

1 **DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS for**
2 **Lots Commonly Known as M-1, M-2, M-3, M-4, M-5, T-1, T-2 & T-3.**
3 **NM SKIES HOME OWNERS ASSOCIATION,**
4 **OTERO COUNTY, NEW MEXICO**

5 THIS DECLARATION, made this 15 day of DECEMBER 2015 *1-15-16*

6
7 **WITNESSETH;**

8 WHEREAS, DEVELOPER and the current owners of certain real property described
9 herein (see Appendix B for legal descriptions) are desirous of subjecting the real property
10 described herein to these covenants. The covenants, conditions, restrictions, options,
11 reservations, undertakings, agreements and easements hereinafter set forth, each and all of
12 which is and are declared to be equitable servitudes binding upon the LOTS, tracts, parcels
13 and the Community and each then-current owner or successor owner thereof and every other
14 party having any interest therein, and shall run with the land and bind all current owner(s) and



1 successors owner(s) or successor in title or interest, heirs and assigns, and shall inure to the
2 benefit of and pass with said property, and each and every parcel thereof.

3 **NOW, THEREFORE,** the current owner(s) 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 herein (see Appendix B for legal description(s)).
10 Said property shall be herein known as the COMMUNITY.

11 **1a. DEFINITIONS.** The normal and customary usage of all words and/or terms
12 contained herein shall apply, as used in the state of New Mexico. The following special terms
13 and phrases are used in this document and their definition and/or meaning shall be as follows:

14 1. For the purposes of this document, the “DEVELOPER” is NM Southern Skies, LLC, an
15 Indiana Limited Liability Company, their agents and/or their assigns.

16 2. The “New Mexico Skies Home Owners Association” is a New Mexico Not-For-Profit
17 Corporation, and while located adjacent to New Mexico Skies, INC., are unrelated
18 entities.

- 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 and it is described as metes and bounds property in Otero County,
19 New Mexico and any splits, re-plats or re-subdivisions thereto.
- 20 **6.** A “**DWELLING**” is a Modular, Manufactured, or Site-Built single family home or
21 residence and any structure permanently attached thereto (e.g. garage, greenhouse,
22 basement, etc.).

- 1 7. An "OUT-BUILDING" is any "additional structure" or building as specified herein
2 which 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
2 as 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 fifteen (15) feet above
5 the immediately adjacent, existing ground level.

6 b). An “**elevated observatory**” shall be any observatory whose maximum height is
7 greater than fifteen (15) feet, but less than twenty-five (25) feet above the
8 immediately adjacent, existing ground level.

9 c). A “**mega-elevated observatory**” shall be any observatory whose maximum
10 height is greater than twenty-five (25) feet, but less than thirty-five (35) feet
11 above the immediately adjacent, existing ground level. The maximum height for
12 any observatory shall be less than thirty-five (35) feet above the adjacent,
13 existing ground level.

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

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

1 **CLAUSE II.**

2 **PURPOSE OF THESE COVENANTS**

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

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

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

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

18 The COMMUNITY is defined by its dark skies, its solitude, its fresh mountain air, the
19 millions of stars in the heavens above, and a sense that the Milky Way is so close that you can
20 almost reach out and touch it.

21

1 **2. GENERAL PURPOSE.** The COMMUNITY offers extraordinary sky conditions,
2 found no where else in North America. The exceptionally dark skies, the excellent seeing, the
3 phenomenal transparency, the clean dry mountain air, and a micro-climate that is second to
4 none are some of the factors that combine to make the COMMUNITY one of the finest
5 locations for amateur astronomy in the world. The purpose of these COVENANTS is to allow
6 those uses that are compatible with and that will enhance the COMMUNITY's distinction as
7 North America's premier location for amateur astronomy, and to prohibit those uses that would
8 be incompatible with astronomy. As such, preservation and protection of our night sky is of
9 utmost importance.

10 **THEREFORE:**

11 The COMMUNITY is dedicated to the preservation and protection of the dark night
12 skies, and we choose to subject ourselves to these COVENANTS in order to promote the
13 proper use, the appropriate development, and suitable improvement of the COMMUNITY and
14 every part thereof; and therefore it is necessary:

- 15 a. To protect the dark night skies, because they are an essential
16 aspect of our amateur astronomy COMMUNITY; and
17 b. To reduce, as much as reasonably possible, the adverse effects
18 from indoor and outdoor lighting, such as light pollution, light
19 trespass, glare, sky glow, and energy waste; and
20 c. To reduce as much as reasonably possible air pollution, thermal
21 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.

1 **CLAUSE III.**

2 **GENERAL COVENANTS**

3 **1. LAND USE.** Each LOT within the COMMUNITY shall be used, exclusively, as a site
4 for one (1) SINGLE FAMILY RESIDENTIAL HOME (DWELLING), and one (1) OUT-
5 BUILDING, and up to FOUR (4) OBSERVATORY(s) and one (1) GAZEBO. No Duplexes,
6 apartments or any other type of multi-family dwellings shall be permitted.

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

10 Any LOT may be re-subdivided, split, or re-plated so long as no LOT or parcel shall be
11 smaller than two (2.0) acres in size. The Original Owner specifically intends to re-subdivide,
12 split and/or re-plat LOT(s) or parcel(s) of the COMMUNITY. Nothing herein shall prevent or
13 restrict any lot owner from re-subdividing, splitting, or re-platting any lot, so long as no LOT or
14 parcel shall be smaller than two (2.0) acres in size.

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

19 Notwithstanding any other provision contained herein, bona-fide not-for-profit and non-
20 profit organizations are permitted uses. So long as the user or end user of the data is a
21 501c3, a Government agency, a University, a research organization, or other such not-for-

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

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

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

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

3 Each LOT shall have a designated "DWELLING site" area in which a single
4 DWELLING, observatory(s), fenced in area(s), driveway, a single gazebo, patio(s), decks, a
5 single out-building and/or other structures as permitted herein can be located. Each LOT shall
6 have a dedicated "Conservation Area(s)" which must be maintained in its natural condition,
7 except for utilities, water lines and appurtenances, minor recreational facilities such as a
8 garden area not to exceed four-thousand (4,000) square feet, walking trails, a gazebo and up
9 to two (2) picnic tables. Some LOTs may have an "Emergency Ingress/Egress" easements
10 shown on the DESIGNATED USE PLAN, which shall permit emergency vehicles and
11 pedestrians to pass, and DEVELOPER or HOA approved maintenance vehicles. Once
12 recorded, the DESIGNATED USE PLAN may only be modified, amended, or changed by the
13 express written permission of the DEVELOPER and the "then current" LOT owner. As the
14 DESIGNATED USE PLAN is a negotiated agreement solely between the Developer and the
15 LOT owner, no third party beneficiary rights are created, implied or inferred by said document.
16

17 **2. DWELLING SIZE.**

18 (A). The minimum square footage of the DWELLING (i.e. the above ground, finished
19 and heated living area) shall be **Two Thousand (2,000)** square feet. The minimum depth
20 (front to back) and the minimum width (side to side) dimensions of the home's living area shall
21 be at least twenty-five (25) feet in all directions. "Single-wide" manufactured and modular
22 homes are not permitted.

1 These minimums shall apply to any replat, split, and/or re-subdivision of any LOT
2 specifically described herein. The total area of all structures **attached** to the DWELLING,
3 such as garage(s), work area(s), work shop(s), storage room(s), cellar(s), unfinished areas
4 (which 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:

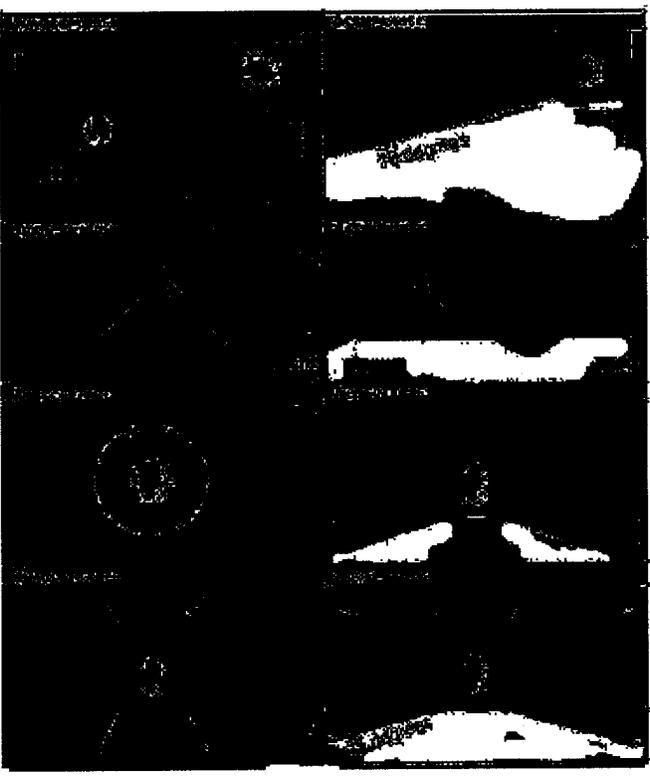
3 This section creates minimum standards for indoor, outdoor and other lighting such that
4 its use does not unreasonably interfere with the enjoyment of other property owners, with
5 astronomical observations, and to promote energy conservation without jeopardizing safety,
6 utility, security and productivity. The purpose of this section is to minimize light pollution,
7 glare, 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
9 adjacent 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
16 the building eaves; and

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(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

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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.

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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 than 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, which shall be used to
9 determine conformance with these provisions.

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

17 E. All outdoor, above ground level light fixtures shall bear the "Fixture Seal of
18 Approval" from the International Dark Skies Association (IDA Approved Dark Sky
19 Friendly), or equal rating as may be approved by the ARCHITECTURAL
20 CONTROL COMMITTEE or the HOA.

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

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

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

19 J. Court yards, atriums, skylights, solar tubes, sun tunnels and other such potential
20 sources of upwardly directed light shall only be permitted under the following
21 conditions and restrictions:

- 1 1. The light emitted shall not exceed 0.1 (one tenth) of one footcandle at the
- 2 property line; and
- 3 2. Not more than 1 (one) footcandle shall be emitted in an upward direction,
- 4 as measured four (4) feet above the light source's point of emission or the
- 5 structure's roof; and
- 6 3. Upon 48 hours notice written notice, the LOT owner shall allow the HOA
- 7 access to said light source(s) for measuring emitted light and determining
- 8 compliance with these rules.

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

19 The LOT owner is the person who has the authority, ability and the responsibility to
20 control their LOT, their employees, their guests, their invitees, and to hire and fire their
21 contractors, their subcontractors, and their materials suppliers. Therefore, neither the other
22 LOT owners, nor the DEVELOPER, nor the ARCHITECTURAL CONTROL COMMITTEE, nor



1 the HOA, nor any agent(s) thereof, shall be responsible in any way for any defects in plans,
2 specifications, survey, materials, workmanship, or other such items, nor for any other defects
3 thereto. By purchasing a LOT within the COMMUNITY and/or by building upon said LOT, the
4 "then current" LOT owner accepts full responsibility (financial and otherwise) for their own
5 actions, their guest's actions, their invitee's actions, their contractor's actions, their
6 subcontractor's actions, their material supplier's actions, and their respective employee's
7 actions, and said LOT owner shall pay for and reimburse the DEVELOPER, the HOA and/or
8 other LOT owners who have incurred or sustained losses, damage, costs, and reasonable
9 attorney fees as a result of said actions. This paragraph shall include all intentional or
10 unintentional: acts, errors, omissions, damage, or other actions, to one's own property and/or
11 the property of others, and/or damage to the roads within the COMMUNITY.

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

19 Written approval of all plans, specifications, SURVEY(s), the "Check List" (see
20 Appendix A), and other required items, by the ARCHITECTURAL CONTROL COMMITTEE
21 shall be required prior to the start of construction of any DWELLING, and/or observatory,
22 and/or out-building, and/or other permitted improvement(s). It is highly recommended that the
23 LOT owner begin informal, non-binding, communications with the ARCHITECTURAL

1 CONTROL COMMITTEE at their earliest convenience regarding plan approval(s). Informal,
2 “rough-draft” site plans, building plans, and specifications can be prepared with a minimal
3 amount of effort by the LOT owner. The approval process goes much smoother, quicker and
4 easier for all parties if adequate time is spent properly planning the improvements.

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

18 DWELLING styles shall be compatible with the existing area and the contour of the
19 land. Walkout basements, lower level garages, and “daylight” basements may be permitted
20 where the DESIGNATED USE PLAN allows. Minimal grade changes are permitted (less than
21 four foot (4') from existing grade). Minor grade changes may be permitted (between four foot
22 (4') and eight feet (8') from existing grade) with the express written permission of the
23 DEVELOPER or the ARCHITECTURAL CONTROL COMMITTEE or the HOA, but grade

1 changes greater than eight (8') are hereby prohibited. Only DWELLING styles compatible with
2 the architecture of the southwest United States shall be permitted. Diversity in DWELLING
3 styles, roof lines and appearance shall be encouraged (identical DWELLING styles will be
4 discouraged). Except for "Santa Fe" style homes (adobe with flat roofs), observation decks,
5 and other roof styles permitted with the express written permission of the DEVELOPER or the
6 ARCHITECTURAL CONTROL COMMITTEE, the minimum allowable roof slope shall be three
7 feet (3') of rise in twelve feet (12') of run.

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

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

22

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

1 subsequent submission that starts the 30 day review period anew. The first, formal PLAN
2 REVIEW by the ARCHITECTURAL CONTROL COMMITTEE under this section is at no
3 charge to the LOT owner. Subsequent PLAN REVIEW(s), regardless of the reason, for the
4 same LOT(s) shall be charged a three hundred dollar (\$300.00) PLAN REVIEW FEE for each
5 and every subsequent submission, payable directly to the ARCHITECTURAL CONTROL
6 COMMITTEE's designated plan reviewer. Payment in full shall accompany subsequent
7 submission(s) to cover the costs of the subsequent PLAN REVIEW PROCESS.

8 Partial plan approval(s) shall not be permitted, although a Complete Submission may
9 be submitted separately for the DWELLING, the observatory(s), the out-building and/or any
10 other permitted improvements. Separate plan reviews shall be treated as a subsequent
11 submission and a PLAN REVIEW FEE(s) shall be due and payable at the time of subsequent
12 submission(s). Construction may commence only when written approval is granted by the
13 ARCHITECTURAL CONTROL COMMITTEE or as permitted herein. In the event neither
14 written approval, nor disapproval is granted by the ARCHITECTURAL CONTROL
15 COMMITTEE, construction may commence after forty (40) days (allowing thirty (30) days for
16 plan review and ten (10) days for return mail or courier) from the time the ARCHITECTURAL
17 CONTROL COMMITTEE received a Complete Submission. Whether construction
18 commenced by written approval of the ARCHITECTURAL CONTROL COMMITTEE or by the
19 ARCHITECTURAL CONTROL COMMITTEE's failure to act in a timely fashion, all
20 improvements shall conform to these COVENANTS. Failure of the ARCHITECTURAL
21 CONTROL COMMITTEE to act in a timely fashion is NOT a waiver by the DEVELOPER, the
22 ARCHITECTURAL CONTROL COMMITTEE, or the HOA, nor does it imply any type of an
23 approval.

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

11 **4 (B). CERTIFICATE OF OCCUPANCY.** The LOT owner shall provide written notice
12 to the DEVELOPER, the ARCHITECTURAL CONTROL COMMITTEE **AND** the HOA, as
13 required herein, of the issuance of the Certificate of Occupancy for the DWELLING,
14 observatory(s), out-building and/or any other permitted structure. The ARCHITECTURAL
15 CONTROL COMMITTEE, the DEVELOPER, and/or the HOA may inspect the improvements
16 within 120 days after receipt of the LOT owner's written notice of Certificate of Occupancy for
17 compliance with these COVENANTS. If deficiencies or non-compliance with these covenants
18 are found, the ARCHITECTURAL CONTROL COMMITTEE, the DEVELOPER and/or the
19 HOA shall notify the LOT owner in writing of said deficiencies consistent with the NOTICE &
20 REMEDIES provision herein. If no suit has been filed prior to expiration of the applicable New
21 Mexico Statute of Limitations, with all parties agreeing that the date of commencement for said
22 Statute of Limitations begins on the date of said inspection by the ARCHITECTURAL
23 CONTROL COMMITTEE, the DEVELOPER and/or the HOA, said improvement shall be

1 deemed to comply with the appropriate COVENANTS by the ARCHITECTURAL CONTROL
2 COMMITTEE and the HOA.

3 **4 (C). OBSERVATORY(S) AND HEIGHT LIMITS.** No more than **FOUR (4)**
4 observatories (Dome, Clamshell, roll-off roof, etc.) shall be permitted on any LOT. The total
5 ground level footprint area of all observatories, including any "warm rooms" shall not exceed
6 **one thousand (1,000) square feet** (e.g. a 15' diameter observatory = 177± sq. ft.).

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

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

- 18 1. The default, normal, failsafe location for the robotic air terminals shall be
19 retracted to the maximum permitted height of the structure they are attached to;
20 and
- 21 2. The maximum, temporary height of the robotic air terminals at the elevated
22 height shall not exceed ten (10) feet above the maximum permitted height of the
23 structure they are attached to; and

1 3. The robotic air terminals shall only be elevated during periods of bona-fide
2 lightning events and shall be controlled by advanced lightning detection
3 equipment acceptable to the HOA and/or the DEVELOPER.

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

8 Notwithstanding the previous paragraphs, the maximum height of a **single, "mega"-**
9 **elevated observatory** shall not exceed thirty-five feet (35') above the existing ground level,
10 provided that **ALL** the following conditions are met and maintained:

- 11 a. That only one (1) mega-elevated observatory be allowed on a LOT or parcel; and
- 12 b. There are no other **existing**, elevated observatories or a mega-elevated
13 observatory located on LOTs owned by others, whose line of sight would be
14 impacted by the mega-elevated observatory's increased height as described
15 herein. For the purposes of this paragraph, the maximum height of the proposed
16 mega-elevated observatory shall be reduced as necessary to maintain any
17 existing, elevated telescope's observing line of sight located on a surrounding
18 LOT(s) to no more than fifteen Degrees (15°) above the horizon of said line of
19 sight. If a mega-elevated observatory is proposed under this section, a separate
20 "Line of Sight" SURVEY (drawing) shall be prepared by the LOT owner's
21 SURVEYOR which demonstrates compliance with this section. Said Line of
22 Sight SURVEY shall be submitted to the ARCHITECTURAL CONTROL
23 COMMITTEE at the same time the plans, specifications, etc., are submitted for
24 said mega-elevated observatory; and

1 c. The proposed mega-elevated observatory shall be located completely within the
 2 Observatory Only Area, and within fifty feet (50') of the center of the Observatory
 3 Only Area as shown on the DESIGNATED USE PLAN.

4 **Number of permitted observatories per LOT.**

	Ground Level - Robotic / Visual	Elevated - Robotic / Visual	Mega-Elevated - Robotic / Visual
5 All Ground Level	4	0	0
6 Ground Level & 7 Elevated	2	2	0
8 Ground Level & 9 Elevated	3	0	1
10 Mega - Elevated	2	1	1

11

12 **5. ADDITIONAL STRUCTURES.** No garage, barn, storage shed, green house,
 13 gazebo, outbuilding, or any other additional structure (out-building) shall be used either
 14 temporarily or permanently as a DWELLING or residence. Prior to construction of the
 15 DWELLING, a single recreational vehicle, travel trailer, or other mobile housing unit may be
 16 used by the LOT owner as an observatory warm room or living quarters for up to two (2)
 17 months during any calendar year. During the construction of the DWELLING, observatory(s),
 18 and/or out-building, a single recreational vehicle, travel trailer or other mobile housing unit may
 19 be used as temporary living quarters for the owner. Additionally, during said construction, a
 20 fully enclosed storage trailer or container may be kept on site for material storage only. Once
 21 the Certificate of Occupancy has been granted by the appropriate authority, said temporary
 22 living quarters and/or storage unit shall be removed within two (2) months.

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1 Notwithstanding anything contained herein to the contrary, no more than **ONE** (1) of the
2 following detached structures shall be allowed: garage, barn, storage shed, green house,
3 warm room, or any other structure (out-building), shall be permitted on each LOT, **AND** one (1)
4 gazebo (not to exceed one hundred and forty-four (144) sq. ft. in ground level footprint area).
5 The total square footage of said additional structure (not counting the gazebo) shall not
6 exceed one thousand (1,000) square feet in ground level footprint area, and the materials
7 used on the exterior of said structure shall be new, first quality, and professionally finished.
8 The appearance of the additional structure shall match the design, color, character and style
9 of the DWELLING, or the observatory.

10 No trailers, boats, recreational vehicles, all terrain vehicles, machinery, equipment, or
11 other similar items are permitted to be stored on any LOT for a period of time in excess of two
12 (2) months in any twelve (12) month period, unless said property is stored in a fully enclosed
13 building. No licensed or unlicensed motor vehicles with a rated capacity of more than one (1)
14 ton are permitted to be stored on any LOT for a period of time in excess of two (2) weeks in
15 any twelve (12) month period, unless said vehicle is stored in a fully enclosed building.
16 Damaged and/or wrecked and/or non-roadworthy motor vehicles (licensed or unlicensed) shall
17 not be permitted on any LOT for a period of time to exceed two (2) weeks. ONLY properly
18 licensed, roadworthy motor vehicles, one (1) ton or less rated capacity, which are in good
19 working order and proper repair, and/or those OFF ROAD AND/OR UNLICENSED VEHICLES
20 which have valid, written permission from the HOA to use the COMMUNITY's roadways
21 pursuant to the paragraph titled "OFF ROAD AND/OR UNLICENSED VEHICLES" herein, are
22 exempt from this paragraph.

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

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

16 **8. FENCES.** All permanent fences shall be constructed of such materials and in a
17 manner which does not detract from the natural quality and aesthetic appearance of the
18 existing geographic areas within the COMMUNITY. The materials, height and location of said
19 fence shall be consistent with the DESIGNATED USE PLAN. Except as expressly permitted
20 herein or as shown on the DESIGNATED USE PLAN, no fence of any kind shall be erected,
21 placed or maintained in the area between the front, exterior wall of the DWELLING and the
22 front property line. All fences shall be kept in good repair by the owner. Fences are only to be

1 constructed within the area(s) shown on the DESIGNATED USE PLAN, the "DWELLING site"
2 area and/or immediately surrounding a ground level observatory. The maximum square
3 footage of the combined fenced-in area shall not exceed five-thousand (5,000) square feet.
4 No permanent fence shall be located closer than twenty feet (20') from any side property line,
5 or fifteen feet (15') from the rear property line. The HOA may establish bylaws, conditions,
6 rules, procedures and other provisions which further limit fences.

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

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

20 **10. NUISANCES.** No noxious or offensive activity shall be carried on or upon any
21 LOT, nor shall anything be done thereon which is, or may become an annoyance or nuisance
22 to the COMMUNITY. No waste, trash or garbage of any sort shall be allowed on any LOT.

1 The HOA may establish bylaws, conditions, rules, procedures and other provisions which
2 further limit nuisances.

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

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

12 **13. CONSTRUCTION OF DRIVEWAYS AND SAFETY FENCING.** All driveways and
13 entrances to any LOT shall be covered with at least four inches of stone base course. It is
14 recommended that the stone base course be in place prior to tree clearing, and it is required
15 that the stone base be in place prior to any foundation excavation and said stone driveway
16 shall be maintained in good condition at all times. Prior to the ARCHITECTURAL CONTROL
17 COMMITTEE granting approval of any improvements, the LOT owner shall install a temporary,
18 high visibility, 4' high (minimum) construction/safety fence entirely surrounding all of the
19 proposed improvements, with only one opening not to exceed 25' wide located at the
20 driveway. Said safety fence shall be kept in good repair and maintained in a professional,
21 workmanlike manner during the entire construction period and shall be removed within two (2)

1 weeks after the Certificate of Occupancy has been granted. Adequate silt fencing, and other
2 erosion control measures are the sole responsibility of the LOT owner. No silt, sediment,
3 erosion or soil shall be permitted on the roadways of the COMMUNITY, nor shall same be
4 permitted to leave one's property.

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

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

16
17 **16. FIREPLACES and THERMAL EMISSIONS.** Only UL listed, high efficiency
18 (90%+) gas furnaces, gas boilers, and gas water heaters shall be permitted to vent outside the
19 DWELLING, OUT-BUILDING or other permitted structure. Wherever possible, side venting of
20 the permitted gas appliances shall be encouraged. Other vented appliances or heaters, such
21 as fireplaces, kilns, ovens, heaters, or stoves, either gas, wood or oil burning or any other heat

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

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

14 **18. OFF ROAD AND/OR UNLICENSED VEHICLES.** The use of off road and/or
15 unlicensed vehicles is restricted to operation by persons at least 21 years of age, and for non-
16 recreational purposes only (i.e. no joy riding). Permitted uses of said vehicles are: land
17 clearing; property maintenance; construction of DWELLING, out-building or observatory(s);
18 and/or other uses which may be permitted by the HOA. Said vehicles' exhaust shall be fully
19 muffled, fully baffled, spark arrested and shall comply with reasonable sound emission limits
20 as may be set by the HOA. The use of these vehicles on the roadways within the
21 COMMUNITY is a privilege, not a right. These vehicles may only be used on the roadways

1 within the COMMUNITY with the express written permission of the Developer or the HOA.
2 These vehicles and their operators shall obey all traffic rules, traffic control signs, speed limit
3 signs, and shall be driven in a professional, courteous manner, and they shall yield Right-of-
4 Way to all licensed vehicles. The HOA may establish bylaws, conditions, rules, procedures
5 and other provisions which further limit or restrict the use of said vehicles within the
6 COMMUNITY. Failure to follow these rules may result in the suspension of the vehicle's use
7 and/or owner's privilege to use said vehicles within the roadways of the COMMUNITY.

8

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

13

14 **20. RENTAL OF DWELLING.** As this COMMUNITY desires to be a predominantly
15 owner occupied, amateur astronomy enclave, the rental of one's DWELLING is a privilege, not
16 a right. It is essential the COMMUNITY knows who our neighbors are. Therefore, the HOA
17 shall establish formal written procedures which may permit limited DWELLING rentals
18 consistent with this section. These COVENANTS shall establish a minimum amount of rental
19 time(s) that may be permitted. Rentals shall be permitted only with the express written
20 permission of the HOA (which shall not be unreasonably withheld), a minimum rental period of
21 30 consecutive days shall be allowed for the DWELLING rental, and a maximum of 4 rental
22 periods shall be permitted in any 12 months. No rental of the just the observatory(s), and/or
23 out-building shall be permitted. Incidental use of the observatory(s) and LOT by the renter will

1 be permitted only during the DWELLING's approved rental period(s). All rentals shall be at fair
2 market value, "arms-length" transactions.

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

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

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

18 All LOTs shall be equipped with HOA approved: 1). back flow prevention devices; 2).
19 on-site hydro-pneumatic storage tanks; and 3). water meter installed to monitor the
20 consumption of water from the shared water system, and the installation of same shall be
21 acceptable to the HOA. All LOT owners shall allow a representative(s) from the HOA access
22 to their LOT at reasonable times, for meter reading, inspection of improvements, and

- 1 compliance with the rules of the HOA and/or the shared water system. Consistent with
2 requirements herein and/or with the requirements of New Mexico Office of the State Engineer
3 (NM OSE) 72-12-1 (and others) water well permit(s):
- 4 a. The amount and uses of water permitted are subject to such limitations as may
5 be imposed by these COVENANTS, the HOA, the NM OSE, the courts, and/or
6 by lawful municipal and county ordinances; and
 - 7 b. Water use shall be consistent with the then current NM OSE rules and
8 regulations. The HOA may establish bylaws, conditions, rules, procedures and
9 other provisions in regards to water use; and
 - 10 c. All LOT owners shall utilize the highest and best technology(s) available to
11 ensure conservation of the shared water to the maximum extent practical; and
 - 12 d. Failure to pay the "then current" shared water availability, usage, connection,
13 and/or maintenance fees, violation of any water rules, or other shared water use
14 rules as may be established by the HOA, or doing anything that could result in
15 contamination of the shared water system may result in immediate shut-off from
16 the water system by the HOA. Turn-on of the water shall be permitted only after
17 the contamination, payment of all fees, or other water issue has been corrected
18 to the satisfaction of the HOA. Use of the shared water is a privilege, and not a
19 right. The HOA shall establish written procedures to monitor water use, notify
20 users of any alleged violations, and to suspend water service for cause. The
21 HOA may establish bylaws, conditions, rules, procedures and other provisions
22 which further limit shared water use, and said rules and fees shall apply to all

1 LOT owners equally, regardless of whether the LOT contains a DWELLING or
2 not.

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

7
8 **22. ONSITE FIRE PROTECTION WATER STORAGE.** Each LOT shall have an
9 onsite water storage tank (above or below ground) for fire protection use installed prior to the
10 Certificate of Occupancy being issued for the DWELLING. Minimum onsite fire protection
11 water storage shall be 2,000 gallons and the tank(s) must, at all times, be filled with
12 chlorinated water. If the tank is filled via the shared water system, an HOA approved back-
13 flow prevention device(s) and an approved air gap device shall be installed and properly
14 maintained by the owner at all times. Access to the fire protection water tank(s) shall be
15 clearly marked so that it is visible from the road, and the water may be used by any bona-fide
16 fire fighting organization. The fire protection water shall be totally isolated from the shared
17 water system. Cross connection and/or cross contamination shall be prohibited. The storage
18 system shall be installed consistent with best practices and all applicable codes. Prior to
19 backfilling of the fire protection water storage system and from time to time thereafter the HOA
20 and/or the ARCHITECTURAL CONTROL COMMITTEE shall be permitted to inspect said
21 system for compliance, and to insure no cross connection(s) with the shared water system
22 exists. The HOA may establish bylaws, conditions, rules, procedures and other provisions

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1 regarding the onsite, fire protection storage. In lieu of an on-site water storage tank, the HOA
2 may designate community "tank farm" areas for the homeowner's fire water storage tank.

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

11 **CLAUSE IV.**

12 **GENERAL PROVISIONS**

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

17 **IV - 2. INITIAL TERMS AND EXTENSIONS.** These COVENANTS shall run with the
18 land and shall be binding on all parties, persons, or entities claiming under them or onto the
19 land for a period of twenty (20) years from the date of recording of this document. After which
20 time said COVENANTS shall automatically extend for successive periods of 10 years, unless

1 a written agreement, signed by seventy-five percent (75%) or more of the "then current" LOT
2 owners has been properly recorded, modifying these COVENANTS in whole or in part. Prior
3 to time of the Original Owner transferring title to a Successor Owner (as defined herein), the
4 Original Owner may modify, amend and/or revise the COVENANTS.

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

17 **IV - 3. NOTICE & REMEDIES.** Each and every LOT owner found or alleged to be in
18 violation of these COVENANTS shall be given a written notice to cure as required herein.
19 Should the violation directly involve or affect the shared water system, and the HOA
20 determines that the alleged violation creates a hazard to life, limb, property, or could adversely
21 affect the health, safety or welfare of any part of the COMMUNITY or the shared water system,
22 the HOA may immediately shut off the shared water system to the offending LOT and the

1 written notice to cure shall be seven (7) days. For all other violations, the time to cure shall be
2 specified in the notice, provided that minimum notice period shall ten (10) days. If the violation
3 is NOT cured within the notice period, legal action may then be initiated.

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

17 **IV - 4. ASSIGNMENT.** DEVELOPER reserves the right to assign (either temporarily or
18 permanently) all or any of the rights, privileges, easements, interests in real or personal
19 property, powers and/or duties herein retained, vested, controlled, owned or reserved by the
20 DEVELOPER. An assignment shall be effective when a duly executed written instrument is
21 recorded in the Office of the County Clerk of Otero County, New Mexico, and the
22 DEVELOPER shall be immediately relieved and discharged from all such duties and rights so

1 assigned. Should the DEVELOPER's assignment be to the HOA, the HOA is obligated to
2 accept such assignment, with no further acts or formal acceptance required by the HOA.

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

19 **IV - 6. INTERPRETATION.** The DEVELOPER may interpret or clarify the meaning of
20 any of these COVENANTS or any portion thereof. For instance, should the LOT owner desire
21 to use new or innovative building materials, new types of construction, or other items not
22 specifically addressed herein, the DEVELOPER may consider those items on a case by case

1 basis. If such interpretation is by a written document, duly executed by the DEVELOPER, and
2 recorded with the Otero County Clerk, the same shall interpret or clarify the meaning of the
3 COVENANTS for the mutual benefit and protection of the COMMUNITY and shall hence forth
4 be binding upon the COMMUNITY's LOT owners and their respective legal representatives,
5 heirs, successors, grantees, and assigns.

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

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

- 15 (1) Two PERMITTED OWNERS (i.e., two individuals, an individual and a legally
16 married couple, or two legally married couples);
- 17 (2) Any combination of individuals comprising a single-family unit that consists of
18 legally married parents and their children (and/or their stepchildren);
- 19 (3) A self-directed Individual Retirement Account held by a financial institution;
- 20 (4) A living trust or other estate planning entity, but only if:
 - 21 (a) The beneficiary(s) and/or owner(s) of said trust and/or entity is a
22 PERMITTED OWNER, or

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

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

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

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

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

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

21 Other sections of these COVENANTS contain provisions that limit the use and
22 occupancy of the LOTS within the COMMUNITY. All of the LOT owners within the
23 COMMUNITY who are permitted to be owners pursuant to the foregoing provisions of this

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

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

16 **IV - 9. MISCELLANEOUS.** The underlined titles preceding the various paragraphs and
17 subparagraphs of the COVENANTS are for convenience of reference only, and none of them
18 shall be used as an aid to the construction of any provision of the COVENANTS. Whenever
19 capital letters, bold letters or underlined letters are shown herein they are for the convenience
20 of the reader and they serve to make the document more readable. Wherever and whenever
21 applicable, the singular form of any word shall be taken to mean or apply to the plural, and the

1 masculine form shall be taken to mean or apply to the feminine or to the neuter and vice-
2 versa. This document shall be interpreted to be gender neutral, numerically neutral, and
3 subject to laws and jurisdiction of the State of New Mexico. The word "successor owner" or
4 "Successor Owner" is bona-fide, third-party, PERMITTED ENTITY which holds title, a lessee,
5 legal or equitable ownership to a LOT(s) in this COMMUNITY, and any their executors, heirs,
6 legatees, successors, and assigns thereof, who shall comply with paragraph "IV-7. LOT
7 OWNERSHIP AND OCCUPANCY."

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

11
12 **IV-10. HOME OWNERS ASSOCIATION.** A homeowners association ("HOA") for the
13 COMMUNITY and for other adjacent property has been previously formed as an entity under
14 New Mexico law (New Mexico Skies Home Owners Association).

15
16 **A. MEMBERSHIP & HOA DUES.** Each Successor Owner shall become a full
17 member of the HOA, pay the then current dues and assessments, and have one (1) vote per
18 LOT with respect to all matters that HOA members are entitled to vote on. Membership in the
19 HOA and payment of all dues and assessments in the HOA is mandatory for all bona fide,
20 third party Successor Owner(s), contract owner(s), legal or equitable owners, or lessee(s) in
21 the COMMUNITY.

1 **B. ASSESSMENTS, DUES, FEES, AND OTHER CHARGES** – With respect to
2 Successor Owners, the HOA shall have the right to impose assessments, dues, fees, and
3 other charges for, among other things: water use and/or availability; a general assessment
4 fee, road maintenance, maintenance of any property owned, controlled, and/or to be
5 maintained by the HOA, reserves for replacements, legal, accounting, administrative, and
6 other matters for the benefit of the COMMUNITY, regardless of whether or not the HOA holds
7 title and/or ownership to the property to which such assessments, fees, and other charges
8 relate; recreational facility fees (if any); and special assessments or charges as approved by
9 the HOA Board (if any). All such assessments, dues, fees, and other charges shall be
10 allocated in equal shares among and against the Successor Owner(s) of LOT(s) within the
11 COMMUNITY and all other dues paying HOA members. The assessments, dues, fees and
12 other charges shall be allocated against the Successor Owner(s) and/or their LOT(s),
13 regardless of any improvements (DWELLING, Out Building, Observatory, etc.) thereto.
14 Where a Successor Owner owns multiple LOTs in the COMMUNITY, the HOA may
15 establish a partial fee for the additional LOTs owned by the same Successor Owner.

16 **C. LIEN FOR UNPAID ASSESSMENTS, FEES, AND OTHER CHARGES** – The HOA
17 shall have a lien against any Successor Owner's LOT for: (1) all unpaid assessments, fees,
18 and other charges allocated against said LOT, (2) interest at the rate of eighteen percent
19 (18%) per annum on said unpaid amounts, and (3) all costs of collecting said unpaid amounts,
20 including, but not limited to, all attorney fees, court costs, and other costs incurred by the HOA
21 in collecting said unpaid amounts.

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.

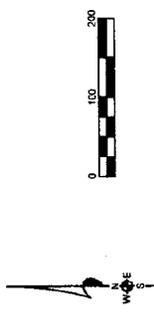
OWNERS SIGNATURE _____	DATE _____	PRINTED NAME _____
OWNERS SIGNATURE _____	DATE _____	PRINTED NAME _____

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).

INCLUDE 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.

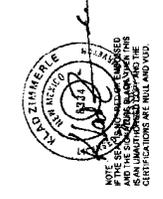
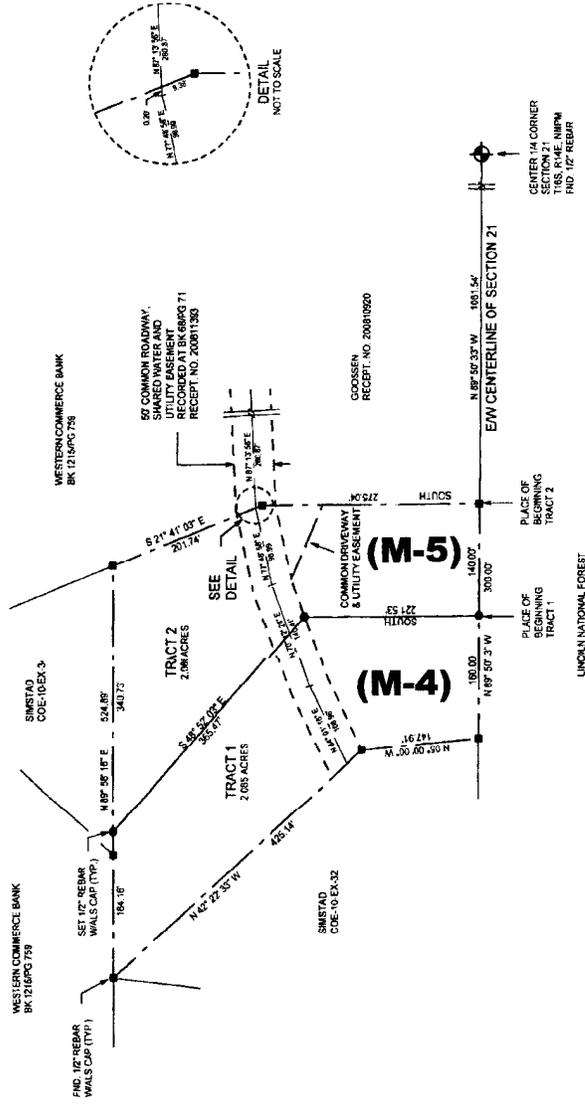
Appendix B - Legal Descriptions / Plats - Page 2 of 3
Lots "M-4" & "M-5"

CLAIM OF EXEMPTION
 FAMILY MEMBER
 A SURVEY PLAT OF TWO TRACTS OF LAND IN
 SECTION 21, T.16S, R.14E, N1/4M
 OTERO COUNTY, NEW MEXICO



DESCRIPTION - TRACT ONE
 A TRACT OF LAND IN THE S/2 NW/4 OF SECTION 21, T.16S, R.14E, N1/4M, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
 STARTING AT THE CENTER ONE QUARTER CORNER OF SAID SECTION 21 AND GOING N89°20'37"W ALONG THE EAST/WEST CENTERLINE OF SAID SECTION 21 A DISTANCE OF 1271.54 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED, THENCE N57°00'00"W A DISTANCE OF 147.51 FEET, THENCE N47°22'37"W A DISTANCE OF 425.14 FEET, THENCE N89°58'19"E A DISTANCE OF 84.16 FEET, THENCE S49°20'37"E A DISTANCE OF 164.18 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 2.086 ACRES, MORE OR LESS.
 SUBJECT TO ANY RIGHTS OF WAY OR OTHER EASEMENTS AS SHOWN ON THE SURVEY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.

DESCRIPTION - TRACT TWO
 A TRACT OF LAND IN THE S/2 NW/4 OF SECTION 21, T.16S, R.14E, N1/4M, DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
 STARTING AT THE CENTER ONE QUARTER CORNER OF SAID SECTION 21 AND GOING N89°20'37"W ALONG THE EAST/WEST CENTERLINE OF SAID SECTION 21 A DISTANCE OF 1061.54 FEET TO THE PLACE OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED, THENCE N57°00'00"W A DISTANCE OF 147.51 FEET, THENCE N47°22'37"W A DISTANCE OF 425.14 FEET, THENCE N89°58'19"E A DISTANCE OF 84.16 FEET, THENCE S49°20'37"E A DISTANCE OF 164.18 FEET TO THE PLACE OF BEGINNING, AND CONTAINING 2.086 ACRES, MORE OR LESS.
 SUBJECT TO ANY RIGHTS OF WAY OR OTHER EASEMENTS AS SHOWN ON THE SURVEY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID TRACT.



SMITH COC-10-EX-54
 ALAMOTERO PROFESSIONAL LAND SURVEYORS
 ALAMOTERO ALAMOGORDO NEW MEXICO
 PHONE 575-37-7074 FAX 575-437-7075
 SURVEYS, P.C. COPYRIGHT © 2016 ALAMOTERO LAND SURVEYORS, P.C.
 DATE: 01/19/16 SCALE: 1" = 100'
 DRAWN BY: JES JOB NO. 10001
 CHECKED BY: JES SHEET 2 OF 2

Date Recorded: Aug. 24, 2010
Instrument #201007856

INDEXING INFORMATION FOR COUNTY CLERK
 OWNER(S):
 SECTION(S): 21 TOWNSHIP(S): 16 S RANGERS) 14 E
 SUBDIVISION:
 FILING AND RECORDING
 FILED FOR RECORD IN THE OTERO COUNTY CLERK'S OFFICE ON THE 24
 DAY OF Aug., 2010 AT 4:23 PM BOOK 10 PAGE 97
 RECEIPTS: 201007856
 Robert Holmes COUNTY CLERK
 Denise Guerra DEPUTY

NOTE:
 BOOK AND PAGE NUMBERS REFERRED TO
 ARE OF THE RECORDS OF OTERO COUNTY,
 NEW MEXICO, IN THE SURVEYORS' OFFICE
 OF THE OTERO COUNTY ASSESSORS' OFFICE

ACKNOWLEDGMENT FOR THE OWNER OF "M-1" & "M-2"

State of New Mexico)
County of Otero) SS

Marla K Simstad
MARLA K. SIMSTAD, a married woman as her sole and separate property. *1-15-16*

This instrument was acknowledged before me by the person(s) named above and on the date shown above.

Signature of Notary: *Susan K Danekas*

Printed Name of Notary: Susan K Danekas

Notary's County of Residence: Otero My commission expires: 7-28-18

ACKNOWLEDGMENT FOR THE OWNER OF "M-4"

State of New Mexico)
County of Otero) SS

Marla K. Simstad, Trustee
Marla K. Simstad, Trustee for the CRAIG TOD SMITH TRUST *7-28-18*

This instrument was acknowledged before me by the above named person, as TRUSTEE of said Trust, on above mentioned date.

Signature of Notary: *Susan K Danekas*

Printed Name of Notary: Susan K Danekas

Notary's County of Residence: Otero My commission expires: 7-28-18

ACKNOWLEDGMENT FOR THE OWNER OF "M-5"

State of New Mexico)
County of Otero) SS

Marla K Simstad, Trustee
Marla K. Simstad, Trustee for the FELYNETH DE LEON SMITH TRUST *7-28-18*

This instrument was acknowledged before me by the above named person, as TRUSTEE of said Trust, on above mentioned date.

Signature of Notary: *Susan K Danekas*

Printed Name of Notary: Susan K Danekas

Notary's County of Residence: Otero My commission expires: 7-28-18

7-28-18

ACKNOWLEDGMENT FOR THE OWNER O. . .

State of New Mexico)
County of Otero) SS

Thomas N. Simstad *Marla K. Simstad*
Thomas N. Simstad and Marla K. Simstad, Husband and Wife

This instrument was acknowledged before me by the above named persons, on above mentioned date.

Signature of Notary: *Susan K Danekas*

Printed Name of Notary: Susan K Danekas

Notary's County of Residence: Otero My commission expires: 7.28.18

ACKNOWLEDGMENT FOR THE OWNER OF "T-3"

7.28.18

State of New Mexico)
County of Otero) SS

Marla K Simstad Trustee
Marla K. Simstad, Trustee for the JONAH F. CARRASCO TRUST

This instrument was acknowledged before me by the above named person, as TRUSTEE of said Trust, on above mentioned date.

Signature of Notary: *Susan K Danekas*

Printed Name of Notary: Susan K Danekas

Notary's County of Residence: Otero My commission expires: 7.28.18

7.28.18

Authorized by New Mexico Skies Home Owners Association, 12/15/15

Thomas N Simstad PRES
Thomas N Simstad, President

Marla K Simstad VP
Marla K Simstad, Asst. Secretary, VP

