, or repeal all or any portion of this Declaration. Thereafter, this Declaration may be altered, amended, or repealed only by the recordation of a written instrument signed by the Owners of at least sixty-six and 67/1OOths percent (66.67%) of the Lots in the Subdivision which specifies the alteration or amendment or repeal. The foregoing sentence does not apply to the provision in section 3.14 or the provision in section 5.1 concerning appointment or identification of members of the Architectural Review Committee.

O.1.2 The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development of the Subdivision and to promote and effectuate the fundamental concepts of the Subdivision and the purposes of this Declaration as set forth in such Declaration. All provisions affecting development in the Subdivision shall be construed so as to be in conformance with the laws of the State of New Mexico. This Declaration shall be construed and governed under the laws of the State of New Mexico.

O.1.3 The covenants, conditions, and restrictions contained in this Declaration are subordinate and inferior to the laws and ordinances of the United States of America, the State of New Mexico, Doña Ana County, the City of Las Cruces, and any other political entity having jurisdiction over the Subdivision and do not in any way purport to abrogate, alter, amend, or qualify the force and effect of said laws and ordinances; provided however, if a provision of this Declaration is more restrictive than such laws and does not violate such laws, the more restrictive provision in this Declaration shall control.

O.1.4 Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

O.1.5 Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.

O.1.6 All captions and titles used in this Declaration are intended solely for convenience or reference and shall not affect the meaning of that which is set forth in any of the provisions hereof.

O.1.7 Nothing contained in this Declaration shall be construed to limit the right of Grantor or its shareholders to develop any property adjoining, adjacent to, or in the vicinity of the Subdivision in any manner it deems or they deem fit. All roads in the Subdivision may be extended by Grantor or its designee to serve other adjacent subdivisions.

O.1.8 By accepting a deed to a Lot, each Owner consents to any such development and covenants not to oppose any such development provided that any such development is not in violation of the law. By accepting a deed to a Lot, each Owner acknowledges that, until a majority of the Lots and other area in the vicinity of the Subdivision are landscaped, there is a high probability that sand will blow or wash into or onto such Owner=s Lot from other parts of the Subdivision or elsewhere. Grantor hereby reserves for its benefit an easement on all Lots for blowing or drifting sand, whether from this Subdivision or any other property owned by Grantor. All deeds conveying any Lot shall be construed to include the conveyance with such Lot of an easement appurtenant to such Lot, burdening all other Lots, for blowing or drifting sand.

The forgoing constitutes the entirety of the permissive and restrictive covenants running with the land, until or unless modified as provided for herein.

ARTICLE P – DISCLOSURES AND NOTICE

This Article is informational and provided for in this instrument as a supplement advisory, disclosure of fact or intent and a general notice to all persons or entities interested in the subject Property. Any changes, modification or elimination of these declarations does not alter the provisions of Articles A through O hereof and the Grantor is not obligated to provide or amend (in the event of change) these in any way:

- A Disclosure Statement for each development plat is required pursuant to the Dona Ana County Extraterritorial Subdivision Code. These are recorded with the County Clerk as a stand-alone instrument. All Owners are advised to procure and understand those Disclosures.

- Some of the land adjacent to and near the Subdivision is owned by the U.S. Government, Bureau of Land Management. These lands may be sold and/or developed by the Grantors or others. Current ownership (by the Government) is not a limitation on future land use.

- A future Major Arterial location for Weisner Road has been planned and provided for in the

Master Plan (a north – south road, connecting to Dripping Springs Road) which directly impacts proposed Phases 4 and 5 of the Development and may indirectly impact other portions of the Property. The Dona Ana County Metropolitan Planning Organization (MPO) should be contacted about any concerns or potential construction within this alignment and the partial rights of way committed for dedication by the Grantor.

- An underground gas pipeline exists within the easements reflected on the Plat for Phase 1 of the Development. The Chevron Pipeline Company must be contacted prior to any excavation or activity which may constitute a hazard.

- An overhead high voltage electric transmission line exists within the easements reflected on the Plat for Phase 1 of the Development. The El Paso Electric Company must be contacted prior to any construction or activity which may constitute a hazard. Further, those owners adjacent to those easement(s) are advised that in order to prevent potential hazards from construction activities that El Paso Electric advises an additional fifty feet (50') adjacent to the easements shown on the Plat be considered a non-construction area.

- Some lots are designated for equestrian (horse and large animals) keeping and maintenance and easements for equestrian (horse) traffic are reflected on the Plat(s) for portions of the Development. The use of those lots and provision for use of these easements (by others) is contained in the Covenants.

- Some lots are designated for drainage control by easement and the Drainage Report(s) filed with the Dona Ana Extraterritorial and Public Works Departments. These are reflected on the Plat(s) for portions of the Development. Lots burdened by these easements and accompanying provision (drainage within the street rights of way) includes an agreement with the County for maintenance. This agreement includes Lot Owner responsibilities for on-lot ponds (their construction) and joint-maintenance (drainage, vegetation and any culverts) for the passage and control of natural and developed storm water runoff as designed.

- Construction of a house pad for vertical elevation is required to be in compliance with the Drainage Report(s) filed with the Dona Ana Extraterritorial and Public Works Departments and these Covenants. These are generally a minimum of one foot (1') above the natural grade at the lowest corner of the house. Should an alternative location or elevation (grade) be desired, it is the Lot Owner's sole responsibility to request any modifications to the approved Plan.

- Moongete Water Company, an independent private water utility, may charge connection fees,

extension fees, meter fees and other charges to each Owner. These charges are independent from the Grantor and are regulated by the New Mexico Public Service Commission.

- Locating a house more than ninety feet (90') may be subject to additional connection fees by the electric utility.

- The Grantor, Organ Mesa Development L.L.C., is a privately held limited liability Corporation, an entity whose members include licensed contractors and real estate brokers (or agents). Any acts and activities of these individuals, other than officially and expressly for Organ Mesa Development L.L.C., are independent from this Development (including but not limited to Lot and Land Sales, Promotions, Zoning, Development Plans, Subdivision Plats, Construction activities and their exercise of Architectural Control Committee responsibilities). No Owner or Owner's agent shall be aggrieved or contemplate recourse by virtue of these independent activities of the members of Organ Mesa Development L.L.C.

- The U.S. Government, Environmental Protection Agency has implemented NEPA Stage 2 of the federal Clean Water Act. Generally, disturbance of 1 Acre of land or portions thereof may require the filing of a Notice of Intent (NOI) and Storm Water Pollution Protection Plan (SWPPP). These requirements should be reviewed and understood by any Owner and their Contractor. A development-wide SWPPP (pre and post construction) has been prepared by the Developer and is available on posted boards or upon request.

IN WITNESS WHEREOF, Grantor has executed this Declaration on the date(s) indicated in the notary jurats below.

ORGAN MESA DEVELOPMENT RANCH
A New Mexico Limited Liability Corporation

By: _____
Timothy A. Curry, Managing Member
Organ Mesa Ranch, a New Mexico Limited Liability Corporation

STATE OF NEW MEXICO)
) ss

COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____day of November, 2003, by Timothy A. Curry, as Managing Member of Organ Mesa Ranch, a New Mexico Limited Liability Corporation, on behalf of said corporation.

Date: _____

By: _____