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SUPPLEMENTARY DECLARATION OF COVENANTS
AND RESTRICTIONS FOR
ESTANCIA PRIMERA COMMUNITY SERVICES ASSOCIATION

This Supplementary Declaration of Covenants and Restrictions for Estancia Primera Community Services Association is made this 25th day of March, 1985, by EPD Associates, Ltd., a New Mexico Limited partnership.

WITNESSETH

Whereas, that certain document entitled "Declaration of Covenants and Restrictions for Estancia Primera Community Services Association" (the "Estancia Primera Declaration") has been filed of record in the office of the Clerk of Santa Fe County, New Mexico on January 8, 1982 at Book 433, Page 614-660;

Whereas, the Estancia Primera Declaration provides in Article 2, Sections 2.2 and 2.3 that additional real property may be annexed and subjected to it and to the jurisdiction of the Estancia Primera Community Services Association as if it were a part of the Property initially subject thereto;

Whereas, certain real property known as "Cumbre Vista Subdivision", and more particularly described in that plat entitled "Cumbre Vista Subdivision Plat and Final Development Plan", prepared and certified by Gary E. Dawson, N.M.P.L.S. No. 7014 and filed coincidentally herewith in the records of the Clerk of Santa Fe County, New Mexico (the "Cumbre Vista Subdivision") is a part of that real property covered by the Master Development Plan of Estancia Primera, P.R.C.; and

Whereas, EPD Associates, Ltd. is the Declarant under the Estancia Primera Declaration and the owner of the Cumbre Vista Subdivision and desires to annex and subject the Cumbre Vista Subdivision to the Estancia Primera Declaration:

NOW THEREFORE, EPD Associates, Ltd. hereby declares as follows:

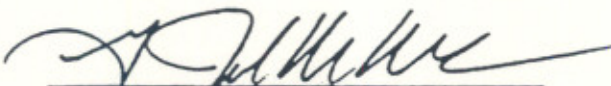
1. The Cumbre Vista Subdivision shall be and hereby is annexed and made subject to the Estancia Primera Declaration.
2. That document entitled "Declaration of Covenants and Restrictions for Cumbre Vista Subdivision", filed coincidentally herewith in the records of the Clerk of Santa Fe County, New Mexico, is incorporated by reference and made a part hereof, as if set forth herein in full.
3. No portion of the Cumbre Vista Subdivision shall be a Community Common Area, as that term is used in the Estancia Primera Declaration. All portions of the Cumbre Vista Subdivision


designated on the plat thereof as "Tract Common Areas" and "Cumbre Vista Road" shall be for the exclusive use and benefit of the Cumbre Vista Homeowners' Association, Inc. and the Owners of the lots within the Cumbre Vista Subdivision, as more fully provided in the Declaration of Covenants and Restrictions for Cumbre Vista Subdivision.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplementary Declaration on the date set out above.

EPD ASSOCIATES, LTD.
A New Mexico Limited Partnership



By: EPD PARTNERSHIP
A New Mexico Partnership,
General Partner


By: SF VENTURE CORP.
A New Mexico Corporation,
Managing General Partner


By: G. John McMahan
Vice President



COUNTY OF SANTA FE)
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed)
for record on the 25 day of) 563, 689)
19 85 at 9:59 o'clock) MAR. A.D.)
and was duly recorded in book) A. m.)
page 607-610) records of Santa Fe County.)
Witness my Hand and Seal of Office)
ANGIE VIGIL PEREZ)
County Clerk, Santa Fe County, N.M.)

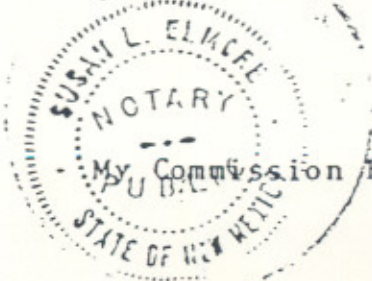

Deputy

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss

The foregoing Declaration was acknowledged before me this 25th day of March, 1985, by G. John McMahan, Vice President of SANTA FE VENTURE CORP., a New Mexico corporation, which is managing general partner of EPD PARTNERSHIP, a New Mexico partnership, which is General Partner of EPD ASSOCIATES, LTD., a New Mexico limited partnership, on behalf of said corporation and said partnerships, general and limited.


Notary Public



DECLARATION OF COVENANTS AND RESTRICTIONS
FOR CUMBRE VISTA SUBDIVISION

This Declaration of Covenants and Restrictions is made this 25th day of March, 1985 by EPD Associates, Ltd., a New Mexico Limited Partnership.

WITNESSETH

Whereas, EPD Associates, Ltd. is the owner of certain real property situated in Santa Fe County, New Mexico, known as Cumbre Vista Subdivision, and more particularly described and shown on that plat entitled "Cumbre Vista Subdivision Plat and Final Development Plan", prepared and certified by Gary E. Dawson, N.M.P.L.S. #7014, and filed coincidentally herewith in the records of Santa Fe County, New Mexico, on March 25, 1985, as Document No. 563,688 (the "Subdivision"); and

Whereas, EPD Associates, Ltd. desires to provide for the development of the Subdivision as a residential neighborhood of no more than eighteen lots, each suitable for the construction of a residential unit and thereafter for the preservation and maintenance of the character, quality, appearance and value of the Subdivision and the residential units, and to this end desires to subject the Subdivision to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of EPD Associates, Ltd.; the Subdivision and the owners of lots or residential units in the Subdivision; and

Whereas, EPD Associates, Ltd. has caused to be incorporated, as a non-profit corporation under the laws of New Mexico, Cumbre Vista Homeowners' Association, to administer, enforce and achieve the purposes of this Declaration;

NOW THEREFORE, EPD Associates, Ltd. hereby declares that the Cumbre Vista Subdivision is and shall be owned, held, transferred, sold, conveyed, encumbered, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens hereinafter set forth, and all other terms and conditions of this Declaration. This Declaration is established to further the improvement and sale of the Subdivision and portions thereof and the preservation and maintenance of the character, quality, appearance and value of the Subdivision and the improvements thereon. All of the covenants, restrictions, easements, charges and liens hereinafter set forth, and all other terms and conditions of this Declaration are equitable servitudes, shall run with the title to the Subdivision or any portion thereof, and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to the Subdivision or any portion thereof.

ARTICLE 1
DEFINITIONS

- 1.1 ARB shall mean the Architectural Review Board established pursuant to Article 6, hereof.
- 1.2 Association shall mean the Cumbre Vista Homeowners' Association, Inc. a New Mexico non-profit corporation, its successor and assigns.
- 1.3 Board shall mean the Board of Directors of the Association.
- 1.4 Common Areas shall mean the Tract Common Areas and the Road.
- 1.5 Common Expense shall mean any expenditure made or financial liability incurred by the Association, together with any allocations to reserves, for or in connection with the exercise of its powers or duties established herein.
- 1.6 Common Property shall mean those signs, lighting devices, curbs, utility boxes, pipes, wires, conduits, erosion and drainage control devices and other fixtures now or hereafter constructed upon or within the Subdivision by Declarant for the common benefit of the Subdivision and the Owners.
- 1.7 Declarant shall mean EPD Associates, Ltd., a New Mexico limited partnership, its successors or assigns.
- 1.8 Declarant Control shall mean that period of time during which Board members appointed by the Declarant pursuant to Section 4.7 hereof constitute all or a majority of the members of the Board.
- 1.9 Governing Documents shall mean the Association's Articles of Incorporation and By-Laws.
- 1.10 Lot shall mean any of those eighteen numbered parcels of land designated upon the Plat as a numbered lot.
- 1.11 Owner shall mean the holder of fee simple title to any portion of the Subdivision, or the holder of equitable title to any portion of the Subdivision by virtue of a real estate contract, except for those having such interest merely as security for performance of an obligation.
- 1.12 Plat shall mean that plat entitled "Cumbre Vista Subdivision Plat and Final Development Plan", prepared and certified by Gary E. Dawson, N.M.P.L.S. #7014, and filed coincidentally herewith in the records of Santa Fe County, New Mexico, on March 25, 1985 as Document No. 563,684.
- 1.13 Road shall mean that portion of the Subdivision designated on the Plat as "Cumbre Vista Drive".
- 1.14 Subdivision shall mean all real property constituting the Cumbre Vista Subdivision as the same is described and shown on the Plat.
- 1.15 Tract Common Areas shall mean that portion of the Subdivision designated as "'T.C.A." or "Tract Common Areas" on the Plat.

ARTICLE 2
AFFIRMATION

2.1 Covenants and Restrictions of Master Association Binding on the Subdivision. Declarant hereby affirms and declares that all of the terms and conditions of that certain "Declaration of Covenants and Restrictions for Estancia Primera Community Services Association," as duly recorded in the records of Santa Fe County, New Mexico, on January 8, 1982, in Book 433, at pages 614 through 660, as made applicable to the Subdivision by that "Supplementary Declaration of Covenants and Restrictions" filed coincidentally herewith in the records of Santa Fe County, New Mexico, shall apply to the Subdivision and all portions thereof. To the extent that there is any conflict between the terms and conditions of said declaration and this Declaration, the more restrictive provision shall prevail.

2.2 Terms and Conditions of Ordinance Binding Upon Subdivision. Declarant hereby affirms and declares that all of the terms, conditions, and restrictions contained in that "Conditions of Ordinance 1981-3 Estancia Primera P.R.C.", filed for record in the office of the County Clerk, Santa Fe County, New Mexico, on August 28, 1981 at Book 419, Page 679, shall apply to the Subdivision and all portions thereof.

ARTICLE 3
SUBJECT PROPERTY

3.1 Property Subject to This Declaration. The real property which is and shall be subject to this Declaration is that real property constituting the Cumbre Vista Subdivision as the same is described and shown on that plat entitled "Cumbre Vista Subdivision Plat and Final Development Plan", prepared and certified by Gary E. Dawson, N.M.P.L.S. #7014, and filed coincidentally herewith in the records of Santa Fe County, New Mexico, on March __, 1985, as Document No. _____.

3.2 Title to Common Areas and Common Property. Declarant hereby quitclaims to the Association the Common Areas and the Common Property. The Common Areas and Common Property are for the common use and benefit of the Owners and shall not be deemed to have been dedicated to the general public or local or state government in the absence of an express, written dedication. The Common Areas and Common Property are subject to all matters of record including those set forth in this Declaration or upon the Plat. The fee title to any Lot or Lots shall not be deemed to extend upon or include any portion of the Common Areas or the Common Property.

ARTICLE 4
ASSOCIATION

4.1 Organization of Association. The Association is a corporation duly organized and existing under the Nonprofit Corporation Act of New Mexico, and charged with the duties and vested with the powers set forth in its Governing Documents and this Declaration.

4.2 Jurisdiction. The Association shall be the Homeowners' Association for the Subdivision. The Association shall have jurisdiction over the Subdivision and each Owner.

4.3 Powers. Within its jurisdiction, the Association shall have all of the powers of a non-profit corporation organized under the laws of the State of New Mexico, together with all rights and powers provided by its Governing Documents and this Declaration. The Association shall have the power to do any and all acts which are authorized, required or permitted under its Governing Documents or this Declaration and any and all acts which may be reasonable and necessary for, or incidental to, the exercise of any of its powers or duties.

Notwithstanding the foregoing, except as provided by statute in case of condemnation, unless at least two-thirds (2/3) of the holders of a first mortgage or deed of trust upon the Subdivision (based upon one vote for each mortgage owned) or Owners holding two-thirds (2/3) of the votes in the Association, including two-thirds (2/3) of the votes allocated to lots not owned by Declarant, have given their prior written approval, the Association shall not be entitled to:

- (a) by act or omission seek to dissolve or terminate the Association;
- (b) change the pro rata interest or obligations of any Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (c) partition or subdivide any Lot;
- (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas, provided the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed an encumbrance or transfer within the meaning of this clause; or

(e) use hazard insurance proceeds for losses to the Common Property for other than its repair, replacement or reconstruction.

4.4 Duties. The Association, through such directors, officers, agents or employees as it may designate or as may be designated in its governing documents, shall:

(a) adopt and amend rules and regulations;

(b) adopt and amend annual budgets for revenues, expenditures and reserves, and establish and collect the assessment of each Owner for the Common Expense; and establish the Working Capital Fund required by Section 803.08 (H)(3)(b) of the FNMA Conventional Home Mortgage Selling Contract Supplement, or successor provisions, maintain said Fund, and collect and apply the contribution of each Owners as set forth in said section;

(c) hire and discharge such agents, employees, and independent contractors as the Board may from time to time determine to be in the best interest of the Association;

(d) defend actions or administrative proceedings brought against it;

(e) make such contracts and incur such liabilities as the Board may from time to time determine to be in the best interest of the Association;

(f) regulate the use, maintenance, repair, replacement and modification of the Common Areas and Common Property;

(g) maintain in good order and repair all Common Areas and Common Property;

(h) pay taxes, including real estate taxes, on the Common Areas and Common Property;

(i) grant such easements, leases, licenses and concessions through or over the Common Areas as the Board may from time to time determine to be in the best interest of the Association;

(j) impose such charges for late payment of assessments and, after notice and an opportunity to be heard, levy such reasonable fines for violations of this Declaration, and the Bylaws and rules and regulations of the Association as the Board may from time to time determine to be in the best interest of the Association;

(k) impose such reasonable charges for the preparation and recordation of amendments to the Declaration or statements of

unpaid assessments as the Board may from time to time determine to be in the best interest of the Association;

(l) contract for and maintain such policy or policies of insurance as the Board may from time to time determine to be in the best interest of the Association, including liability and property damage insurance for the Common Areas and Common Property, and such insurance as may be necessary to protect adjacent property owners from the failure of drainage and erosion control structures within the Subdivision;

(m) commence, intervene in and maintain such legal or administrative actions or proceedings as the Board may from time to time determine to be in the best interest of the Association, and do so in the name of the Association and on its own behalf or on behalf of any Owner who consents thereto;

(n) inspect, maintain and replace those drainage control structures located within the Subdivision, as if bound by an agreement applicable to the Subdivision and otherwise substantially similar to the terms and conditions of that "Contract for Inspection and Maintenance of Drainage Control System of Estancia Primera, Phase 1A, Tract T" by and between the City of Santa Fe, New Mexico and Centennial Venture Partners, and those "Guidelines for Checking the Drainage Control System of Estancia-Primera Phase 1-A", as approved and modified by the City Engineer, June 3, 1982;

(o) notify the holder of any mortgage affecting a Lot of any violation of this Declaration, or the By-Laws, rules or regulations of the Association by an Owner of the Lot subject to the mortgage, if such violation remains unremedied for a period exceeding thirty (30) days, provided the mortgagee has notified the Association that it is the holder of the mortgage affecting the Lot;

(p) enforce the covenants, restrictions, easements, charges and liens set forth herein, and all other terms and conditions of this Declaration; and

(q) do such other things and acts not inconsistent with this Declaration or the Governing Documents which the Association may be authorized to do by a resolution of the Owners.

4.5 Membership. Each Owner shall be a member of the Association, and the membership of the Association shall consist exclusively of the Owners.

4.6 Voting. With respect to each matter submitted to the membership, there shall be one vote allocated to each Lot in the

Subdivision. The Owner of each Lot shall be entitled to exercise the vote allocated to his or her Lot. In the event of multiple ownership of a Lot, the vote of such Lot shall be cast by the person designated in a certificate executed by all the Owners of such Lot and filed with the Secretary. In the event no such certificate has been filed or the person designated is absent from the meeting, and only one of the multiple owners of such Lot is present, he or she shall be entitled to cast the vote allocated to that Lot. In the event no such certificate has been filed or the person designated is absent from the meeting, and more than one of the multiple Owners are present, the votes allocated to that Lot may be cast only in accordance with an agreement of a majority of such multiple owners then present. In the absence of such a majority, the votes allocated to that Lot shall not be cast.

4.7 Board of Directors. The Board shall consist initially of three (3) members appointed by the Declarant. The Board members do not need to be members of the Association. The initial Board shall serve until the first annual meeting of the Association.

At the first and each subsequent annual meeting of the Association, until such time as fifty percent (50%) of the Lots are conveyed to Owners other than the Declarant, the Board members shall be appointed by Declarant. The Board members shall hold office until the next annual meeting of the Association or until their successors have been appointed.

No later than sixty (60) days after fifty percent (50%) of the Lots are conveyed to Owners other than the Declarant, the number of Board members shall be increased to four (4). The Board members shall be appointed by the Declarant. At least one (1) of the Board members shall be an Owner who is not an affiliate of the Declarant, if such a person is available. Board members shall hold office until the next annual meeting of the Association or until their successors have been appointed.

No later than the earlier of: (a) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than the Declarant, (b) two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business, or (c) three (3) years after conveyance of the first Lot, the term of all Board members appointed by the Declarant shall expire, and each such member shall be replaced by a member elected by members of the Association. Board members shall hold office until the next meeting of the Association or until their successors have been elected.

The Declarant, at its option, may surrender all or a portion of its right to appoint and remove members of the Board. If the Declarant shall surrender such right or any portion thereof, Declarant shall be entitled to require, for the duration

of the period of Declarant Control, that specified actions of the Board must be approved by the Declarant before the same become effective.

At the first annual meeting of the Association following the end of the period of Declarant Control, the number of Board members shall be increased to five (5), and divided into two classes of as nearly equal number as possible. The members of the first class shall have an initial term of one year or until their successors have been elected. The members of the second class shall have an initial term of two years or until their successors have been elected. Thereafter, members of each class shall have terms of two years or until their successors have been elected.

4.8. Variance With Governing Documents. If there shall be any conflict or variance between this Article 4 and the Governing Documents of the Association, this Article 4 shall control.

ARTICLE 5 ASSESSMENTS

5.1 Preparation of the Budget. Within sixty (60) days of its appointment, the initial Board shall prepare and adopt a budget for the Association. Thereafter, on an annual basis and no later than sixty (60) days before the beginning of the fiscal year, the Board shall adopt a budget for the Association. The budget shall include an estimate of the Common Expenses for the ensuing fiscal year, including an amount for such reserves as the Board may determine to be necessary.

5.2 Ratification of the Budget. Within fifteen (15) days after adoption by the Board of any proposed budget for the Association, the Board shall mail a summary of the budget to all Owners and set a date for a meeting of the Association to consider ratification thereof. The date of the meeting shall be not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. The budget shall be deemed ratified whether or not a quorum is present at the meeting, unless a majority of all the Owners reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Association shall be continued until such time as the Association shall ratify a subsequent budget proposed by the Board.

5.3 Annual Assessment. An annual assessment sufficient to cover the Common Expenses set forth in the ratified budget, including reserves, shall be made by the Board promptly upon ratification. The assessment shall be allocated in equal shares among the Lots. The Owner of each Lot, including the Declarant, shall be assessed for the share allocated to his or her Lot. If any Common Expense is

caused by the misconduct or negligence of an Owner, the Association may allocate that expense exclusively against his or her Lot. The Board shall notify each Owner of the amount of his or her allocated share of the annual assessment and the time at which it will be due and payable.

During the year ending December 31, 1985, the share of the annual assessment allocated to each Lot shall not exceed Twenty Five Dollars (\$25.00) per month. Thereafter, the amount of the share of the annual assessment allocated to each Lot shall not be increased by more than ten percent (10%) per annum, unless approved by Owners holding two-thirds (2/3) of the vote in the Association.

5.4 Special Assessment. If the revenues and reserves provided for in the budget and maintained pursuant thereto are inadequate for any reason, including non-payment of any Owner's assessment, the Board, by two-thirds vote, may at any time levy an additional special assessment, which shall be allocated in equal shares among the Lots. The Owner of each Lot shall be assessed for the share allocated to his or her Lot. The special assessment may be payable in a lump sum or in installments as the Board may determine. The Board shall notify each Owner of the total amount of such special assessment, the Owner's allocated share of the special assessment, the reason for the special assessment, and the time at which the Owner's allocated share is payable.

5.5 Payment of Assessment. Each Owner shall pay the share of the annual assessment allocated to his or her Lot at the time specified by the Board, provided that no Owner shall be required to pay more than twenty-five percent (25%) of such share in each quarter of the fiscal year. Each Owner shall pay the share of any special assessment allocated to his or her Lot at the time specified by the Board. No Owner shall be exempt from liability for payment of assessments by waiver of his or her right of enjoyment or use of the Common Areas or Common Property, non-use thereof, or abandonment of his or her Lot. Any past due assessment or installment thereof shall bear interest at the rate established by the Board not in excess of the maximum rate permitted by law.

5.6 Working Capital Fund Contribution. Upon purchase of a Lot, the Owner thereof shall make a contribution to the Working Capital Fund, as described in Section 803.08(H)(3)(b) of the FNMA Conventional Home Mortgage Selling Contract Supplement, in an amount equal to one sixth of the share of the annual assessment allocated to his or her Lot.

5.7 Lien for Assessments. The Association shall have a lien on a Lot for any assessment allocated to that Lot or fine imposed against its Owner from the time the assessment or fine becomes due. The Association may foreclose such lien in like manner as a mortgage upon real estate. Fees, charges, late charges, fines and interest charged by the Association are enforceable as assessments.

5.8 Effect of Failure to Prepare Budget or Assessment. The failure or delay of the Board to prepare or adopt a budget for any fiscal year or make an assessment in connection therewith shall not constitute a waiver or release in any manner of an Owner's obligation to pay the share of any assessment allocated to his or her Lot, whenever the same shall be determined.

5.9 Agreement to Pay Assessment. By acceptance of a deed or execution of a real estate contract for the purchase of a Lot, each Owner hereby covenants and agrees to pay to the Association the share of any assessments allocated to his or her Lot and any fines assessed against him or her by the Association, together with the costs and expenses, including reasonable attorneys' fees, incurred by the Association in collecting such assessments or fines. Such assessments, fines, costs and expenses shall be the personal obligation of the Owner of the Lot at the time the same becomes due and payable. If more than one person or entity is the Owner, the personal obligation to pay shall be joint and ~~several~~.

5.10 Subordination of Lien. The lien for Assessments shall be subordinate to the liens of first mortgages or first deeds of trust on the Subdivision or any Lot therein.

5.11 Rights of First Mortgagees and First Trust Deed Holders. Each holder of a first mortgage lien or first deed of trust lien on a Lot who comes into possession of such Lot by virtue of foreclosure of such mortgage or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, takes such Lot free of any claim for unpaid assessments and charges against the Lot which accrued prior to the time such holder comes into possession, except for claims for a share of such assessments or charges resulting from a reallocation of the same among all Lots within the Subdivision, including the mortgaged Lot.

ARTICLE 6

ARCHITECTURAL REVIEW BOARD

6.1 Establishment, Composition, Term of Members. There shall be an Architectural Review Board composed of three (3) members. During the period of Declarant Control, the members shall be appointed by the Declarant. Subsequent to the end of the period of Declarant Control, the members shall be appointed by the Board. A member appointed by the Declarant shall serve at the pleasure and discretion of the Declarant, but in no case beyond the end of the period of Declarant Control. A member appointed by the Board shall serve until the next annual meeting of the Board following his or her appointment or until his or her successor has been appointed. The appointing authority shall designate one member to serve as chairman.

6.2 Duties, Powers. The Architectural Review Board shall adopt architectural guidelines, rules and regulations regarding development, construction, modification, repair and decoration of any improvement; landscaping or alteration of vegetation or topography; land use within the Subdivision and the review and enforcement of its own procedures; and shall otherwise carry out such functions as may be assigned to it from time to time by the Board. The guidelines, rules and regulations shall not become effective until approved by the Board.

The Architectural Review Board shall review and approve, with or without conditions, or disapprove all plans for development construction, modification, repair or decoration of any improvement; landscaping or alteration of vegetation or topogrpahy; or sustained or periodic use of the Subdivision or any part thereof.

6.3 Development, Construction, Modification, Repair, Decoration. No development, construction, modification, repair, or decoration of any improvement within the Subdivision; no landscaping or alteration of the vegetation or topography within the Subdivision; and no other activity howsoever denominated which affects or will affect the character, quality, appearance or value of the Subdivision or any portion thereof or any improvement thereon shall be undertaken or permitted without the prior written consent of the ARB; except for such activity as affects or will affect only the interior space of an improvement situate within the Subdivision.

6.4 Sustained or Periodic Use. No sustained or periodic use of the Common Areas shall be made without the prior written approval of the ARB.

6.5 Meetings. The Architectural Review Board shall meet periodically as specified by the Board. The Review Board shall meet specially upon the call of the Chairman or two of its members, if written notice stating the date, time, place and purpose of the meeting shall be given to those members not calling the meeting at least two (2) days prior thereto.

6.6 Manner of Acting. The act of a majority of the members of the Architectural Review Board at a regular meeting or a special meeting duly called shall constitute the act of the Review Board.

6.7 Review Process. Subject to rules and regulations adopted pursuant to Section 6.2 hereof, the Architectural Review Board shall review and approve, with or without conditions, or disapprove all proposals for development, construction, modification, repair or decoration of any improvement; landscaping or alteration of vegetation or topography; or sustained or periodic use of the Subdivision or any portion thereof. The review shall be conducted and the decision regarding approval or disapproval shall be

announced within forty-five (45) days of receipt by the Review Board chairman of plans and specifications indicating the nature, extent, location and specifications, and appearance of the proposed development, construction, modification, repair, decoration, landscaping, alteration or use, together with such other documents as may be required by the Review Board's rules and regulations.

Prior to granting its approval, the Review Board shall determine that the proposed development, construction, modification, repair, decoration, landscaping, alteration or use:

(1) conforms with applicable zoning laws, this Declaration, the Architectural Guidelines adopted by the Architectural Review Board of the Estancia Primera Community Services Association and the guidelines, rules and regulations adopted pursuant to Section 6.2 hereof;

(2) does not detract from the character, quality, appearance, or value of the Subdivision or any portion thereof, or any improvement thereon, or the utility or reasonable enjoyment of the same; and

(3) is adequately financed for initial construction, maintenance and repair.

6.8 Record. The Architectural Review Board shall prepare and maintain a written record of its deliberations and determinations.

6.9 No Liability for Approval Errors. Declarant, the Association, the Board, the Architectural Review Board, and the directors, officers, members, agents, or employees of any of them shall not be liable for any damage, loss or prejudice suffered or claimed by any person on account of: (1) the approval, with or without conditions, or disapproval of any plans or specifications, whether or not defective; (2) the construction or performance of any work or improvement, whether or not pursuant to approved plans or specifications, whether or not defective; or (3) the development of any portion of the Subdivision, provided that such parties have acted in good faith on the basis of such information as may be possessed by them.

ARTICLE 7 USE RESTRICTIONS

The Subdivision shall be subject to the following land use restrictions:

7.1 Insurance Hazards and Waste. Nothing shall be done or kept on any portion of the Subdivision which will increase any rate of insurance without the prior written consent of the Board. No

Owner shall permit anything to be done or kept on any portion of the Subdivision which will result in the cancellation of insurance on any portion of the Subdivision, or which would be in violation of any law or ordinance. No waste shall be committed anywhere on the Subdivision.

7.2 No Obstructions or Construction. There shall be no obstruction of, and nothing shall be constructed, placed or stored upon or within, any portion of the Common Areas except as permitted by the Board.

7.3 Nuisances. No noxious or unreasonably offensive activities shall be carried on, nor shall anything be done or placed on the Subdivision which shall or will become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Owner or Declarant.

7.4 Rubbish. No portion of the Subdivision shall be used or maintained by any Owner as a dumping ground for rubbish, trash or waste. No oil or other refuse shall be allowed to enter storm drains. All rubbish, trash and waste shall be regularly removed from the Subdivision and shall not be allowed to accumulate thereon. Rubbish, trash or waste shall not be kept except in sanitary containers, which containers shall be kept screened and concealed from public view at all times, except when being placed for pickup.

7.5 Fires. There shall be no exterior fires upon any portion of the Common Areas except barbecue fires contained within receptacles as permitted by the Board.

7.6 Signs. No sign of any kind shall be placed or displayed in the Subdivision without the prior written consent of the Board, except:

(a) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law;

(b) during the time of construction of any improvement by Declarant, identification signs regarding location, financing or construction;

(c) such signs as may be required for traffic control and regulation of areas within the Subdivision;

(d) such identification signs as may be deemed appropriate by the Board to designate facilities or areas within the Subdivision; and

(e) such signs as Declarant deems necessary or desirable, in its sole discretion, to facilitate the marketing of real estate, building sites or residential units within the Subdivision.

7.7 No Oil, Quarring or Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted within or upon the Subdivision, nor shall oil wells, tanks, tunnels, or mineral excavations or shafts be permitted within or upon the Subdivision. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted within or upon the Subdivision.

7.8 Recreational Vehicles. No housetrailer, mobile homes, campers, recreational vehicles, boats, or trailers shall be kept or stored with the Subdivision.

7.9 Vehicles. No vehicle of any type, motorized or otherwise, shall be operated on any Common Area except the Road. No automobile or other motor vehicles shall be parked in any Common Area except in designated parking areas, and no portion of any improvement which is intended to be used as a garage or carport shall be used or converted for use for any other purpose. No vehicles shall be kept or stored on any Common Area or driveway area for purposes of accomplishing repairs thereto or the reconstruction thereof, except as permitted by resolution of the Board.

7.10 Pets. No person shall keep or have within the Property more than three (3) pets over ten (10) weeks of age. No pet or other animal shall be permitted on the Common Areas except as allowed by the Board. The owner of any pet or animal shall be responsible for the immediate removal and clean-up of any such animal's waste. The owner of any pet or animal shall at no time allow such animal to run unrestrained on any Common Area or on the streets, sidewalks or other areas of the Subdivision (except for enclosed yards or patios), and the Owner shall at all times have full and complete control over such animal. No pet or animal creating excessive noise or odor shall be maintained within the Subdivision.

7.11 Non-Residential Uses. The Subdivision shall be used only for residential purposes, and no part shall be used, caused to be used or permitted to be used, in any way, directly or indirectly, for any business, profession or other non-residential purpose, except that home occupations, as allowed by ordinance of the City of Santa Fe, shall be permitted if said home occupations are approved by the Board. However, nothing in this Section shall be construed to restrict the ability of Declarant to improve, develop and market real estate, lots, and residential units within the Subdivision.

7.12 No Rezoning of Subdivision. No Lot, residential unit, or Parcel within the Subdivision shall be further subdivided without the express written consent of all Owners. No portion of the Subdivision shall be rezoned other than as a Planned Residential

Community (PRC) as set forth in Stanta Fe Zoning Ordinance 1983-3, without the express written consent of all Owners.

7.13 Livestock, Poultry, Bees, Commercial Pet Raising. No animal, bird, fish or pet raising or trading as a business shall be carried on, directly or indirectly, on any part of the Subdivision.

7.14 Occupancy of Unfinished Structures. No residence situated within the Subdivision shall in any manner be occupied or lived in while in the course of original construction. No structure anywhere in the Subdivision, other than a residence, shall ever be lived in or used for dwelling purposes, including, but not limited to, tents, shacks, trailers, campers, motor homes, mobile homes, outbuildings, and garages. However, nothing in this Section shall be construed to prevent the erection, placement or maintenance by Declarant of trailers, offices or buildings in connection with the conduct of its business, or the improvement, development and sale of any real estate, lots or residential units within the Subdivision.

7.15 Roofs. All structures constructed in the Subdivision shall have roofs approved by the ARB.

7.16 Antennas and Cable Television. No Owner (other than Declarant during or for the conduct of its business) shall construct or otherwise maintain upon or within any portion of the Subdivision any external or internal radio or television antenna, saucer, or other reception device or equipment, except as otherwise permitted by the ARB. No Owner shall install any equipment or apparatus which in any way interferes or otherwise impedes the normal reception of radio and/or television transmission signals upon or to other portions of the Subdivision.

7.17 Window Opening. No window opening visible from a public street, private street, or any portion of the Common Areas shall have affixed to it or be otherwise lined with (a) any non-transparent foil, paper or similar material: or (b) any material or apparatus which is other than a neutral color, except as permitted by the ARB.

7.18 Height of Shrubs, Hedges, Trees and Landscaping. No shrub, hedge, tree or other landscaping which interferes with the view, solar access and/or privacy of any residential unit shall be planted or maintained on any portion of the Subdivision, except as permitted by the ARB.

7.19 Guest Houses. There shall be no guest houses within the Subdivision.

7.20 Time-Share Interest. No time-share interest or interests shall be allowed within the Subdivision.

7.21 Renting. The renting of residential units as a business by Owners shall be allowed only with the permission of the Board. Any Owner who rents more than two (2) residential units shall be deemed to be in the business of renting residential units.

7.22 Sheds, Storage. No shed or other such building shall be permitted on the Subdivision, except in connection with and during the term of construction. Except as provided in Section 7.28 there shall be no storage of any materials or matter outdoors except as may be permitted by the ARB.

7.23 Garage Doors. All garage doors shall be kept closed except when in actual use.

7.24 Fences. There shall be no fences within thirty-five (35) feet of a structure within the Subdivision except for privacy barriers. All fences must be approved prior to construction by the ARB.

7.25 Lawns. There shall be no lawns in excess of 800 square feet. All lawns must be of native-grasses that are low water consuming.

7.26 Gardens. Non-commercial gardens not to exceed 1,000 square feet may be allowed subject to the prior written approval of the ARB.

7.27 Miscellaneous. No uses are permitted that are or would be inconsistent with the single-family residential character of the Estancia Primera Community.

7.28 Building Materials. There shall be no storage of building materials within the Subdivision other than during construction.

7.29 Height of Building. No building within the Subdivision shall violate the provisions of condition 7A3 of the "Conditions of Ordinance 1981-3 Estancia Primera P.R.C."

7.30 Windmills. No windmills of any kind shall be allowed within the Subdivision.

7.33 Right to Convey. The right of an Owner to sell, transfer or otherwise convey his or her Lot or residential unit shall not be subject to any right of first refusal or similar restriction in favor of the Association.

ARTICLE 8
EXTERIOR MAINTENANCE

8.1 Owner's Responsibility. The Owner of each Lot shall maintain the facades and external aspects of all improvements on his or her Lot in first class order and repair and in substantially the same condition as prevailed when the improvements were newly completed. The Owner of each Lot shall maintain the landscaping and vegetation thereon in neat, orderly and healthy condition.

8.2 Maintenance by Association. In the event the Owner of a Lot fails to comply with the provisions of the preceding section 8.1, the Board, upon two-thirds vote, may give notice to the Owner, specifying the failure to comply and requiring the Owner to take such action as is necessary to cause the facades and external aspects of the improvements to be restored within sixty (60) days to first class order and repair, in substantially the same condition as prevailed when the improvements were newly completed, and to cause the landscaping and vegetation to be restored within sixty (60) days to a neat, orderly and healthy condition. Thereafter, if the Owner has not so restored the improvements, landscaping or vegetation, the Board, upon two-thirds vote, shall be entitled to enter upon the Lot and the improvements thereon and to take such action as is necessary or reasonable to so restore the same. The cost of such activity shall be assessed against the Lot and shall become a lien against the Lot, subject to enforcement in the same manner as the annual and special assessments. The remedy provided herein shall be in addition to and not exclusive of any other remedy which the Association may be entitled to at law or equity.

ARTICLE 9
EASEMENTS

9.1 Owner's Easement to Common Areas. The Owner of each Lot shall have a non-exclusive easement and right-of-way for ingress and egress upon and along the Road, together with a non-exclusive easement to walk upon and across the Open Space, which easements shall be appurtenant to and shall pass with the title to each Lot.

9.2 Declarant's Reservation of Easements. Declarant reserves for itself and its assigns an easement and right-of-way in, through, over, under, across and upon all portions of the Subdivision, including all Lots and Common Areas for the purpose of commencing, conducting, and completing its development and improvement

work on the Subdivision. Declarant reserves the right to grant easements and rights-of-way in, through, under, over, across, and upon all portions of the Subdivision, including all Lots and Common Areas, for the installation, construction, operation, maintenance, inspection, repair and replacement of lines and appurtenances for public or private water, sewer, drainage, telephone, cable television, gas, power, or other utilities and for other materials or services necessary for the completion of said development and improvement work. Declarant shall have the right to change the location or terms and conditions of any such easement or right-of-way. Declarant reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the Road. In addition, Declarant reserves the right to use the Subdivision and any sales offices, model homes, signs and parking spaces located or which may be located on the Subdivision in its efforts to develop, improve and market portions of the Subdivision. Notwithstanding any other provisions herein to the contrary, this Section may not be amended without the prior written consent of Declarant. Any of the easements and rights reserved by Declarant in this Section may be assigned to Declarant's successors in interest and may be exercised by Declarant's agents, officers, employees and representatives.

9.3 Easement for Common Property. Declarant reserves for itself and the Association an easement in, through, over, under, across and upon all portions of the Subdivision, including all Lots and Common Areas, for the installation, construction, operation, maintenance and inspection, repair and replacement of the Common Property.

9.4 Easement to Correct Drainage. Declarant reserves for itself and the Association an easement to enter upon all portions of the Subdivision, including all Lots and Common Areas and or improvement thereon, for the purposes of operating, inspecting, maintaining, repairing, or replacing drainage or erosion control devices or structures. Prior notice of entry shall be given to the occupant; except to the extent prohibited by an emergency.

9.5 Easement for Emergency. Declarant reserves for itself and the Association an easement to enter upon all portions of the Subdivision, including all Lots and Common Areas and any improvement thereon, to perform emergency repairs. Prior notice of said entry shall be given to the Owner, except to the extent prohibited by the nature of the Emergency.

9.6 Easement for Governmental Personnel. There is hereby established a right of entry for public officials, police, fire, rescue, and other personnel to come upon the Subdivision to carry out and enforce their official duties.

9.7 Right to Dedicate. Nothing contained in this Declaration shall be deemed to restrict or otherwise impede the Declarant or

Association, at any time and from time to time, from dedicating portions of the Subdivision to any public or private agencies, authorities or utilities, prior to sale of such portion to an Owner.

ARTICLE 10
RIGHTS OF LENDERS AND PUBLIC AGENCIES

10.1 Interests Subject to Lenders' Rights. It is anticipated that part or all of the real estate or improvements within the Subdivision may be financed or the loans therefor insured or guaranteed for the Owners through agencies such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

The interest of the Association, and each of the Owners other than Declarant is and shall be subject to and subordinate to the rules, regulations and requirements of such agencies purchasing, insuring or guaranteeing mortgages or deeds of trust for portions of the Subdivision.

10.2 Access to Financial Records. Any Owner or mortgagee holding a mortgage or deed of trust on any portion of the Subdivision or improvement thereon, upon written request to the Association shall be entitled to inspect the books and records of the Association during normal business hours, and to receive a copy of an audited financial statement of the Association prepared at the expense of the party making the request or in the alternative, to receive an annual financial statement of the Association prepared in accordance with standard accounting principles.

10.3 Notice to Lenders. Any mortgagee holding a first mortgage or deed of trust on any portion of the Subdivision or improvement thereon that has filed written notice of the same with the Association shall be entitled to: (a) written notice of all meetings of the Association and the right to designate a representative to attend all such meetings; (b) written notice if the Association is to be abandoned or terminated; (c) written notice of any material amendment to this Declaration or the Governing Documents of the Association, or decision by the Association to terminate professional management and assume management of the Association; and, upon request, (d) written notice of any default by such mortgagee's mortgagor in the performance of that mortgagor's obligation to the Association, followed by failure to cure such default within thirty (30) days; (e) any condemnation or casualty loss that affects a material portion of the Subdivision or the Lot securing the mortgagee's mortgage; (f) any lapse, cancellation or material modification of any insurance policy or bond maintained by the Association.

10.4 Filing with Association. Any mortgagee holding a mortgage or deed of trust on any portion of the Subdivision or improvements thereon shall file copies of said instruments with the Association after taking such portion or improvement as security for a debt.

ARTICLE 11
TERM, AMENDMENTS, DECLARANT'S RIGHTS

11.1 Term of Declaration. This Declaration, and the covenants, restrictions, terms and conditions set forth herein, shall run with and bind the Subdivision and every part thereof, and shall inure to the benefit of and shall be enforceable by the Association and any Owner, his or her legal representative, heirs, successors or assigns, for a term of fifty-five (55) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, agreeing to terminate or revise this Declaration and signed by Owners holding two-thirds (2/3) of the votes in the Association has been recorded within the year preceding the beginning of any such ten-year period.

11.2 Amendment Procedure. Prior to the close of the first sale of any portion of the Subdivision or any improvement thereon to an Owner other than Declarant, Declarant may amend this Declaration, without the consent or assent of any individual or entity. Thereafter, this Declaration may be amended only by the affirmative vote of Owners holding two-thirds (2/3) of the votes in the Association including Owners holding one-half (1/2) of the votes in the Association held by Owners other than Declarant; provided, that no such amendment shall impair the improvement or development of the Subdivision in accord with the Plat. Notwithstanding the foregoing provisions of this Section 11.2, if any mortgagee shall hold a mortgage or deed of trust on any portion of the Subdivision, no amendment shall be made which impairs the interests arising under such mortgage or deed without such mortgagee's written approval.

11.3 Limitation on Amendments. By the acceptance of a deed or execution of a real estate contract for any portion of the Subdivision or any improvement thereon, each Owner acknowledges and agrees, on behalf of himself and his respective heirs, legal representatives, successors and assigns, that: (1) this Declaration was created and recorded, in part, to protect and otherwise enhance the value of the Subdivision; and (2) in order to ensure such protection and enhancement in value, no provision or condition of this Declaration which either directly or indirectly affects the use or operation of the Subdivision, including, but not limited to, those provisions and conditions relating to the operation and management of the Common Areas, the use by any Owner or his licensees and invitees of any part of the Subdivision, or the operation of the Association, shall

be amended or otherwise modified without the express written consent of Declarant or its successors in interest or assigns.

11.4 Development Rights. Because the completion of development of the Subdivision and the development and marketing of portions thereof and improvements thereon is essential to the welfare of all Owners, nothing in this Declaration or any amendment hereto shall be understood or construed to prevent Declarant or any of its contractors, subcontractors, representatives, agents or assigns from doing, upon any portion of the Subdivision, including any Lot or Coammon Area, the following: (a) activities reasonably necessary or appropriate in connection with the development or improvement of the Subdivision in accord with the Plat; (b) erecting, constructing and maintaining such structures and facilities as may be reasonably necessary for the development or improvement of the Subdivision; or (c) maintaining such signs on the Subdivision as the Declarant may deem necessary for the sale, lease or disposition thereof. Until all the Lots are sold to an Owner other than Declarant, no Association may use its financial resources to defray any costs of opposing development or improvement activities which are not inconsistent with the Plat. Nothing in this section shall be construed to limit the right of members to act as individuals or in affiliation with other members or groups.

11.5 Rights of Declarant. For so long as the Declarant shall own any portion of the Subdivision, unless Declarant gives its prior written consent, its rights and interests shall not be prejudiced by any amendment to this Declaration or any Governing Documents which:

- (a) discriminates or tends to discriminate against Declarant's rights as an Owner;
- (b) changes the definitions in Article 1 in a manner which alters Declarant's rights or status;
- (c) alters the character and rights of membership or the rights of the Declarant as set forth in Article 4;
- (d) alters previously recorded or written agreements with public or quasi-public agencies or utilities with respect to easements and rights-of-way;
- (e) alters Declarant's rights with respect to architectural review of improvements, plans and specifications, as provided in Article 6;
- (f) alters the basis for assessments, as provided in Article 5;
- (g) alters the provisions of the use restrictions set forth in Article 7;

- (h) alters the Declarant's easement rights, as provided in Article 9;
- (i) alters the number or selection of members of the Board of Directors of the Association, as provided in the By-Laws and this Declaration; or
- (j) alters the Declarant's rights provided under this Article 11.

ARTICLE 12
GENERAL PROVISIONS

12.1 Invalidity of any Provision. Should any provision or condition of this Declaration to be declared invalid or in conflict with any law, statute or ordinance, the validity of all other provisions and conditions hereof shall remain unaffected and in full force and effect.

12.2 Owner's Compliance. Each Owner or Occupant of a portion of the Subdivision or any improvement thereon shall comply with the provisions of the Governing Documents and decisions, resolutions, rules and regulations of the Association or its duly authorized representatives. Failure to comply with any such provision, decision, resolution, rule or regulation shall constitute the basis for an action to recover sums due for damages or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting procedures established in this Declaration shall be binding on all Owners and Occupants.

12.3 Notices. Except as otherwise may be provided by specific provisions herein, any notice permitted or required by this Declaration shall be in writing and delivered either personally or by mail. If intended for an Owner, mailed notice shall be directed to the Owner: (a) at the address of such Owner's residential unit, or (b) to the last known address of the Owner. If no address is known, notice shall be directed to the Lot owned by the Owner. If intended for Declarant, notice shall be directed to: Mr. William B. Bush, Jr., President, Venture Development Group, Inc., 7757 San Felipe, Suite 100, Houston, Texas 77063, and Mr. G. John McMahan, Vice President, EPD Associates, Ltd., 314 Paseo de Peralta, Santa Fe, New Mexico 87501.

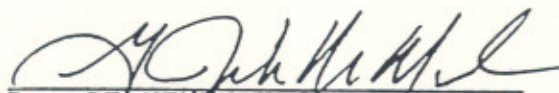
12.4 Governing Law, Interpretation. This Declaration shall be construed and enforced according to the law of the State of New Mexico. This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of completing the development and improvement and thus protecting and enhancing the value, marketability, and desirability of the Subdivision.

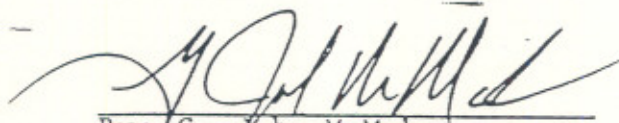
12.5 Successors in Interest. This Declaration shall be binding upon and inure to the benefit of the Declarant, its successors in interest and assigns, and to the Owners, their heirs, legal representatives, assigns and other successors in interest.

In witness whereof, Declarant has executed this Declaration on March 26th, 1985.

EPD ASSOCIATES, LTD.
A New Mexico Limited Partnership


By: EPD PARTNERSHIP
A New Mexico Partnership,
General Partner


By: SF VENTURE CORP.
A New Mexico Corporation,
Managing General Partner


By: G. John McMahan
Vice President

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO)
) ss
COUNTY OF SANTA FE)

The foregoing Declaration was acknowledged before me this 25th day of March, 1985, by G. John McMahan, Vice President of SANTA FE VENTURE CORP., a New Mexico corporation, which is managing general partner of EPD PARTNERSHIP, A New Mexico partnership, which is General Partner of EPD ASSOCIATES, LTD., a New Mexico limited partnership, on behalf of said corporation and said partnerships, general and limited.

Richard L. Gagnone
Notary Public



My Commission Expires: 8-26-87

0505D

... (OF SANTA FE) SS
STATE OF NEW MEXICO) 563,690

I hereby certify that this Instrument was filed for record on the 25 day of MAR. A.D. 1985 at 10:00 o'clock A. m. and was duly recorded in book 576 page 11-683 of the records of Santa Fe County.

Witness my Hand and Seal of Office
ANGIE VIGIL PEREZ
County Clerk, Santa Fe County, N.M.

Cathy

