

1 **DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS for**
2 **NM SKIES ASTRONOMY ENCLAVE,**
3 **OTERO COUNTY, NEW MEXICO**

4 THIS DECLARATION, made this 23rd day of December, 2015.

5
6 **WITNESSETH;**

7 WHEREAS, DEVELOPER and the current owner of certain real property described in
8 NM SKIES ASTRONOMY ENCLAVE, a Subdivision in Otero County, New Mexico, recorded in
9 the Office of the Otero County Clerk on February 27, 2014, as Instrument #201401326 (see
10 Appendix B) are desirous of subjecting the real property described herein to these covenants.
11 The covenants, conditions, restrictions, options, reservations, undertakings, agreements and
12 easements hereinafter set forth, each and all of which is and are declared to be equitable
13 servitudes binding upon the LOTs, tracts, parcels and COMMUNITY and each then-current
14 owner or successor owner thereof and every other party having any interest therein, and shall
15 run with the land and bind all current owner(s) and successors owner(s) or successor in title or

1 interest, heirs and assigns, and shall inure to the benefit of and pass with said property, and
2 each and every parcel thereof.

3 **NOW, THEREFORE,** the current owner hereby declares that the real property
4 described in and referred to in Clause I hereof, is, and shall be, held, transferred, sold,
5 conveyed, and occupied subject to this document.

6 **CLAUSE I.**

7 **COMMUNITY**

8 **1. SUBJECT PROPERTY.** The property which is subject to and benefitting from this
9 declaration is the real property described in plat of NM SKIES ASTRONOMY ENCLAVE, a
10 Subdivision in Otero County, New Mexico, recorded in the Office of the Otero County Clerk on
11 February 27, 2014, as Instrument #201401326 (see Appendix B) . Said property shall be
12 herein known as the COMMUNITY.

13 **1a. DEFINITIONS.** The normal and customary usage of all words and/or terms
14 contained herein shall apply, as used in the state of New Mexico. The following special terms
15 and phrases are used in this document and their definition and/or meaning shall be as follows:

- 16 1. For the purposes of this document, the “DEVELOPER” is NM Southern Skies, LLC, an
17 Indiana Limited Liability Company, their agents and/or their assigns.
- 18 2. “NM SKIES ASTRONOMY ENCLAVE” Subdivision is an Otero County, New Mexico
19 Subdivision and any split, re-plats or re-subdivisions thereto.

- 1 3. The “**COVENANTS**” consist of this document and any attachments and amendments
2 hereto. The term COVENANTS shall include, but shall not be limited to: covenants;
3 conditions; restrictions; options; reservations; undertakings; mutual benefits, burdens,
4 restrictions, and protections afforded hereunder; agreements; easements; equitable
5 servitudes; each and all of which is and are declared to be binding upon the LOTs, ,
6 tracts, parcels and the COMMUNITY; and shall bind each current owner and successor
7 owner thereof and every other party having any interest therein; and shall run with the
8 land and bind all current owners and successors owner(s) or successor(s) in title or
9 interest, their legal representatives, heirs, successors, grantees, and assigns; and shall
10 inure to the benefit of and pass with said property and each and every parcel thereof.
11 Enforcement of these COVENANTS may include both legal and equitable relief, which
12 includes, but is not limited to damages, costs and injunctive relief and in certain
13 instances reasonable attorneys fees.
- 14 4. “**LOT**” or “**LOT(s)**” are any and all of the lots, tracts, parcels, lot splits, re-subdivision, re-
15 plat, or other real estate (or any portion thereof) in the COMMUNITY which are now, or
16 shall become subject to, burdened by and benefitting from these COVENANTS.
- 17 5. “**COMMUNITY**” is those lots and/or properties which are subject to and benefitting from
18 these COVENANTS.
- 19 6. A “**DWELLING**” is a Modular, Manufactured, or Site-Built single family home or
20 residence and any structure permanently attached thereto (e.g. garage, greenhouse,
21 basement, etc.).



- 1 7. An "OUT-BUILDING" is any "additional structure" or building as specified herein which
2 is detached from the DWELLING, other than an OBSERVATORY, or GAZEBO.
- 3 8. The "DESIGNATED USE PLAN" is a negotiated agreement solely between the
4 Developer and the then current LOT OWNER, and no third party beneficiary rights are
5 created or inferred by said document. The DESIGNATED USE PLAN is a drawing
6 which shall show, among other things, the permitted and restricted use areas for a
7 particular lot.
- 8 9. 1 "LUMEN PER SQUARE FOOT" (commonly known as a "LUMEN") equals 1
9 "FOOTCANDLE".
- 10 10. "HOA" shall mean the New Mexico Skies Home Owners Association, Inc., which has
11 been in existence for several years. The property described herein shall become
12 members of the HOA.
- 13 11. The terms "light" or "lights" shall mean any and all lights, bulbs, fixtures, lamps,
14 luminaires and any other source of infrared, visible and/or ultraviolet light. The term(s)
15 may be applied individually to a single light and/or collectively to any combination of the
16 above items.
- 17 12. The "SURVEY" shall be an original document prepared by a Professional Surveyor,
18 licensed by the State of New Mexico, and not altered in any way, and shall show all
19 items required herein.
- 20 13. Any and all "written notices" required herein shall be sent via certified US mail, return
21 receipt requested, or via a nationally recognized, bona-fide courier, return receipt
22 requested, signature required, sent to the last known address of the LOT owner as

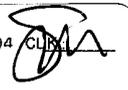
1 obtained from the Otero County Real Estate Tax Records or to the last know address as
2 obtained from the HOA records.

3 14. a). A “**ground level observatory**” shall be any observatory (i.e. dome, roll off,
4 clamshell, etc.) whose maximum height does not exceed twenty (20) feet above
5 the immediately adjacent, existing ground level. Only ground level observatories
6 are permitted.

7 b). An “**elevated observatory**” shall be any observatory whose maximum height is
8 greater than twenty (20) feet above the immediately adjacent, existing ground
9 level. Elevated observatory(s) are not permitted.

10 15. Original Owner, the Original Owner’s Beneficiary(s), Thomas N. Simstad, Marla K.
11 Simstad, their various entities or companies, their trusts, their beneficiaries, their
12 assigns, Individual Retirement Account(s) or Thomas and/or Marla Simstad’s family
13 member lot splits are collectively known herein as the **Original Owner**.

14 16. As the Original Owner transfers ownership, executes a contract sale, leases a LOT, or
15 any part of a LOT (lot split, re-plat, re-subdivision, etc.) to a bona-fide third party owner,
16 contract owner, or lessee (herein collectively known as “**Successor Owner** or
17 **successor owner**”) of any LOT within the COMMUNITY, the Successor Owner shall
18 then become a full, dues paying member of the HOA with voting rights.
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CLAUSE II.

PURPOSE OF THESE COVENANTS

1. PREAMBLE It is agreed, acknowledged and accepted by all parties that:

Since the dawn of civilization, man has looked at the stars and dreamt about their meaning. There is a primal need for man to gaze at the night sky, and to wonder about his place in the universe. Dark, night skies have been an essential element in the collective growth of mankind, influencing the very idea of what it means to be human. Without protection of our night skies, it will be difficult, if not impossible for future generations to have, or even to imagine the experience that NM SKIES ASTRONOMY ENCLAVE has to offer.

Without conscious actions on our part, future generations will not experience the night sky as we and our ancestors have known it. For the first time in human history, the world's dark, night skies have become a rare and ever vanishing asset. The star filled sky is a precious treasure for all of mankind, and we have a duty to preserve these skies.

Stars remind us of the amazing and wonderful universe that we live in. At NM SKIES ASTRONOMY ENCLAVE you can feel the stars and the infinity of the night sky, just by walking outside. Stars are not to be viewed by the eyes alone; they are best experienced through the passion of the body and the soul.

NM SKIES ASTRONOMY ENCLAVE is defined by its dark skies, its solitude, its fresh mountain air, the millions of stars in the heavens above, and a sense that the Milky Way is so close that you can almost reach out and touch it.



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2 **2. GENERAL PURPOSE.** NM SKIES ASTRONOMY ENCLAVE offers extraordinary

3 sky conditions, found no where else in North America. The exceptionally dark skies, the

4 excellent seeing, the phenomenal transparency, the clean dry mountain air, and a micro-

5 climate that is second to none are some of the factors that combine to make NM SKIES

6 ASTRONOMY ENCLAVE one of the finest locations for amateur astronomy in the world. The

7 purpose of these COVENANTS is to allow those uses that are compatible with and that will

8 enhance NM SKIES ASTRONOMY ENCLAVE's distinction as North America's premier

9 location for amateur astronomy, and to prohibit those uses that would be incompatible with

10 astronomy. As such, preservation and protection of our night sky is of utmost importance.

11 **Therefore:**

12 The COMMUNITY is dedicated to the preservation and protection of the dark night

13 skies, and we choose to subject ourselves to these COVENANTS in order to promote the

14 proper use, the appropriate development, and suitable improvement of the COMMUNITY and

15 every part thereof; and therefore it is necessary:

16 a. To protect the dark night skies, because they are an essential

17 aspect of our amateur astronomy COMMUNITY; and

18 b. To reduce, as much as reasonably possible, the adverse effects

19 from indoor and outdoor lighting, such as light pollution, light

20 trespass, glare, sky glow, and energy waste; and

21 c. To reduce as much as reasonably possible air pollution, thermal

22 emissions, and any other such uses which would interfere with,



- 1 hinder, obstruct, or would otherwise negatively impact our night
2 skies; and
- 3 d. To protect each and every owner in the COMMUNITY against such use as
4 may depreciate the value of each LOT or the property of others; and
- 5 e. To guard against structures built of improper or unsuitable
6 materials; and
- 7 f. To promote responsible development within the COMMUNITY; and
- 8 g. To promote the peaceful use and the quiet enjoyment within the
9 COMMUNITY; and
- 10 h. To encourage attractive improvements thereon, with appropriate
11 location(s) thereof; and
- 12 i. To provide for the type and quality of improvements in the
13 COMMUNITY consistent with these COVENANTS.

14 The provisions herein contained are part of a common development plan for the mutual
15 benefit and protection of the lot owners, present and future, of any and all of the LOTs or
16 parcels in the COMMUNITY, their respective legal representatives, heirs, successors,
17 grantees, and assigns.

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CLAUSE III.

GENERAL COVENANTS

1. LAND USE. Each LOT within the COMMUNITY shall be used, exclusively, as a site for one (1) SINGLE FAMILY RESIDENTIAL HOME (DWELLING), and one (1) OUT-BUILDING, and up to TWO (2) OBSERVATORY(s) and one (1) GAZEBO. No Duplexes, apartments or any other type of multi-family dwellings shall be permitted.

Without the express written permission of the DEVELOPER, no LOT owner shall provide a license to use; easement(s); access, ingress or egress over or across said LOT to any other LOT, parcel, or other real estate.

No LOT may be resubdivided, split, or re-plated such that any LOT or parcel shall be smaller than two (2.0) acres in size. The Original Owner specifically intends to re-subdivide, split and/or re-plat LOT(s) or parcel(s) of NM SKIES ASTRONOMY ENCLAVE. Nothing herein shall prevent or restrict any lot owner from re-subdividing, splitting, or re-platting any lot, so long as no LOT or parcel shall be smaller than two (2.0) acres in size.

No business use, for-profit astronomy use, "rent-a-scope" or "rent-a-observatory" shall be permitted on any LOT. No sale, license to use, or renting of "time" on any observatory(s) or telescope(s) for the purposes of for-profit "rent-a-scope" or "rent-a-observatory" shall be permitted on any LOT.

Notwithstanding any other provision contained herein, bona-fide not-for-profit and non-profit organizations are permitted uses. So long as the user or end user of the data is a 501c3, a Government agency, a University, a research organization, or other such not-for-profit and



1 non-profit users of the data. Other similar DEVELOPER -OR- HOA approved Professional /
2 Amateur collaborations or astronomy uses may be permitted only with the express written
3 permission of the DEVELOPER -OR- the HOA (either the DEVELOPER or the HOA can give
4 permission). The not-for-profit or non-profit organizations and/or users may pay the lot owner
5 their costs and expenses, directly and/or indirectly attributable to their use. Plus, the non-profit
6 organization may pay the lot owner all reasonable expenses directly and/or indirectly
7 attributable to that organization's special needs or requirements (including construction,
8 observatory(s), man-power, maintenance, operation(s), equipment, etc).

9 Notwithstanding any other provision herein, Home Occupations may be allowed so long
10 as there are NO retail sales from the LOT; and NO customers shall be allowed to come to the
11 LOT; only the LOT owner(s) and their immediate family shall be allowed to work at said Home
12 Occupation; and all Home Occupation activities shall be located solely within the DWELLING,
13 observatory(s), or out-building. Additionally, photographs, prints, drawings and other
14 astronomy related artwork created within the COMMUNITY by the LOT owner(s) and/or their
15 immediate family shall be considered a Home Occupation and said artwork shall NOT be
16 considered commercial or business use.

17 **1 (A). DESIGNATED USE PLAN.** Once the DEVELOPER transfers legal title of any
18 LOT to Successor Owner, the DEVELOPER shall cause to be prepared a "DESIGNATED USE
19 PLAN". Said DESIGNATED USE PLAN shall be recorded with the Otero County Clerk, shall
20 run with the land and be binding upon each LOT and owner. Among other things, each LOT
21 shall have a designated "Observatory Only" area, in which only observatory(s), observatory



1 fences (as may be permitted herein), utilities, shared water lines, shared well(s) and/or
2 appurtenances thereto, and driveways can be located.

3 Each LOT shall have a designated "DWELLING site" area in which a single DWELLING,
4 observatory(s), fenced in area(s), driveway, a single gazebo, patio(s), decks, a single out-
5 building and/or other structures as permitted herein can be located. Each LOT shall have a
6 dedicated "Conservation Area(s)" which must be maintained in its natural condition, except for
7 utilities, water lines and appurtenances, minor recreational facilities such as a garden area not
8 to exceed four-thousand (4,000) square feet, walking trails, a gazebo and up to two (2) picnic
9 tables. Some LOTs may have an "Emergency Ingress/Egress" easements shown on the
10 DESIGNATED USE PLAN, which shall permit emergency vehicles and pedestrians to pass,
11 and DEVELOPER or HOA approved maintenance vehicles. Once recorded, the
12 DESIGNATED USE PLAN may only be modified, amended, or changed by the express written
13 permission of the DEVELOPER and the "then current" LOT owner. As the DESIGNATED USE
14 PLAN is a negotiated agreement solely between the Developer and the LOT owner, no third
15 party beneficiary rights are created or inferred by said document.

16 **2. DWELLING SIZE.**

17 (A). The minimum square footage of the DWELLING (i.e. the above ground, finished
18 and heated living area) shall be **twelve hundred (1,200)** square feet. The minimum depth
19 (front to back) and the minimum width (side to side) dimensions of the home's living area shall
20 be at least twenty (20) feet in all directions. "Single-wide" manufactured and modular homes
21 are not permitted.



1 These minimums shall apply to any replat, split, and/or resubdivision of any LOT
2 specifically described herein. The total area of all structures **attached** to the DWELLING, such
3 as garage(s), work area(s), work shop(s), storage room(s), cellar(s), unfinished areas (which
4 excludes unfinished basements), and/or other non-living area(s) shall not exceed the
5 DWELLING's area.

6 **3. LIGHTING.** All parties agree that it is absolutely necessary to protect our
7 COMMUNITY's night skies from the adverse effects of light pollution, light trespass, glare, and
8 sky glow; and

- 9 a. Dark skies are an essential part of our amateur astronomy community; and
- 10 b. It is pleasing to the senses and to the intellect of mankind to be able to see the
11 dark skies with minimum interference from light pollution; and
- 12 c. Many of the residents of the COMMUNITY enjoy amateur astronomy, but light
13 pollution, light trespass, glare and/or sky glow interferes with their enjoyment;
14 and
- 15 d. Light pollution, light trespass, glare and/or sky glow interferes with the study of
16 planets, comets, stars, galaxies, nebula and other astronomical wonders; and
- 17 e. Dark, night skies are vary rare, and they are a significant asset to our
18 COMMUNITY, and they must be protected; and
- 19 f. The fundamental need to gaze at the night skies can only be fulfilled if we keep
20 our skies dark; and
- 21 g. The proper design and use of lights, fixtures and/or luminaires, will reduce light
22 pollution, light trespass, glare, sky glow, and save energy; and

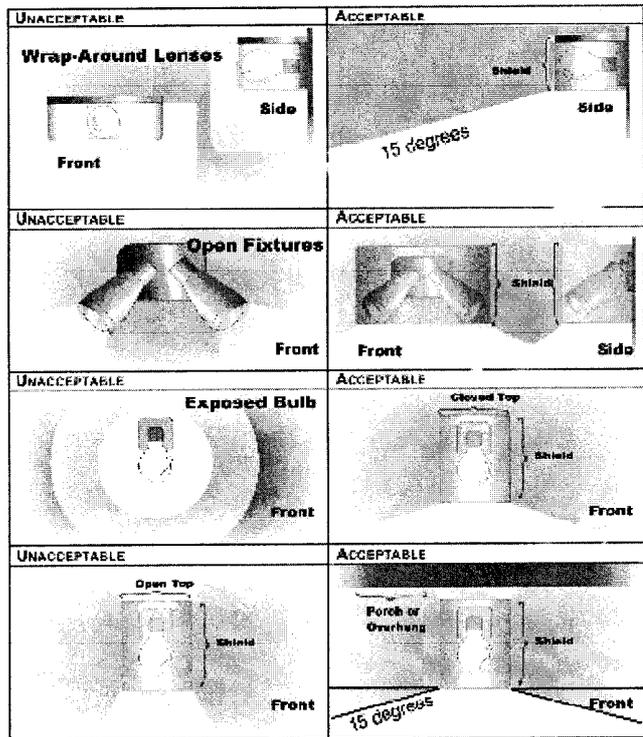
1 h. It is essential for the residents of the COMMUNITY to regulate the use of indoor
2 and outdoor lights, fixtures and luminaires in our COMMUNITY; therefore:

3 This section creates minimum standards for indoor, outdoor and other lighting such that
4 its use does not unreasonably interfere with the enjoyment of other property owners, with
5 astronomical observations, and to promote energy conservation without jeopardizing safety,
6 utility, security and productivity. The purpose of this section is to minimize light pollution, glare,
7 sky glow and light trespass, which has a detrimental effect on the night sky environment,
8 interferes with the enjoyment of the night sky, and causes unnecessary illumination of adjacent
9 properties and the night sky.

10 The terms "lights", "bulbs", "fixtures", "lamps", and "luminaires" may all be referred to as
11 a "light" or "lights" within this document and all lights shall comply with the following:

- 12 A. All outdoor lights, bulbs, fixtures and/or luminaires which are at least three feet
13 (3') above existing grade shall be:
 - 14 (1) Mounted on a building or structure at a height not to exceed eleven feet
15 (11') above finished grade, deck or porch, and mounted no higher than the
16 building eaves; and

(2) Designed and operated as full cutoff, fully shielded fixtures such that light rays emitted by the fixture are only projected in a downward direction, at an angle no greater than fifteen degrees (15°) below the lights' horizon (see sketch); and



(3) Dusk to dawn lighting shall NOT be permitted and all lights permitted under this section shall remain off between the evening's astronomical twilight and next morning's sunrise except for those light that shall be equipped with and controlled by either:

- a. A manual or electronic timer that turns off said light(s) within 4 minutes of being energized; and/or
- b. A motion sensor(s) that turns off said light(s) within 4 minutes of being energized.

(4) The maximum rating of said lights or bulbs shall be: no more than six-hundred (600) lumens for permitted bulb or light; and not more than fifty



- 1 (50) watts for an incandescent bulb or eleven (11) watts for a fluorescent
- 2 or LED bulb; and,
- 3 (5) Only blue, dark blue, red, dark red, green, or dark green light shall be
- 4 permitted to be emitted by said lights. Clear, white, yellow, cyan,
- 5 magenta, light blue, light red, light green, and/or similarly colored exterior
- 6 light emissions are prohibited.
- 7 (6) All permitted lights shall utilize best practices, techniques and/or methods
- 8 which shall cause all the light emitted to be directed downward to the
- 9 surface or area to be illuminated, so that the emanating **source** of light is
- 10 not visible from any angle except those downward angles that exist
- 11 between the fixture and the area to be illuminated. The emanating light
- 12 **source** shall not be visible from any adjacent properties or roadways.
- 13
- 14 B. Above ground, outdoor light poles, post lights, roadway lights, driveway lights,
- 15 walkway lights and all other light standards, bollards, poles and other such lights,
- 16 luminaires or fixtures not attached to a building or structure shall not exceed
- 17 three feet (3') in height above existing grade, deck or porch. Lights which
- 18 illuminate walkways, driveways, roadways, patio(s), yard area(s), are permitted
- 19 provided that said light(s):
- 20 (1) Are designed and operated as full cutoff, fully shielded fixtures; and
- 21 (2) The maximum rating of said lights or bulbs shall be: not more that one-
- 22 hundred and fifty (150) lumens for permitted bulb or light; and not more

1 than thirteen (13) watts for an incandescent bulb, nor more than three (3)
2 watts for fluorescent or LED bulb; and
3 (3) Shall not be located closer than ten feet (10') from any property line.

4 C. All lighting systems shall be designed, and operated so that the area at the
5 property line of the LOT receives no more than 0.1 (one tenth) of one footcandle
6 (lumens per square foot) of light from the LOT's indoor and outdoor, combined
7 light(s) and/or light systems. The Home Owners Association (HOA) shall
8 maintain, in good working order, a digital light meter, with a National Institute of
9 Standards and Technology (NIST) traceable "Certificate of Calibration" which
10 shall be used to determine conformance with these provisions.

11 D. As much as reasonably practical, all vehicle lighting shall comply with the light
12 restrictions herein and as regulated by the HOA and shall utilize best practices,
13 techniques and/or methods which shall cause all the light emitted to be directed
14 downward to the surface or area to be illuminated. The emanating source of
15 vehicles light shall be minimally visible from any angle, except those forward and
16 downward angles that exist between the vehicle lights and the area to be
17 illuminated.

18 E. All outdoor, above ground level light fixtures shall bear the "Fixture Seal of
19 Approval" from the International Dark Skies Association (IDA Approved Dark Sky



1 Friendly), or equal rating as may be approved by the ARCHITECTURAL
2 CONTROL COMMITTEE or the HOA.

3 F. Exterior searchlights, spotlights, floodlights, laser lights and any other upward or
4 sideward pointing lights, bulbs, fixtures or luminaires are hereby prohibited. High
5 Pressure Sodium, Low Pressure Sodium, Metal Halide, Quartz, Xenon, Halogen,
6 Mercury Vapor, Carbon Arc and other such lights are hereby prohibited. Laser or
7 other artificial guide stars are prohibited.

8 G. All reasonable methods shall be used to keep interior lights from causing light
9 pollution, light trespass, glare and/or sky glow, including, but not limited to:
10 turning off unnecessary lights, reducing the wattage of bulbs, and the proper use
11 of windows blinds, shades or curtains.

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13 H. These COVENANTS provide the minimum standards for reducing light pollution,
14 light trespass, glare and sky glow which must be met by all LOT owners. The
15 HOA may establish bylaws, conditions, rules, procedures and other provisions
16 which further limit light pollution, light trespass, glare and/or sky glow. The HOA
17 may establish rules on new and innovated techniques in lighting, and they may
18 establish additional restrictions on the placement, location, size, type, quantity,
19 style, wattage, lumens, light output and color of lights, bulbs, fixtures, luminaires,
20 hand held lights, vehicle lights and/or other light sources.

- 1 J. Court yards, atriums, skylights, solar tubes, sun tunnels and other such potential
2 sources of upwardly directed light shall only be permitted under the following
3 conditions and restrictions:
- 4 1. The light emitted shall not exceed 0.1 (one tenth) of one footcandle at the
5 property line; and
 - 6 2. Not more than 1 (one) footcandle shall be emitted in an upward direction,
7 as measured four (4) feet above the light source's point of emission or the
8 structure's roof; and
 - 9 3. Upon 48 hours notice written notice, the LOT owner shall allow the HOA
10 access to said light source(s) for measuring emitted light and determining
11 compliance with these rules.

12 **4. ARCHITECTURAL CONTROLS.** Architectural controls shall be in effect to govern
13 the SURVEY, the design and style of the DWELLING, observatory(s), out-building, and/or
14 associated structures, final grading of the LOT, water conserving plumbing fixtures, Dark Sky
15 Friendly lighting, and other items as described herein (see also Appendix A, "Check List of
16 Requirements for Construction"). The ARCHITECTURAL CONTROL COMMITTEE shall
17 consist of the DEVELOPER, or its designated agent(s), or assignee(s). After all LOTs have
18 been built upon, or at such earlier time as the DEVELOPER deems appropriate, the
19 architectural control of the COMMUNITY shall be vested with and continued by the HOA,
20 thereby turning over architectural control to the LOT owners themselves, and the
21 DEVELOPER shall thereupon be relieved and discharged from all said duties.



1 The LOT owner is the person who has the authority, ability and the responsibility to
2 control their LOT, their employees, their guests, their invitees, and to hire and fire their
3 contractors, their subcontractors, and their materials suppliers. Therefore, neither the other
4 LOT owners, nor the DEVELOPER, nor the ARCHITECTURAL CONTROL COMMITTEE, nor
5 the HOA, nor any agent(s) thereof, shall be responsible in any way for any defects in plans,
6 specifications, survey, materials, workmanship, or other such items, nor for any other defects
7 thereto. By purchasing a LOT within the COMMUNITY and/or by building upon said LOT, the
8 "then current" LOT owner accepts full responsibility (financial and otherwise) for their own
9 actions, their guest's actions, their invitee's actions, their contractor's actions, their
10 subcontractor's actions, their material supplier's actions, and their respective employee's
11 actions, and said LOT owner shall pay for and reimburse the DEVELOPER, the HOA and/or
12 other LOT owners who have incurred or sustained losses, damage, costs, and reasonable
13 attorney fees as a result of said actions. This paragraph shall include all intentional or
14 unintentional: acts, errors, omissions, damage, or other actions, to one's own property and/or
15 the property of others, and/or damage to the roads within the community.

16 In all cases where construction is ongoing, the LOT owner shall: 1) maintain adequate
17 sanitary facilities for the workers; 2) maintain a valid, general liability insurance policy in the
18 amount of five-hundred thousand dollars (\$500,000.00) or more, naming the DEVELOPER and
19 the HOA as an "additional insured"; and 3) maintain construction / safety fencing as required in
20 paragraph 13 herein. Proof of insurance shall be submitted to the ARCHITECTURAL
21 CONTROL COMMITTEE (in duplicate) at the time of plan submission, documenting said
22 insurance.

1 Written approval of all plans, specifications, SURVEY(s), the "Check List" (see
2 APPENDIX A), and other required items, by the ARCHITECTURAL CONTROL COMMITTEE
3 shall be required prior to the start of construction of any DWELLING, and/or observatory,
4 and/or out-building, and/or other permitted improvement(s). It is highly recommended that the
5 LOT owner begin informal, non-binding, communications with the ARCHITECTURAL
6 CONTROL COMMITTEE at their earliest convenience regarding plan approval(s). Informal,
7 "rough-draft" site plans, building plans, and specifications can be prepared with a minimal
8 amount of effort by the LOT owner. The approval process goes much smoother, quicker and
9 easier for all parties if adequate time is spent properly planning the improvements.

10 An original SURVEY, prepared by a Professional Surveyor, licensed by the State of
11 New Mexico (SURVEYOR), and not altered in any way, shall be submitted to the
12 ARCHITECTURAL CONTROL COMMITTEE (in duplicate) showing dimensions to, and the
13 location of: property lines, driveway, utilities, side yard setback lines, front setback line, rear
14 setback line, all information contained on the DESIGNATED USE PLAN, construction/safety
15 fence, easements, all existing and proposed structures (DWELLING, out-building, gazebo
16 and/or observatory(s)), existing and proposed grades, well(s), water lines, septic field,
17 landscaping area, permanent fences, clear areas, utilities, garden area, outdoor light fixtures,
18 patio(s) and all other proposed improvements or alterations to the LOT. It is highly
19 recommended that the LOT owner's SURVEYOR contact the ARCHITECTURAL CONTROL
20 COMMITTEE to discuss the COMMUNITY's requirements prior to starting work on any
21 SURVEY. A properly prepared SURVEY can save the LOT owner substantial time and
22 money.



1 DWELLING styles shall be compatible with the existing area and the contour of the
2 land. Walkout basements, lower level garages, and “daylight” basements may be permitted
3 where the DESIGNATED USE PLAN allows. Minimal grade changes are permitted (less than
4 four foot (4') from existing grade). Minor grade changes may be permitted (between four foot
5 (4') and eight feet (8') from existing grade) with the express written permission of the
6 DEVELOPER or the ARCHITECTURAL CONTROL COMMITTEE or the HOA, but grade
7 changes greater than eight (8') are hereby prohibited. Only DWELLING styles compatible with
8 the architecture of the southwest United States shall be permitted. Diversity in DWELLING
9 styles, roof lines and appearance shall be encouraged (identical DWELLING styles will be
10 discouraged). Except for “Santa Fe” style homes (adobe with flat roofs), observation decks,
11 and other roof styles permitted with the express written permission of the DEVELOPER or the
12 ARCHITECTURAL CONTROL COMMITTEE, the minimum allowable roof slope shall be three
13 feet (3') of rise in twelve feet (12') of run.

14 Only new Modular, Manufactured, and Site-Built single family homes (DWELLING) shall
15 be erected within the COMMUNITY. No temporary DWELLING(s) shall be allowed. No used,
16 or previously occupied DWELLING shall be allowed to be built or place on any LOT. All
17 materials shall be new, professionally finished, and/or first quality. Fire resistant building
18 materials (such as fiber cement siding and metal roofs) are strongly encouraged and a
19 perimeter “clear area” for fire protection may be maintained. All Manufactured Homes shall
20 have permanent skirting around the entire DWELLING made from masonry or cement
21 products such as brick, block, concrete, EIFS (e.g. Dryvit or Synergy), stucco and/or other
22 masonry or cement products as may be approved by the ARCHITECTURAL CONTROL
23 COMMITTEE.

1 All plumbing fixtures and appliances shall be designated by the manufacturer as
2 "WATER SAVING", "LOW FLOW" and/or "WATER CONSERVING". The location of all lights,
3 fixtures and/or luminaires shall be shown on the SURVEY(s) or on the plan(s), and shall
4 comply with all requirements herein.

5
6 **4 (A). FORMAL PLAN REVIEW PROCESS.** Two (2) complete sets of building
7 plans, professionally prepared, legibly drawn to an appropriate scale (e.g. 1/4" = 1'), written
8 copies of all plans, specifications, SURVEY(s), the CHECK LIST completed and signed by the
9 owner, proof of insurance, and one (1) plan review fees (if required) shall be submitted **by the**
10 **LOT OWNER** (submissions by architects, engineers, contractors and/or other parties, will not
11 be accepted) to the ARCHITECTURAL CONTROL COMMITTEE for their formal review. No
12 "reversed" or "mirror image" plans shall be accepted (all text and dimensions shall be clearly
13 and properly readable). Said submissions are subject to the ARCHITECTURAL CONTROL
14 COMMITTEE's review and determination of conformance with these COVENANTS. Plan
15 review will begin ONLY after the ARCHITECTURAL CONTROL COMMITTEE **RECEIVES**
16 **TWO (2) COMPLETE SETS OF: PLANS, SPECIFICATIONS, SURVEY(s), COMPLETED**
17 **CHECK LIST SIGNED BY THE OWNER, PROOF OF GENERAL LIABILITY INSURANCE,**
18 **and ONE (1) PLAN REVIEW FEE (if required)** for the proposed improvements (a Complete
19 Submission). Incomplete submissions shall NOT be reviewed until such time as all the
20 necessary documents (a Complete Submission) have been received. Approval or disapproval
21 shall be given by the ARCHITECTURAL CONTROL COMMITTEE, in writing, within thirty (30)
22 days after a Complete Submission has been received by the ARCHITECTURAL CONTROL

1 COMMITTEE. Should the ARCHITECTURAL CONTROL COMMITTEE find any required
2 item(s) to be deficient, defective, or does not comply with these COVENANTS, they shall notify
3 the LOT owner in writing of the disapproval and they shall list all deficiencies. Should
4 deficiencies be found, the LOT owner shall start the review process over with a revised,
5 amended and/or corrected submission as outlined in the disapproval letter. Once the LOT
6 owner corrects said deficiencies, the PLAN APPROVAL PROCESS shall begin with a
7 subsequent submission that starts the 30 day review period anew. The first, formal PLAN
8 REVIEW by the ARCHITECTURAL CONTROL COMMITTEE under this section is at no charge
9 to the LOT owner. Subsequent PLAN REVIEW(s), regardless of the reason, for the same
10 LOT(s) shall be charged a three hundred dollar (\$300.00) PLAN REVIEW FEE for each and
11 every subsequent submission, payable directly to the ARCHITECTURAL CONTROL
12 COMMITTEE's designated plan reviewer. Payment in full shall accompany subsequent
13 submission(s) to cover the costs of the subsequent PLAN REVIEW PROCESS.

14 Partial plan approval(s) shall not be permitted, although a Complete Submission may be
15 submitted separately for the DWELLING, the observatory(s), the out-building and/or any other
16 permitted improvements. Separate plan reviews shall be treated as a subsequent submission
17 and a PLAN REVIEW FEE(s) shall be due and payable at the time of subsequent
18 submission(s). Construction may commence only when written approval is granted by the
19 ARCHITECTURAL CONTROL COMMITTEE or as permitted herein. In the event neither
20 written approval, nor disapproval is granted by the ARCHITECTURAL CONTROL
21 COMMITTEE, construction may commence after forty (40) days (allowing thirty (30) days for
22 plan review and ten (10) days for return mail or courier) from the time the ARCHITECTURAL
23 CONTROL COMMITTEE received a Complete Submission. Whether construction



1 commenced by written approval of the ARCHITECTURAL CONTROL COMMITTEE or by the
2 ARCHITECTURAL CONTROL COMMITTEE's failure to act in a timely fashion, all
3 improvements shall conform to these COVENANTS. Failure of the ARCHITECTURAL
4 CONTROL COMMITTEE to act in a timely fashion is NOT a waiver by the DEVELOPER, the
5 ARCHITECTURAL CONTROL COMMITTEE, or the HOA, nor does it imply any type of an
6 approval.

7 The DWELLING, observatory(s) and/or out-building on said LOT shall be built by a
8 licensed and bonded general contractor, or an owner who has successfully passed the general
9 contractor's licensing examination given by the appropriate governmental authority, or by an
10 owner who can provide written documentation of actual experience and/or formal training
11 which demonstrates to the ARCHITECTURAL CONTROL COMMITTEE a level of competency
12 required to professionally complete said improvements in a timely and workmanlike manner.
13 All construction shall be completed within nine (9) months from the date of issuance of the
14 building permit. No improvement which has been partially or totally destroyed by fire or
15 otherwise, shall be allowed to remain in such state for more than three (3) months from the
16 time of such destruction or damage.

17 **4 (B). CERTIFICATE OF OCCUPANCY.** The LOT owner shall provide written notice
18 to the DEVELOPER, the ARCHITECTURAL CONTROL COMMITTEE **AND** the HOA, as
19 required herein, of the issuance of the Certificate of Occupancy for the DWELLING,
20 observatory(s), out-building and/or any other permitted structure. The ARCHITECTURAL
21 CONTROL COMMITTEE, the DEVELOPER, and/or the HOA may inspect the improvements
22 within 120 days after receipt of the LOT owner's written notice of Certificate of Occupancy for
23 compliance with these COVENANTS. If deficiencies or non-compliance with these covenants
24 are found, the ARCHITECTURAL CONTROL COMMITTEE, the DEVELOPER and/or the HOA

1 shall notify the LOT owner in writing of said deficiencies consistent with the NOTICE &
2 REMEDIES provision herein. If no suit has been filed prior to expiration of the applicable New
3 Mexico Statute of Limitations, with all parties agreeing that the date of commencement for said
4 Statute of Limitations begins on the date of said inspection by the ARCHITECTURAL
5 CONTROL COMMITTEE, the DEVELOPER and/or the HOA, said improvement shall be
6 deemed to comply with the appropriate COVENANTS by the ARCHITECTURAL CONTROL
7 COMMITTEE and the HOA.

8 **4 (C). OBSERVATORY(S) AND HEIGHT LIMITS.** No more than **TWO (2)**
9 observatories (Dome, Clamshell, roll-off roof, etc.) shall be permitted on any LOT. The total
10 ground level footprint area of all observatories, including any "warm rooms" shall not exceed
11 **five hundred (500) square feet** (e.g. a 15' diameter observatory = 177± sq. ft.). Some lots
12 may be permitted an additional observatory, which shall be built on the mountain-top
13 "OBSERVATORY PARK", as shown on a certain survey recorded on June 4th, 2012, as
14 reception #201004869 in the office the Otero County Clerk, Otero, NM.

15 The maximum height of any and all improvements, including, but not limited to:
16 DWELLING, antenna(s), wind generators, solar collectors, tower(s), out-building, additional
17 structure(s), and/or any appurtenance thereto shall be twenty-five feet (25') above existing
18 ground level to the highest point, except as provided for herein. Observatory(s) are limited to
19 twenty feet (20') in height above existing grade. For all height measurements in this document,
20 the maximum height shall be measured from highest existing ground level, immediately
21 adjacent to said DWELLING, out-building, observatory, roof, dome, clamshell, roll off, parapet
22 wall, structure, security camera, air terminal (lightning rod), antenna, tower, or any other
23 system, mounted thereto.



1 Notwithstanding any other provision herein, robotically controlled air terminals (lightning
2 rods) which can be raised and lowered may be permitted with the express written permission
3 of the DEVELOPER or the HOA provided that:

- 4 1. The default, normal, failsafe location for the robotic air terminals shall be
5 retracted to the maximum permitted height of the structure they are attached to;
6 and
- 7 2. The maximum, temporary height of the robotic air terminals at the elevated
8 height shall not exceed ten (10) feet above the maximum permitted height of the
9 structure they are attached to; and
- 10 3. The robotic air terminals shall only be elevated during periods of bona-fide
11 lightning events and shall be controlled by advanced lightning detection
12 equipment acceptable to the HOA and/or the DEVELOPER.

13 The LOT owner shall provide sufficient information on his plans and/or his SURVEY
14 which documents the maximum height of all improvements, and they shall provide working
15 drawings of the electrical and mechanical details pertaining to the robotically controlled air
16 terminals.

17
18 **5. ADDITIONAL STRUCTURES.** No garage, barn, storage shed, green house,
19 gazebo, outbuilding, or any other additional structure (out-building) shall be used either
20 temporarily or permanently as a DWELLING or residence. Prior to construction of the
21 DWELLING, a single recreational vehicle, travel trailer, or other mobile housing unit may be
22 used by the LOT owner as an observatory warm room or living quarters for up to four (4)
23 months during any calendar year. During the construction of the DWELLING, observatory(s),

1 and/or out-building, a single recreational vehicle, travel trailer or other mobile housing unit may
2 be used as temporary living quarters for the owner. Additionally, during said construction, a
3 fully enclosed storage trailer or container may be kept on site for material storage only. Once
4 the Certificate of Occupancy has been granted by the appropriate authority, said temporary
5 living quarters and/or storage unit shall be removed within two (2) months.

6 Notwithstanding anything contained herein to the contrary, no more than ONE (1) of the
7 following detached structures shall be allowed: garage, barn, storage shed, green house,
8 warm room, or any other structure (out-building), shall be permitted on each LOT, AND one (1)
9 gazebo (not to exceed one hundred and forty-four (144) sq. ft. in ground level footprint area).

10 The total square footage of said additional structure (not counting the gazebo) shall not exceed
11 one thousand (1,000) square feet in ground level footprint area, and the materials used on the
12 exterior of said structure shall be new, first quality, and professionally finished. The
13 appearance of the additional structure shall match the design, color, character and style of the
14 DWELLING, or the observatory.

15 No trailers, boats, recreational vehicles, all terrain vehicles, machinery, equipment, or
16 other similar items are permitted to be stored on any LOT for a period of time in excess of four
17 (4) months in any twelve (12) month period, unless said property is stored in a fully enclosed
18 building. No licensed or unlicensed motor vehicles with a rated capacity of more than one (1)
19 ton are permitted to be stored on any LOT for a period of time in excess of two (2) weeks in
20 any twelve (12) month period, unless said vehicle is stored in a fully enclosed building.

21 Damaged and/or wrecked and/or non-roadworthy motor vehicles (licensed or unlicensed) shall
22 not be permitted on any LOT for a period of time to exceed two (2) weeks. ONLY properly
23 licensed, roadworthy motor vehicles, one (1) ton or less rated capacity, which are in good
24 working order and proper repair, and/or those OFF ROAD AND/OR UNLICENSED VEHICLES

1 which have valid, written permission from the HOA to use the COMMUNITY's roadways
2 pursuant to the paragraph titled "OFF ROAD AND/OR UNLICENSED VEHICLES" herein, are
3 exempt from this paragraph.

4 **6. BUILDING LOCATION.** No DWELLING, garage, out-building, observatory or other
5 structure shall be located closer than: twenty feet (20') from a side property line; forty feet (40')
6 from the front property line or roadway easement; or fifteen feet (15') from the rear property
7 line, or other such distance as shown on the DESIGNATED USE PLAN.

8 **7. WOODLANDS PRESERVATION.** No tree over 4" in diameter, measured 1 foot
9 above grade, shall be removed without good cause. Good cause shall be limited to those
10 trees which are necessary to build one's DWELLING, driveway, septic, out-building,
11 observatory(s), or other permitted improvement(s), or those trees which have been found to be
12 dead, dying, diseased, or pose a hazard to life, limb or property, as attested to by a qualified
13 tree surgeon. No trees over 4" in diameter, measured 1 foot above grade, shall be removed
14 within the first forty feet (40') along or adjacent to any roadway, except for the driveway.
15 Additionally, a fire protection "clear area" of up to thirty feet (30') may be maintained between
16 any permitted structure and surrounding trees on one's LOT. All LOTs shall comply with the
17 then current, local fire department's "clear area" requirements for fire protection. Conservation
18 Areas shall preserve all trees, wherever reasonably practical.

19 **8. FENCES.** All permanent fences shall be constructed of such materials and in a
20 manner which does not detract from the natural quality and aesthetic appearance of the
21 existing geographic areas within the COMMUNITY. The materials, height and location of said



1 fence shall be consistent with the DESIGNATED USE PLAN. Except as expressly permitted
2 herein or as shown on the DESIGNATED USE PLAN, no fence of any kind shall be erected,
3 placed or maintained in the area between the front, exterior wall of the DWELLING and the
4 front property line. All fences shall be kept in good repair by the owner. Fences are only to be
5 constructed within the area(s) shown on the DESIGNATED USE PLAN, the "DWELLING site"
6 area and/or immediately surrounding a ground level observatory. The maximum square
7 footage of the combined fenced-in area shall not exceed five-thousand (5,000) square feet.
8 No permanent fence shall be located closer than twenty feet (20') from any side property line,
9 or fifteen feet (15') from the rear property line. The HOA may establish bylaws, conditions,
10 rules, procedures and other provisions which further limit fences.

11 **9. MAINTENANCE OF LOTS AND IMPROVEMENTS.** The owner of any LOT in the
12 COMMUNITY shall, at all times, maintain the LOT and any improvements situated thereon in
13 such a manner as to prevent the LOT or improvements from becoming unsightly; and,
14 specifically, such owner shall:

- 15 (i) Remove all trash, debris or rubbish; and
- 16 (ii) Prevent the existence of any item(s) that reasonably tend(s) to detract
17 from or diminish the aesthetic appearance of the LOT; and
- 18 (iii) Keep the exterior of all improvements in such state of repair or
19 maintenance as to avoid their becoming unsightly or unsafe; and
- 20 (iv) Keep all building materials, tools, equipment, machinery, and any other such
21 items out of plain sight or stored within a building; and
- 22 (v) The HOA may establish bylaws, conditions, rules, procedures and other
23 provisions which further specify maintenance duties.



1 **10. NUISANCES.** No noxious or offensive activity shall be carried on or upon any LOT,
2 nor shall anything be done thereon which is, or may become an annoyance or nuisance to the
3 COMMUNITY. No waste, trash or garbage of any sort shall be allowed on any LOT. The HOA
4 may establish bylaws, conditions, rules, procedures and other provisions which further limit
5 nuisances.

6 **11. ANIMALS.** No livestock, poultry or any other farm animal(s) shall be kept on any
7 LOT. Only domesticated house pets shall be excepted from this provision. The HOA may
8 establish bylaws, conditions, rules, procedures and other provisions which further limit animals.

9 **12. WEAPONS.** The use of firearms or weapons within the COMMUNITY is strictly
10 prohibited. No hunting, no target practice, nor any other use of firearms, nor any other
11 weapons are allowed to be used or discharged within the COMMUNITY. The HOA may
12 establish bylaws, conditions, rules, procedures and other provisions which further limit
13 weapons.

14 **13. CONSTRUCTION OF DRIVEWAYS AND SAFETY FENCING.** All driveways and
15 entrances to any LOT shall be covered with at least four inches of stone base course. It is
16 recommended that the stone base course be in place prior to tree clearing, and it is required
17 that the stone base be in place prior to any foundation excavation and said stone driveway
18 shall be maintained in good condition at all times. Prior to the ARCHITECTURAL CONTROL
19 COMMITTEE granting approval of any improvements, the LOT owner shall install a temporary,
20 high visibility, 4' high (minimum) construction/safety fence entirely surrounding all of the

1 proposed improvements, with only one opening not to exceed 25' wide located at the driveway.
2 Said safety fence shall be kept in good repair and maintained in a professional, workmanlike
3 manner during the entire construction period and shall be removed within two (2) weeks after
4 the Certificate of Occupancy has been granted. Adequate silt fencing, and other erosion
5 control measures are the sole responsibility of the LOT owner. No silt, sediment, erosion or
6 soil shall be permitted on the roadways of the COMMUNITY, nor shall same be permitted to
7 leave one's property.

8 **14. ON-ROADWAY PARKING.** No on-roadway parking is permitted without the
9 express written permission of the DEVELOPER or the HOA. The HOA may establish bylaws,
10 conditions, rules, procedures and other provisions which further limit and/or allow on-roadway
11 parking for one-time social events and other such gatherings.

12 **15. LANDSCAPING.** All landscaping shown on the survey, plans and specifications as
13 approved by the ARCHITECTURAL CONTROL COMMITTEE and such other landscaping as
14 is necessary for the integrity of the COMMUNITY shall be completed by the LOT owner within
15 one hundred and eighty (180) days of occupancy. ONLY native, locally grown landscaping
16 shall be permitted. No invasive species shall be permitted. The HOA may establish bylaws,
17 conditions, rules, procedures and other provisions which further limit plants, species and
18 landscaping.

19
20 **16. FIREPLACES and THERMAL EMISSIONS.** Only UL listed, high efficiency
21 (90%+) gas furnaces, gas boilers, and gas water heaters shall be permitted to vent outside the
22 DWELLING, OUT-BUILDING or other permitted structure. Wherever possible, side venting of



1 the permitted gas appliances shall be encouraged. Other vented appliances or heaters, such
2 as fireplaces, kilns, ovens, heaters, or stoves, either gas, wood or oil burning or any other heat
3 source(s) are prohibited. Unvented fireplaces, kilns, ovens, heaters, or stoves (those which do
4 not vent to the outside) shall be allowed. No fireworks, nor any type of smoke generating or
5 emitting device shall be permitted within the COMMUNITY. The HOA may establish bylaws,
6 conditions, rules, procedures and other provisions which further limits such uses, or emissions.
7 Propane storage tanks shall be located in an area which is minimally visible from the roadway.

8 **17. OUTDOOR FIRES.** Notwithstanding the previous section, commercially
9 purchased, UL listed, gas barbeques may be used where there is a minimum 10' radius of
10 fireproof material surrounding the gas barbeque. Use of said barbeques shall be limited to
11 those hours between sun rise and that evening's astronomical twilight. Fire pits are prohibited.
12 All other outdoor fires, charcoal or wood burning barbeques, and/or other burning is strictly
13 prohibited. No bon-fires, trash burning, construction material burning, or other outdoor fires
14 are permitted. The HOA may establish bylaws, conditions, rules, procedures and other
15 provisions which further limit such uses.

16 **18. OFF ROAD AND/OR UNLICENSED VEHICLES.** The use of off road and/or
17 unlicensed vehicles is restricted to operation by persons at least 21 years of age, and for non-
18 recreational purposes only (i.e. no joy riding). Permitted uses of said vehicles are: land
19 clearing; property maintenance; construction of DWELLING, out-building or observatory(s);
20 and/or other uses which may be permitted by the HOA. Said vehicles' exhaust shall be fully
21 muffled, fully baffled, spark arrested and shall comply with reasonable sound emission limits as

1 may be set by the HOA. The use of these vehicles on the roadways within the COMMUNITY
2 is a privilege, not a right. These vehicles may only be used on the roadways within the
3 COMMUNITY with the express written permission of the Developer or the HOA. These
4 vehicles and their operators shall obey all traffic rules, traffic control signs, speed limit signs,
5 and shall be driven in a professional, courteous manner, and they shall yield Right-of-Way to
6 all licensed vehicles. The HOA may establish bylaws, conditions, rules, procedures and other
7 provisions which further limit or restrict the use of said vehicles within the COMMUNITY.
8 Failure to follow these rules may result in the suspension of the vehicle's use and/or owner's
9 privilege to use said vehicles within the roadways of the COMMUNITY.

10

11 **19. AIRCRAFT.** The use of piloted, remote control, guided, or unguided airplanes, air
12 ships, helicopters, drones, rockets, projectiles, fireworks, and other such uses are prohibited
13 within the COMMUNITY. The HOA may establish bylaws, conditions, rules, procedures and
14 other provisions which further limit such aircraft use.

15

16 **20. RENTAL OF DWELLING.** As this COMMUNITY desires to be a predominantly
17 owner occupied, amateur astronomy enclave, the rental of one's DWELLING is a privilege, not
18 a right. It is essential the COMMUNITY knows who our neighbors are. Therefore, the HOA
19 shall establish formal written procedures which may permit limited DWELLING rentals
20 consistent with this section. These COVENANTS shall establish a minimum amount of rental
21 time(s) that may be permitted. Rentals shall be permitted only with the express written
22 permission of the HOA (which shall not be unreasonably withheld), a minimum rental period of
23 30 consecutive days shall be allowed for the DWELLING rental, and a maximum of 4 rental

1 periods shall be permitted in any 12 months. No rental of the just the observatory(s), and/or
2 out-building shall be permitted. Incidental use of the observatory(s) and LOT by the renter will
3 be permitted only during the DWELLING's approved rental period(s). All rentals shall be at fair
4 market value, "arms-length" transactions.

5 The HOA shall establish a written policy for approving and/or disapproving prospective
6 renters, which may include the minimum criteria for screening prospective renters. The HOA
7 may establish bylaws, conditions, rules, procedures and other provisions which further limit or
8 restrict rentals. Notwithstanding the previous paragraphs, the DEVELOPER may keep a single
9 rental DWELLING for use by existing LOT owners prior to the time their DWELLING is
10 completed, and for use by prospective LOT purchasers.

11 **21. ROAD MAINTENANCE and SHARED WATER USE.** Outdoor use of the shared
12 water is hereby prohibited. Car washing, irrigation, watering of trees, lawn, landscaping,
13 gardens and/or such use(s) shall be prohibited with the shared water. Only domestic, indoor
14 use, and bona-fide fire protection use of the shared water shall be allowed.

15 Ownership, maintenance, operation, upkeep and all other day to day functions
16 pertaining to the roadway maintenance, the shared water system and other such purposes as
17 the HOA may establish shall be vested solely with the HOA. The HOA may establish
18 additional bylaws, conditions, rules, dues, fees, assessments, or other procedures to efficiently
19 operate such obligations.

20 All LOTs shall be equipped with HOA approved: 1). back flow prevention devices; 2).
21 on-site hydro-pneumatic storage tanks; and 3). water meter installed to monitor the
22 consumption of water from the shared water system, and the installation of same shall be

1 acceptable to the HOA. All LOT owners shall allow a representative(s) from the HOA access
2 to their LOT at reasonable times, for meter reading, inspection of improvements, and
3 compliance with the rules of the HOA and/or the shared water system. Consistent with
4 requirements herein and/or with the requirements of New Mexico Office of the State Engineer (
5 NM OSE) 72-12-1 (and others) water well permit(s):

- 6 a. Each LOT shall be permitted to use not more than eighty-one thousand and four
7 hundred (81,400) gallons (approximately one quarter (1/4) acre-foot) of shared
8 water during any twelve (12) month period, measured quarterly. The amount and
9 uses of water permitted are subject to such limitations as may be imposed by
10 these COVENANTS, the HOA, the NM OSE, the courts, and/or by lawful
11 municipal and county ordinances; and
- 12 b. Water use shall be consistent with the then current NM OSE rules and
13 regulations. The HOA may establish bylaws, conditions, rules, procedures and
14 other provisions in regards to water use; and
- 15 c. All LOT owners shall utilize the highest and best technology(s) available to
16 ensure conservation of the shared water to the maximum extent practical; and
- 17 d. Failure to pay the "then current" shared water availability, usage, connection,
18 and/or maintenance fees, violation of any water rules, or other shared water use
19 rules as may be established by the HOA, or doing anything that could result in
20 contamination of the shared water system may result in immediate shut-off from
21 the water system by the HOA. Turn-on of the water shall be permitted only after
22 the contamination, payment of all fees, or other water issue has been corrected
23 to the satisfaction of the HOA. Use of the shared water is a privilege, and not a



1 right. The HOA shall establish written procedures to monitor water use, notify
2 users of any alleged violations, and to suspend water service for cause. The
3 HOA may establish bylaws, conditions, rules, procedures and other provisions
4 which further limit shared water use, and said rules and fees shall apply to all
5 LOT owners equally, regardless of whether the LOT contains a DWELLING or
6 not.

- 7 e. As no one can guarantee water quality or quantity from the water wells, neither
8 the Developer, the ARCHITECTURAL CONTROL COMMITTEE, the HOA, nor
9 any other person or entity shall be held liable for the water quantity, quality, or
10 any changes thereto by any LOT owner(s), their families, their guests or invitees.

11 **22. ONSITE FIRE PROTECTION WATER STORAGE.**

Each LOT shall have an
12 onsite water storage tank (above or below ground) for fire protection use installed prior to the
13 Certificate of Occupancy being issued for the DWELLING. Minimum onsite fire protection
14 water storage shall be 2,000 gallons and the tank(s) must, at all times, be filled with chlorinated
15 water. If the tank is filled via the shared water system, an HOA approved back-flow prevention
16 device(s) and an approved air gap device shall be installed and properly maintained by the
17 owner at all times. Access to the fire protection water tank(s) shall be clearly marked so that it
18 is visible from the road, and the water may be used by any bona-fide fire fighting organization.
19 The fire protection water shall be totally isolated from the shared water system. Cross
20 connection and/or cross contamination shall be prohibited. The storage system shall be
21 installed consistent with best practices and all applicable codes. Prior to backfilling of the fire
22 protection water storage system and from time to time thereafter the HOA and/or the

1 ARCHITECTURAL CONTROL COMMITTEE shall be permitted to inspect said system for
2 compliance, and to insure no cross connection(s) with the shared water system exists. The
3 HOA may establish bylaws, conditions, rules, procedures and other provisions regarding the
4 onsite, fire protection storage. In lieu of an on-site water storage tank, the HOA may
5 designate community "tank farm" areas for the homeowner's fire water storage tank.

6 **23. RAIN WATER STORAGE SYSTEMS.** Rain water and/or grey water storage
7 systems may be installed for irrigation purposes and other outdoor use. Said water storage
8 system shall be installed consistent with best practices, disinfected as necessary, and comply
9 with all applicable codes. Prior to backfilling of said water storage system and from time to
10 time thereafter the HOA and/or the ARCHITECTURAL CONTROL COMMITTEE shall be
11 permitted to inspect said system for compliance, and to insure no cross connection(s) with the
12 shared water system exists. The HOA may establish bylaws, conditions, rules, procedures
13 and other provisions which further limit or restricts said water system use.

14 **CLAUSE IV.**

15 **GENERAL PROVISIONS**

16 **IV - 1. SEVERABILITY.** In the event that any part(s) of the COVENANTS is construed
17 or declared unenforceable by a Court of competent jurisdiction, the remainder shall so
18 continue in full force and effect as though the unenforceable portion or portions were not
19 included herein.

1 **IV - 2. INITIAL TERMS AND EXTENSIONS.** These COVENANTS shall run with the
2 land and shall be binding on all parties, persons, or entities claiming under them or onto the
3 land for a period of twenty (20) years from the date of recording of this document. After which
4 time said COVENANTS shall automatically extend for successive periods of 10 years, unless a
5 written agreement, signed by seventy-five percent (75%) or more of the “then current” LOT
6 owners has been properly recorded, modifying these COVENANTS in whole or in part. Prior
7 to time of the Original Owner transferring title to a Successor Owner (as defined herein), the
8 Original Owner may modify, amend and/or revise the COVENANTS.

9 It is contemplated and anticipated that land owner(s) not mentioned in this original
10 document may wish to become signatory to these COVENANTS and/or the HOA. Therefore,
11 during the initial twenty (20) year period (after the date of recording this document), those
12 parcels, LOTs, land owners, real estate owners and/or other parties who wish to become
13 signatory to this document or the HOA, must have the express written permission of the
14 DEVELOPER prior to becoming signatory to this document and/or the HOA. During said
15 initial twenty (20) year time period, the DEVELOPER shall have the exclusive authority to
16 permit other parcels, LOTs, land owners, real estate owners and/or other parties to become
17 signatory to this document and to become a member of the HOA. After the initial twenty (20)
18 year time period, the HOA shall have the exclusive authority to allow additional parcels, LOTs,
19 land owners, real estate owners and/or other parties to become signatory to this document and
20 to become a member of the HOA.

21 **IV - 3. NOTICE & REMEDIES.** Each and every LOT owner found or alleged to be in
22 violation of these COVENANTS shall be given a written notice to cure as required herein.

1 Should the violation directly involve or affect the shared water system, and the HOA
2 determines that the alleged violation creates a hazard to life, limb, property, or could adversely
3 affect the health, safety or welfare of any part of the COMMUNITY or the shared water system,
4 the HOA may immediately shut off the shared water system to the offending LOT and the
5 written notice to cure shall be seven (7) days. For all other violations, the time to cure shall be
6 specified in the notice, provided that minimum notice period shall ten (10) days. If the violation
7 is NOT cured within the notice period, legal action may then be initiated.

8 The DEVELOPER, the Original Owner, the ARCHITECTURAL CONTROL
9 COMMITTEE, the HOA, the "then current" owner, present or future, of any land or LOT
10 included in the COMMUNITY shall be entitled to all legal and equitable relief, including, but not
11 limited to injunctive relief and/or damages and in certain instances reasonable attorneys fees
12 against any violation, or attempted violation of the provisions hereof, and for damages and/or
13 for injuries resulting from any violation; but there shall be no right of reversion, nor forfeiture of
14 title resulting from such violation. Should the DEVELOPER, the Original Owner, their agents,
15 and/or their assignee(s) initiate legal action and the DEVELOPER prevails in court, the
16 DEVELOPER or the Original Owner, their agents, and/or their assignee(s) shall be entitled to
17 recover attorney fees, costs and expenses incurred in the enforcement of the provisions of this
18 agreement from any LOT owner in violation of the same. The DEVELOPER may assign his
19 rights and duties herein, including said right to recover attorney fees, costs and expenses to
20 the HOA.

21 **IV - 4. ASSIGNMENT.** DEVELOPER reserves the right to assign (either temporarily or
22 permanently) all or any of the rights, privileges, easements, interests in real or personal

1 property, powers and/or duties herein retained, vested, controlled, owned or reserved by the
2 DEVELOPER. An assignment shall be effective when a duly executed written instrument is
3 recorded in the Office of the County Clerk of Otero County, New Mexico, and the
4 DEVELOPER shall be immediately relieved and discharged from all such duties and rights so
5 assigned. Should the DEVELOPER's assignment be to the HOA, the HOA is obligated to
6 accept such assignment, with no further acts or formal acceptance required by the HOA.

7 **IV - 5. FAILURE TO ENFORCE.** Enforcement of these COVENANTS is a right that's
8 available to all "then current" LOT owner(s), the DEVELOPER, the Original Owner, the
9 ARCHITECTURAL CONTROL COMMITTEE, and/or the HOA. While the right to enforce is an
10 option, there is no duty or obligation to enforce placed upon any party hereto. The failure to
11 enforce any of these COVENANTS by any LOT owner, the Original Owner, the DEVELOPER,
12 the ARCHITECTURAL CONTROL COMMITTEE, and/or the HOA, shall not constitute a waiver
13 or a continuing waiver, nor shall it create a waiver of any subsequent breach of the same,
14 similar, or different term, condition or COVENANT(S). No such failure to enforce shall entitle
15 any LOT owner to claim, sue for, or receive any damages or other payment from any other
16 LOT owner, the Original Owner, the DEVELOPER, the HOA, the ARCHITECTURAL
17 CONTROL COMMITTEE and/or other entity. In addition, if any other LOT owner(s), the
18 Original Owner, the DEVELOPER, the HOA, the ARCHITECTURAL CONTROL COMMITTEE
19 and/or any other entity(s) is named by any LOT owner in any legal action for failure to enforce,
20 the other LOT owner(s), the DEVELOPER, the HOA, the ARCHITECTURAL CONTROL
21 COMMITTEE and/or any other entity(s) shall be entitled to recover from said LOT owner the
22 reasonable attorney fees, costs and expenses incurred in defending said action.

1 **IV - 6. INTERPRETATION.** The DEVELOPER may interpret or clarify the meaning of
2 any of these COVENANTS or any portion thereof. For instance, should the LOT owner desire
3 to use new or innovative building materials, new types of construction, or other items not
4 specifically addressed herein, the DEVELOPER may consider those items on a case by case
5 basis. If such interpretation is by a written document, duly executed by the DEVELOPER, and
6 recorded with the Otero County Clerk, the same shall interpret or clarify the meaning of the
7 COVENANTS for the mutual benefit and protection of the COMMUNITY and shall hence forth
8 be binding upon the COMMUNITY's LOT owners and their respective legal representatives,
9 heirs, successors, grantees, and assigns.

10 **IV-7. LOT OWNERSHIP AND OCCUPANCY.** In order to better maintain this
11 COMMUNITY as a predominantly owner-occupied COMMUNITY, the ownership of LOTS and
12 any other real estate within the COMMUNITY shall be limited by these COVENANTS. Unless
13 otherwise permitted by the express written permission of the DEVELOPER, ownership of and
14 record title to any LOTS and any other real estate within the COMMUNITY shall only be vested
15 in a PERMITTED OWNER, which is defined as either: (a) an individual, or (b) a married
16 couple.

17 Additionally, the ownership of LOT(s) and any other real estate within the COMMUNITY
18 may be vested in:

- 19 (1) Two PERMITTED OWNERS (i.e., two individuals, an individual and a legally
20 married couple, or two legally married couples);
- 21 (2) Any combination of individuals comprising a single-family unit that consists of
22 legally married parents and their children (and/or their stepchildren);

1 (3) A self-directed Individual Retirement Account held by a financial institution;

2 (4) A living trust or other estate planning entity, but only if:

3 (a) The sole beneficiary(s) and/or owner(s) of said trust and/or entity is a
4 PERMITTED OWNER, or

5 (b) All of the beneficiaries and owners of said trust and/or entities meet the
6 requirements of items (1) or (2) above.

7 The ownership of any LOT or other real estate within the COMMUNITY shall not, under
8 any circumstances be vested in:

9 (A) More than two PERMITTED OWNERS, except as permitted in items (1) through
10 (4) above with the express written permission of the DEVELOPER; or

11 (B) A corporation, limited liability company, partnership, limited liability partnership,
12 condominium association, cooperative, time share entity, or similar types of
13 entities, except as permitted in item (4) above with the express written
14 permission of the DEVELOPER.

15 The foregoing provisions of this section that relate to ownership of LOTS and other real
16 estate within the COMMUNITY shall apply to the transfer of ownership from the Original Owner
17 to bona-fide, third-party, successor owner(s).

18 Notwithstanding any other provisions of these COVENANTS, the foregoing provisions of
19 this section that relate to ownership do not apply to any LOT or other real estate within the
20 COMMUNITY that is now owned or which may be owned in the future by the Original Owner,
21 the Original Owner's beneficiary(s), Thomas N Simstad, Marla K Simstad, the DEVELOPER,
22 the DEVELOPER's or Original Owner's affiliated companies or sister companies, the

1 DEVELOPER's or Original Owner's assigns, trusts and/or members of Thomas N. or Marla K.
2 Simstad's family.

3 Other sections of these COVENANTS contain provisions that limit the use and
4 occupancy of the LOTS within the COMMUNITY. All of the LOT owners within the
5 COMMUNITY who are permitted to be owners pursuant to the foregoing provisions of this
6 section are entitled to use and occupy their LOT(s), except as prohibited by these
7 COVENANTS and/or applicable law. Any use and/or occupancy of any of the LOTS and/or
8 other real estate within the COMMUNITY by any persons or entities who are not the owners of
9 said LOTS and/or other real estate within the COMMUNITY (e.g., rentals) is expressly
10 prohibited, except to the extent that such use and occupancy is expressly authorized and
11 permitted by other provisions of these COVENANTS (see "21. RENTAL OF DWELLING.")
12 above for permitted use). The maximum permitted occupancy of any DWELLING shall not
13 exceed 2 persons per bedroom.

14 **IV - 8. EXPRESS WRITTEN PERMISSION.** Wherever the phrase "express written
15 permission" is used, it shall be interpreted to mean the permission may be granted at the
16 party's sole and separate discretion, but there shall be no burden, duty or obligation to grant
17 said permission. As each LOT is unique, each set of circumstances associated with the
18 request for express written permission is also unique. The granting of one LOT owner's
19 request for said permission, does not create or set a precedent, nor does it create an
20 obligation to grant a similar, but never-the-less unique request.



1 **IV - 9. MISCELLANEOUS.** The underlined titles preceding the various paragraphs and
2 subparagraphs of the COVENANTS are for convenience of reference only, and none of them
3 shall be used as an aid to the construction of any provision of the COVENANTS. Whenever
4 capital letters, bold letters or underlined letters are shown herein they are for the convenience
5 of the reader and they serve to make the document more readable. Wherever and whenever
6 applicable, the singular form of any word shall be taken to mean or apply to the plural, and the
7 masculine form shall be taken to mean or apply to the feminine or to the neuter and vice-versa.
8 This document shall be interpreted to be gender neutral, numerically neutral, and subject to
9 laws and jurisdiction of the State of New Mexico. The word "successor owner" or "Successor
10 Owner" is bona-fide, third-party, PERMITTED ENTITY which holds title to a LOT(s) in this
11 COMMUNITY, and any their executors, heirs, legatees, successors, and assigns thereof, who
12 shall comply with paragraph "IV-7. LOT OWNERSHIP AND OCCUPANCY."

13 All successor owner(s) shall be thereafter subject to the mutual benefits, burdens,
14 restrictions, and protections afforded hereunder, and shall be hence forth bound by these
15 COVENANTS.

16
17 **IV-10. HOME OWNERS ASSOCIATION.** A homeowners association ("HOA") for the
18 COMMUNITY and for other adjacent property has been previously formed as an entity under
19 New Mexico law (New Mexico Skies Home Owners Association).

20
21 **A. MEMBERSHIP & HOA DUES** – The contributions and improvements by the
22 Original Owner of NM SKIES ASTRONOMY ENCLAVE to the HOA are worth in excess of
23 Three hundred thousand dollars. The HOA has benefitted from these contributions since its



1 inception (Nova St. & Rule 42 Way, land for the Rec. Center & Shop, wells, fire protection
2 water tanks, fire hydrant, etc.), and the HOA is currently maintaining these improvements for
3 the benefit of the HOA's existing members. Since these improvements are already being
4 enjoyed by and maintained by the HOA, the addition of the lots within NM SKIES
5 ASTRONOMY ENCLAVE will create minimal expense to the HOA's budget (if any). However,
6 there is expected to be additional revenues to the HOA by Successor Owners becoming dues
7 paying members of the HOA.

8 Transfer of title between the Original Owner, the Original Owner's Beneficiary(s),
9 Thomas N. Simstad, Marla K. Simstad, their various entities or companies, their trusts, their
10 beneficiaries, their assigns, Individual Retirement Account(s), or Thomas and/or Marla
11 Simstad's family member lot splits shall be exempt from this provision. As the NM SKIES
12 ASTRONOMY ENCLAVE contains over 34 acres, there is the potential for 17 new (2.0 acre)
13 lots. In order to preserve the voting rights of existing HOA members, and to NOT give the
14 Developer or the Original Owner's Lots a voting control for the HOA's board of directors, the
15 Original Owner's Lots shall NOT be voting members of the HOA for any property in NM SKIES
16 ASTRONOMY ENCLAVE (unless said LOT shall become their personal homesite). Nor shall
17 the Original Owner's lots be dues paying members of the HOA for any property within NM
18 SKIES ASTRONOMY ENCLAVE (e.g. No taxation without representation).

19 Prior to time of the bona-fide third party transfer to a Successor Owner, no HOA dues or
20 assessments will charged to or payable by the Original Owner's Lots, lot splits or resubdivision
21 of said lots, nor shall said Original Owner's Lots have voting rights for the HOA's board of
22 directors. Each Successor Owner shall become a full member of the HOA, pay the then
23 current dues and assessments, and have one (1) vote per LOT with respect to all matters that

1 HOA members are entitled to vote on. Membership in the HOA and payment of all dues and
2 assessments in the HOA is mandatory for all bona fide, third party Successor Owner(s),
3 contract owner(s), or lessee(s) in the COMMUNITY.

4 In consideration of the Original Owner's Lots forgoing their voting rights and other good
5 and valuable contributions, the HOA shall forgo dues, full HOA membership, and other
6 assessments to the Original Owner's Lots. Other consideration from the Original Owner
7 includes: all HOA members enjoy and benefit from the roads within NM SKIES ASTRONOMY
8 ENCLAVE (Nova & Rule 42 Way), the land for the Rec. Center and the Shop Building, two (2)
9 water wells, elevated fire protection water storage tanks, and the high pressure, high volume
10 fire hydrant, etc., all of which were paid for by the Original Owner of NM SKIES ASTRONOMY
11 ENCLAVE.

12 **B. ASSESSMENTS, DUES, FEES, AND OTHER CHARGES** – With respect to
13 Successor Owners, the HOA shall have the right to impose assessments, dues, fees, and
14 other charges for, among other things: water use and/or availability; a general assessment
15 fee, road maintenance, maintenance of any property owned, controlled, and/or to be
16 maintained by the HOA, reserves for replacements, legal, accounting, administrative, and
17 other matters for the benefit of the COMMUNITY, regardless of whether or not the HOA holds
18 title and/or ownership to the property to which such assessments, fees, and other charges
19 relate; recreational facility fees (if any); and special assessments or charges as approved by
20 the HOA Board (if any). All such assessments, dues, fees, and other charges shall be
21 allocated in equal shares among and against the Successor Owner(s) of LOT(s) within the
22 COMMUNITY and all other dues paying HOA members. The assessments, dues, fees and

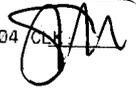
1 other charges shall be allocated against the Successor Owner(s) and/or their LOT(s),
2 regardless of any improvements (DWELLING, Out Building, Observatory, etc.) thereto.

3 Where a Successor Owner owns multiple LOTs in the COMMUNITY, the HOA may
4 establish a partial fee for the additional LOTs owned by the same Successor Owner.

5 **C. LIEN FOR UNPAID ASSESSMENTS, FEES, AND OTHER CHARGES** – The HOA
6 shall have a lien against any Successor Owner’s LOT for: (1) all unpaid assessments, fees,
7 and other charges allocated against said LOT, (2) interest at the rate of eighteen percent
8 (18%) per annum on said unpaid amounts, and (3) all costs of collecting said unpaid amounts,
9 including, but not limited to, all attorney fees, court costs, and other costs incurred by the HOA
10 in collecting said unpaid amounts.

11 **D. COVENANTS CONTROL** — In the event of any conflict between the provisions of
12 such documents that create and govern the HOA and the provisions of these COVENANTS
13 shall control and take precedence.

14 **E. HOA’s ACCEPTANCE** — The DEVELOPER reserves the right to transfer title and
15 ownership of the shared water wells and facilities, shared and common private roads, and any
16 other property for the common use of the COMMUNITY to the HOA, and the HOA shall accept
17 title and ownership of same upon request of the DEVELOPER. Prior to the transfer of title and
18 ownership of any such shared water wells and facilities, shared and common private roads,
19 and other shared property within the COMMUNITY, the DEVELOPER reserves the right to



- 1 transfer any and all maintenance obligations for same to the HOA and the HOA shall accept
- 2 such maintenance obligations upon request of the DEVELOPER.

- 3 The documents that create and govern the HOA shall be subject to the provisions set forth in
- 4 this document, and may contain any other provisions permitted by applicable law that are not
- 5 in conflict with and/or inconsistent with any of the provisions of these COVENANTS.

6 E:\raid\15\WNM Skies\COVENANTS - The Astronomy Enclave-2-mark up.wpd

APPENDIX A - NM SKIES ASTRONOMY ENCLAVE

CHECK LIST OF REQUIREMENTS FOR CONSTRUCTION (FILL IN ALL BLANKS)

OWNER'S NAME _____
 CURRENT ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 PHONE (DAY) _____ (EVE.) _____
 FAX NUMBER _____
 OWNER'S E-MAIL ADDRESS _____
 LOT ADDRESS _____
 LOT # _____ LOT PHONE OR OWNER'S CELL _____
 CONTRACTOR & PHONE _____
 BRIEFLY DESCRIBE PROPOSED IMPROVEMENTS _____

SURVEY, DRAWN TO SCALE - SHOWING (ALL THAT APPLY):
 PROPERTY LINES & LOCATION OF DWELLING & THE LOCATION OF OTHER STRUCTURES
 BUILDING SETBACK LINES, EASEMENTS & UTILITIES
 EXISTING GRADES & PROPOSED GRADES
 WELL(S) AND/OR WATER SERVICE TAP & SEPTIC FIELD AND TANK
 WATER STORAGE STRUCTURES FOR FIRE AND RAIN WATER
 DESIGNATED USE PLAN & LANDSCAPING
 DRIVEWAY, WALKWAY(S), DECKS, PATIOS & PORCHES
 OBSERVATORY(S) & LINE OF SITE SURVEY (IF APPLICABLE)
 PERMANENT FENCES & TEMPORARY SAFETY FENCE
 DIMENSIONS NECESSARY TO PROPERLY LOCATE THE ABOVE
 SCALE, NORTH ARROW & SURVEYOR'S STAMP AND CERTIFICATION

STYLE OF HOUSE _____ Total _____ sq. ft. LIVING AREA of the above grade,
 finished and heated DWELLING (excluding NON-LIVING AREAS)

What is the minimum roof slope of the DWELLING or structure? _____ ' rise in _____ ' run

I do hereby certify, represent, and warrant that I have and will comply with all the COVENANTS for the COMMUNITY,
 and that my LOT shall be developed as shown on the plans submitted and as shown on this checklist, and when
 completed the improvements shall meet all the COVENANTS.

OWNERS SIGNATURE _____ DATE _____ PRINTED NAME _____

OWNERS SIGNATURE _____ DATE _____ PRINTED NAME _____

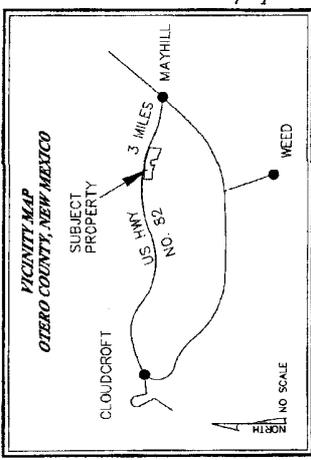
No approval for construction shall be granted unless this check list is completed, signed by the owner(s), and
 properly submitted to the ARCHITECTURAL CONTROL COMMITTEE along with the required plans,
 specifications, survey(s), proof of insurance and Review Fees (if applicable).

A COMPLETE SET OF PLANS AND SPECIFICATIONS WOULD ALLOW A PROFESSIONAL, LICENSED
 CONTRACTOR TO ACCURATELY CONSTRUCT THE PROPOSED STRUCTURE(S). THE DRAWINGS MUST
 CLEARLY SHOW THE SIZE, LOCATION, AND SPECIFICATIONS OF EACH PORTION OF THE STRUCTURE.

Handwritten initials and signature

APPENDIX B

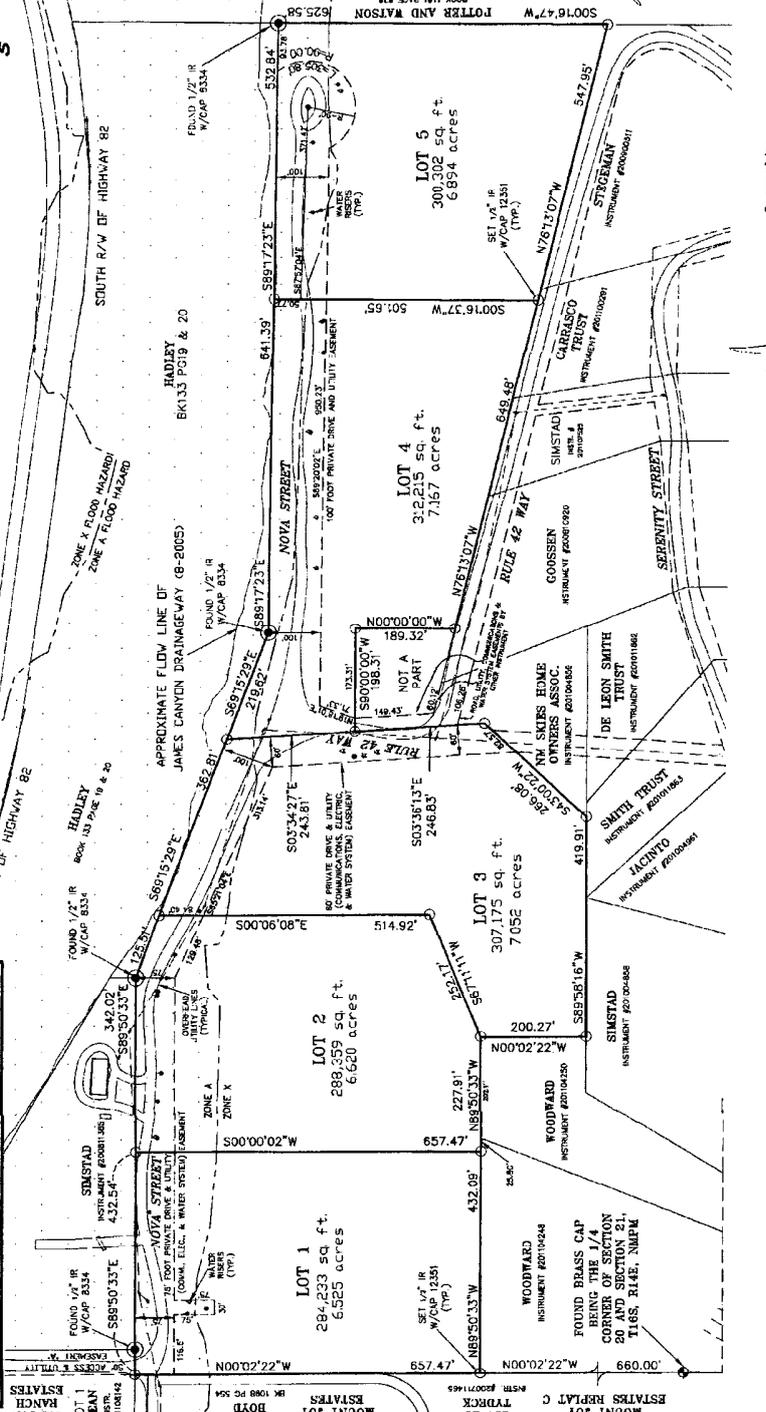
**NM SKIES ASTRONOMY ENCLAVE
A SUMMARY SUBDIVISION
OF A 35.093 ACRE TRACT IN SECTION 21, T16S, R14E, NMPM
OTERO COUNTY, NEW MEXICO
JANUARY 2014**



REGISTRATION STATE OF NEW MEXICO) COUNTY OF OTERO)
I, the undersigned, being a duly qualified and licensed Surveyor in and for the State of New Mexico, do hereby certify that the foregoing plat is a true and correct copy of the original plat on file in my office, and that the same has been duly recorded in the public records of said county, and that the same is in full compliance with the provisions of the laws of this State relating to the recording of surveys, and that the same is in full compliance with the provisions of the laws of this State relating to the recording of surveys, and that the same is in full compliance with the provisions of the laws of this State relating to the recording of surveys.

APPROVED AND AUTHORIZED FOR THE COUNTY CLERK AND EX-COMMISSARIUS OF OTERO COUNTY, NEW MEXICO, J. M. GUERRA, COUNTY CLERK, DENISE GUERRA, COUNTY CLERK, PAGE 50 OF 52

APPROVED AND AUTHORIZED FOR THE COUNTY CLERK AND EX-COMMISSARIUS OF OTERO COUNTY, NEW MEXICO, J. M. GUERRA, COUNTY CLERK, DENISE GUERRA, COUNTY CLERK, PAGE 50 OF 52



PLANNING COMMISSION
STATE OF NEW MEXICO
COUNTY OF OTERO

APPROVED AND AUTHORIZED FOR THE COUNTY CLERK AND EX-COMMISSARIUS OF OTERO COUNTY, NEW MEXICO, J. M. GUERRA, COUNTY CLERK, DENISE GUERRA, COUNTY CLERK, PAGE 50 OF 52

Ownership:
MOUNT JOY CANYON RANCH
ESTATES
10000 RANCH RD
MOUNT JOY, NM 88240
575-381-2831

Surveyor's Certificate
I, STEVEN J. SANDOZ, A NEW MEXICO LICENSED PROFESSIONAL SURVEYOR, CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

CONSTRUCTION Surveying Services
PO Box 2295, Alamogordo, NM 88311
(575) 443-6202 FAX (575) 443-1151

DATE: 12/14/15

CONSTRUCTION Surveying Services
PO Box 2295, Alamogordo, NM 88311
(575) 443-6202 FAX (575) 443-1151

DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS for
NM SKIES ASTRONOMY ENCLAVE,
OTERO COUNTY, NEW MEXICO

EXECUTED AT Lovington, New Mexico on the 23rd day of
December, 2015.

THOMAS N. SIMSTAD IRA,
WESTERN COMMERCE BANK, TTEE

BY: *Twillia Thomason*^{VP}
TWILLA THOMASON
TITLE: VP & Trust Officer

STATE OF NEW MEXICO

COUNTY OF LEA

The foregoing instrument was acknowledged before me this 23rd day of

December, 2015 by Twillia Thomason

VP + Trust officer Western Commerce Bank

My Commission Expires 2-21, 2016

Carolyn Young

Notary Public

