HERMOSO EL SOL

Unit 2

RESTRICTIVE COVENANTS

PART A:

WHEREAS, TOOL BOX, LLC, has developed Hermoso El Sol, Unit 2, a subdivision with said plat recorded in Book 64, Page 39 of the records of Otero County, New Mexico, and WHEREAS, TOOL BOX, LLC, has developed Hermoso El Sol , Unit 2, Replat A, with said plat recorded in Book 71, pages 51-52 of the records of Otero County, New Mexico ,

WHEREAS, all of the lots are owned by the developer;

WHEREAS, said developer desires to place certain restrictions on the building improvements to be placed on the above described real estate as follows, to-wit:

PART B

RESTRICTED RESIDENTIAL AREA

These covenants' shall apply to all lots located In Hermoso El Sol, Unit 2, Otero County, New Mexico as recorded in book 64 page 39 and book 71 pages 51-52 in the records of Otero County, New Mexico.

PART C

COVENANTS

C-1. LAND USE AND BUILDING TYPES: All lots shall be used for residential purposes only. All lots shall contain one detached single family, single story dwelling and a private attached garage. Two story homes may be approved by the architectural control committee only if the viewing areas from the second story do not intrude upon the privacy of the other home owners within Hermoso El Sol, Unit 2, subdivision. Each lot may contain single story buildings associated to the dwelling such as storage shed, swimming pool, equipment sheds, guest quarters,

and a private detached garage. Storage buildings for recreational vehicles such as motor homes and camping trailers are not allowed. Modular and pre-fabricated construction is prohibited. Finished height of dwelling may not exceed forty (40) feet tall.

C-2. FURTHER LAND USE AND BUILDING TYPES: No single family residence as placed upon a lot shall contain more than six (6) bedrooms in such residential building. In addition, no lot within the subdivision shall be resubdivided or joined with any other adjacent lot or lots. Any structure larger than a 10x10 building must match exterior design and material of the residence located on such lot. No structure shall be built inside the lot line restrictions including patios, carports, shops, storage buildings, or other structures. At least eighty percent (80%) of the exterior walls on the residence and any other structures shall be brick, stone, or stucco.

C-3: ARCHITECTURAL CONTROL: No building shall be erected, placed, or altered on any lot until the construction plans, specifications and a site plan showing the location of the structure have been approved by the architectural control committee as to quality of workmanship and materials and colors (harmony of external design with existing and/or planned structures), as to location with respect to lot lines, topography and finish grade elevations.

Positive site drainage shall be provided during construction and maintained thereafter. Such positive drainage shall be in accordance with city drainage and ponding requirements. This provision is placed in the restrictive covenants to recognize the moisture sensitivity of the soil and the responsibility of the owner to provide prudent moisture management.

No fence or wall except necessary retaining walls of minimum height shall be erected or allowed to remain nearer the front street than the front building setback line. Approval shall be as provided in part D. The height of fences which are erected behind the minimum set-back line of the front street shall be in accordance with the ordinances with the ordinances of the City of Alamogordo. They shall extend upward a minimum of five (5) feet above finished grade of the owner's lot or the adjacent lot or property, whichever is higher. This is to insure

that all partition fences throughout this subdivision are uniform and that fences will not have to be extended upward at a later date. All fences shall be constructed of masonry block café in color. Courtyard fences must be constructed behind the front and side street setbacks and be constructed to match the home.

No person or persons shall modify, extend, cut, penetrate, remove all or part, paint, or in any way change the outward appearance of any perimeter fencing installed by the developer.

The homebuilder shall be responsible for the construction of a concrete sidewalk five (5) feet in width, adjacent to the curb, for the full length of the curb adjacent to the lot. The homebuilder shall also construct necessary driveway pads as required by the City of Alamogordo.

The homebuilder or owner shall install and finish front and side yard landscaping that is visible from any street within sixty (60) days of occupancy of the home. Front yard landscaping will be xeriscape design and shall contain at least three (3) drought tolerant plants or trees in each yard. Grass landscaping is allowed in the backyard at a maximum of 15% of the lot size. All landscape water must remain within the property lines and shall be not allowed to drain to adjoining lots or streets.

C-4. DWELLING COST, QUALITY AND SIZE: No home shall be permitted on any lot at a cost of less than (5) five times the cost of the lot on which the residence is placed, it being the intention and purpose of these covenants to assure that all dwellings shall be of a quality or workmanship and materials substantially the same or better than that which can be produced on the date the covenants are recorded at the minimum cost states herein for the minimum permitted dwelling size. On any dwelling, the main structure, exclusive of one-story open porches and garages, shall contain not less than twelve hundred (1200) square feet of heated or living area. On pre-approved multi-story homes, the ground floor of the main structure, inclusive of one-story open porches and attached garages, shall contain not less than fifteen hundred (1500) square feet. The home shall have an attached garage for not less than two (2) cars and not

more than three (3) cars, which shall contain a minimum of four hundred (400) square feet.

All exteriors shall be 80% brick veneer, stucco, or stone construction. Sidings may be used in conjunction with brick only on 20% or less of structure. All other materials are prohibited. Stucco colors shall be light earth tones. The architectural control committee must approve variances.

All sloped roofs, which are visible from the street or adjacent properties, shall be cement barrel tile or architectural grade shingles. All flat roofs or sloping flat roofs shall be concealed on all sides by a parapet wall extending a minimum of one (1) foot above the finished height of the roof.

All buildings, sheds, detached, garages, etc., Larger than 100 square feet shall match the dwelling in architecture, materials and appearance. Garage doors may not exceed nine (9) feet in height. All structures larger than 100 square feet shall be placed on a concrete foundation.

Geodesic dome construction is not allowed.

C-5. BUILDING LOCATION: All buildings shall be located no nearer to the front property line than twenty (20) feet. The home, attached garage, and covered porches shall be located no closer than five (5) feet from either side property line. For corner lots, for the side facing the non-front street, the said setback line shall be fifteen (15) feet.

C-6. EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of this subdivision.

C-7. NUISANCE: No noxious or offensive activities shall be carried upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

The owner of each lot shall be responsible for the repair of vandalism, including the removal of graffiti, which may occur to his/her property including partition fences, perimeter fences, walls, decorative walls, retaining walls, roofs,

sidewalks, mail boxes, etc. which may be seen from other lots, properties, streets, or sidewalks, regardless of who the vandals are. The repair or removal of such vandalism shall occur within five (5) days of the vandalism, Tool Box, LLC, may, at its sole discretion, repair or arrange the repair and charge and collect from the owner of the property on which the vandalism exists all of the repair expenses, plus a fifteen (15) percent administrative charge, plus ten (10) percent interest thirty (30) days from notice of such charges. Said charges shall be a lien against the property.

Firewood piles shall be screened from view from neighboring lots and from the front of the home. Vacant lots shall be kept clean and free of accumulations of rubbish. Inoperative vehicles shall not be stored on any lot, or in the street in front of the lot.

The owner of each lot shall be responsible for the timely repair of damages to his/her property including partition fences, perimeter fences, walls, decorative walls, retaining walls, roofs, sidewalks, mail boxes, etc. which may be seen from other lots, properties, streets, or sidewalks. All repairs are to be made with materials and workmanship to replicate as closely as possible original design and construction. If the repair is not made within thirty (30) days of the damage, Tool Box, LLC, may, at it's sole discretion, repair or arrange the repair of the damages and charge and collect from the owner of the damage property all of the repair expenses, plus a fifteen (15) percent administrative charge, plus ten (10) percent interest thirty (30) days from notice of such damages. Said charges shall be a lien against the said property.

C-8. TEMPORARY STRUCTURES: No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other out-buildings shall be used on lot at any time as a residence either temporarily or permanently. No second hand structures shall be placed on the lots.

C-9 SIGNS: No signs of any kind shall be displayed to the public view on any lot except one professional sign not more than three (3) square feet, one sign of not more than five (5) square feet advertising the property for sale or rent, or

signs used by a builder to advertise the property during the construction and sales period.

C-10. LIVESTOCK AND POULTRY: No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except for dogs, cats, or other house-hold pets kept, provided that they are not bred, kept, or maintained for any commercial purposes. Even if not kept for commercial purposes the total number of dogs and cats combined may not exceed three (3).

C-11. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

C-12. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Portable containers, except for scheduled pick up days, shall be screened from view.

C-13. WATER SUPPLY: No individual water supply systems shall be permitted on any lot.

C-14. SEWAGE DISPOSAL: No individual sewage system shall be permitted on any lot.

C-15. STORAGE OF RECREATIONAL VEHICLES: Recreational vehicles include, but are not limited to boats, airplanes, RV trailers, horse trailers, motor-homes, camp trailers, utility trailers, vehicle trailers, or racing cars. No recreational vehicle shall be parked or stored any closer to the street than the front of the home. No recreational vehicle shall be parked or stored on any street within or adjacent to the subdivision.

C-16. ANTENNEA: No television or radio antenna shall extend higher than the roof of any structure, and all antennae shall be subject to the approval of the Architectural Control Committee prior to installation.

C-17. OVERHEAD WIRES: There shall be no overhead wires for delivery of utilities or for any other purpose on the lot.

C-18. RESTRICTIVE COVENANTS MADE LEGAL: Any lien created by these restrictive covenants or as allowed by law, shall be evidence by a recorded Claim of lien filed in the records of Otero County, New Mexico, under the provisions of New Mexico law. Such lien shall be enforced in accordance with New Mexico Statues (Section 48-2-1 to 48-2-17, NMSA 1978 Come., as same may be from time to time amended.)

PART D

ARCHITECTURAL CONTROL COMMITTEE

D-1. MEMBERSHIP: The initial Architectural Control Committee shall be composed of three persons designated by Tool Box, LLC. The Architectural Control Committee shall have three members. Upon the sale of all lots within Hermoso Unit 2 , two property owners shall be elected to positions on the Architectural Control Committee. One position shall be retained by a representative of Tool Box, LLC.

D-2, ELECTION: The Architectural Control Committee, as to the two individuals, shall be by vote of persons owning lots within Hermoso unit 2. Other than the initial election for the two positions to be filled by property owners, such election shall be held during the month of January of even numbered years and the person so elected shall serve for a two (2) year term until January of the next even numbered year. There shall be no limitation on the number of terms that a property owner may serve on the Architectural Control Committee.

D-3. Procedure: Building plans to be submitted for approval shall include at a minimum, floor plans, front elevations, and a complete description of exterior

details, materials, and colors to be used. The approval as required in these covenants shall be in writing. In the event the Architectural Control Committee fails to approve or disapprove within forty(40) days after plans and specifications have been submitted to it, or in any event, if not suit to enjoin the construction has been commenced prior to the completion there of, approval will not be required.

PART E

GENERAL PROVISIONS

E-1. TERM: These covenants are to run with the land and shall be binding on the land, all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of thirty (30) years unless an instrument signed by a two-thirds majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. Votes shall be counted on the basis of one(1) vote for each lot owned. These covenants may not be amended without the written consent of Tool Box, LLC, through May 31, 2011. Beginning June 1, 2011, these covenants may be amended by a two-thirds majority of the owners at the time of the amendments. An instrument signed by the majority of the owners shall be recorded with the County Clerk.

E-2. ENFORCEMENT: Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant to restrain violation. Such enforcement may be by a property owner or may be by the Architectural Control Committee. Such action may also seek the recovery of damages, costs and reasonable attorney's fees.

E-3. SEVERABILITY: Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provision which shall be and remain in full force and effect.

E-4. LIEN: Should a judgment be rendered against a person or persons for violating or attempting to violate any covenant contained herein, a copy of said

judgment may be made of record in Otero County, New Mexico, or other locations within New Mexico or the States of the Union for purposes of assisting and enforcement of such judgment.

PART F

ATTEST

IN WITNESS WHEREOF, the said owners have caused this instrument to be executed on this 19th day of April, 2011.

TOOL BOX, LLC

By: _____

Douglas Nelson, Manager

STATE OF NEW MEXICO)

COUNTY OF OTERO)ss.

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The foregoing HERMOSO EL SOL UNIT 2 RESTRICTIVE COVENANTS was acknowledged before me this 19th day of April, 2011 by Douglas Nelson, Manager of Tool Box, LLC.

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Notary Public

My Commission Expires: 11/28/2014

OFFICIAL SEAL
TERRI L. MURPHY
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 11/28/2014

COUNTY CLERK
OTERO
COUNTY
NEW MEXICO