

TO BE RECORDED IN
BREWSTER COUNTY, TEXAS

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND EASEMENTS

SIERRA LA RANA

NOTICE TO PURCHASER: SIERRA LA RANA IS A RESTRICTED COMMUNITY. THIS DOCUMENT AFFECTS YOUR RIGHT TO USE THE PROPERTY YOU ARE PURCHASING. BY PURCHASING PROPERTY IN SIERRA LA RANA, YOU ARE BOUND BY ALL OF THE TERMS OF THIS DOCUMENT.

This Declaration of Covenants, Conditions, Restrictions and Easements (this "Declaration") is made and entered into to be effective as of January 1, 2004, by SIERRA LA RANA, LTD. (together with its successors and assigns, "Declarant").

RECITALS

A. Declarant owns all of those certain tracts of real property (the "Property"), in Brewster County, Texas, more particularly described by metes and bounds on Exhibit A attached hereto and incorporated herein by this reference and depicted generally on Exhibit B attached hereto and incorporated herein by this reference. The "Property" is part of a much larger ranch (the "Ranch") owned by Declarant and it is contemplated that other tracts of land out of the Ranch may be added to and become a part of the Property hereafter.

B. The Property is to be known as Sierra la Rana and is to be developed as a quiet, high quality, gated, single family, residential, agricultural, and wildlife conservation community. It is the intent of Declarant that all homes and other improvements in Sierra la Rana shall be compatible with all other homes and improvements in the community, that they be in harmony with their natural surroundings, and that the agricultural and wildlife conservation uses of the land be continued and enhanced as appropriate and consistent with the terms hereof.

C. Declarant desires to adopt, establish, promulgate, and impress upon the Property the following reservations, covenants, restrictions, conditions, easements, assessments, and liens for the benefit of Declarant, the Association (as hereinafter defined), the Property, and the present and future owners of the Property.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that the Recitals set forth above shall be a part of this Declaration and all the Property and each of the Tracts (as hereinafter defined) which comprise the Property shall, to the fullest extent lawful, be held, sold, and conveyed subject to the following reservations, covenants, restrictions, conditions, easements, assessments, and liens (collectively the "Restrictions") and the Restrictions shall run with the Property and each of the Tracts and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any Tract or any part thereof, and shall inure to the benefit of Declarant, the present and future owner(s) of the Property, the Association, and their respective heirs, successors, executors, administrators, and assigns. THE

RESTRICTIONS SHALL BE DEEMED INCORPORATED INTO EACH DEED COVERING THE PROPERTY OR ANY TRACT OR ANY PART THEREOF AS IF SET OUT FULLY IN SUCH DEED.

ARTICLE 1
DEFINITIONS

1.1 Terms defined above shall have the meanings ascribed thereto when used in this Declaration.

1.2 The following words when used in this Declaration, or any supplemental declaration, unless the context shall prohibit, shall have the following meanings:

“ARC” shall mean the Architectural Review Committee of the Association which shall, unless otherwise composed by the Association, consist of the Board.

“Association” shall mean a Texas non-profit corporation to be formed and to act as a property owners association named Sierra la Rana Owners Association, Inc. (or such other name as Declarant shall select), its successors and assigns. Until formation of the Association, Declarant shall have all of the rights, powers, and authority of the Association but not the obligations of the Association unless specifically assumed herein.

“Board” shall mean the Board of Directors of the Association.

“Building Code” shall mean the building code adopted from time to time by the City of Alpine, Texas, regardless of whether such code would or would not be otherwise applicable to any Tract.

“Bylaws” shall mean the Bylaws of the Association.

“Entrance Road” means the road located on the property that is described on Exhibit C attached hereto and incorporated herein by this reference. The Entrance Road is and shall remain owned by Declarant unless and until such time as Declarant, in its sole discretion, should choose to convey the Entrance Road to the Association.

“Initial Owner” shall mean the first purchaser from Declarant of each Tract.

“Member” shall mean every person or entity who holds membership in the Association.

“Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Tract, and his or its respective heirs, successors, personal representatives, and assigns.

“Property” shall mean all the real property so described above and any additions thereto.

“Residence” shall mean a single family residential dwelling constructed or to be constructed on any Tract.

“Roads” means collectively the Entrance Road and the Sierra la Rana Roads.

“Sierra la Rana Roads” means the roads, streets, or other right-of-ways described on Exhibit D attached hereto and incorporated herein by this reference, but only to the extent that such roads are located on the Property.

“Tract” shall mean any one of the separate tracts of land that make up all or part of the Property, save and except any applicable Well Site located thereon. “Tracts” shall mean any two or more such tracts of land. Each Tract is burdened by an easement for a portion of the Roads and the other Restrictions described herein.

“Well Sites” shall mean the parcels of land described on Exhibit F attached hereto and incorporated herein by this reference, upon which are located certain water wells, windmills, water tanks, water pumps, water lines, and other related equipment, such parcels being located within certain of the Tracts as depicted generally on Exhibit B. The Well Sites are not a part of the Property and are not subject to the Restrictions.

1.3 Other terms are defined in other sections of this Declaration and those terms are incorporated herein by this reference.

ARTICLE 2 ARCHITECTURAL REVIEW

2.1 Architectural Review Committee. In order to protect the overall integrity of the development of the Property as well as the value of the improvements of all Owners, a committee of representatives designated as the Architectural Review Committee (“ARC”) is hereby established to carry out all duties as noted herein with full authority to approve, disapprove, and monitor all construction, development, and improvement activities of any kind (including, without limitation, buildings and roads) within the Property and to help ensure that all such activities are in accordance with the Restrictions and architecturally and aesthetically designed to be compatible with Declarant's conceptual plan for the overall Property.

2.2 Plans and Specifications. (a) No building, storage tank, or improvement of any kind shall be erected, placed, constructed, installed, maintained, modified, or altered (including exterior cosmetic alterations such as painting) by any Owner other than Declarant nor shall any sitework be commenced by any Owner other than Declarant until a complete set of plans and specifications, a construction schedule, and the construction contract with the Owner's builder shall have been formally submitted to the ARC with a written request for approval and the ARC's written approval received. Plans and specifications which are submitted shall contain and include, but not necessarily be limited to, all the following information (collectively, the “Plans”): floor plans, including finished floor and ground elevations; foundation plans; exterior elevations for any Residence, buildings, fence, or other structure; a plat or site plan showing the proposed location of any Residence, building, well, septic system, or other structure or utilities; exterior lighting and location; samples of exterior finish materials and color samples; and any other plans, specifications, or information deemed pertinent by the ARC. Declarant may commence construction of any improvements without the approval of the ARC.

(b) Generally, the architectural and aesthetic style of the improvements shall harmonize as much as may be reasonable and practicable with each other and with the heritage and historical architecture of the Big Bend area, which is generally western, ranch-style, rural, Spanish, Mexican/New

Mexican, Neo-Pueblo, and Territorial. Landscaping generally shall be in harmony with the natural occurring flora of the Big Bend area using native or xeric plants as much as is practicable.

2.3 ARC Review. The ARC shall review all Plans submitted for compliance with all the requirements of the Restrictions and for the compatibility of the proposed improvements with the architectural and aesthetic goals of the Property and Declarant. The ARC shall have full right and authority to utilize its sole discretion in approving or disapproving any Plans which are submitted. In the event the ARC fails to approve submitted Plans or to request additional information reasonably required within thirty (30) days after submission, the applicant shall give the ARC written notice of its failure to respond. Unless the ARC responds within ten (10) days of receipt of such notice, approval will be deemed granted.

2.4 ARC Discretion to Approve or Disapprove. The ARC will approve or disapprove all Plans in accordance with this Declaration. Approval may be withheld if the construction or architectural design of any improvement is deemed, on any grounds, including purely aesthetic grounds, necessary to protect the continuity of design or value of the Property, or to preserve the serenity and natural beauty of any surroundings. Prior approvals or disapprovals of the ARC pertaining to any improvement activities or regarding matters of design or aesthetics shall not be deemed binding upon the ARC for later requests for approval if the ARC feels that the repetition of such matters will have an adverse effect on the Property. The ARC shall have the express power to construe and interpret any covenant herein that may be capable of more than one construction, and to waive certain requirements when, in its discretion, it is appropriate to do so (but no waiver will be effective unless in writing and signed by the ARC). All approvals or disapprovals by the ARC are for the sole benefit of the Association and no individual Owner or any third party is or shall be deemed to be a third party beneficiary of such approval or disapproval.

2.5 ARC Right to Inspect. During reasonable hours and after reasonable advance notice (which shall not be less than 24 hours unless circumstances are reasonably deemed by the ARC or Association to warrant less), members of the ARC, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect any Tract, and any structure thereon, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and said persons shall not be deemed guilty of trespass by reason of such entry. All inspections by the ARC are for the sole benefit of the Association and no individual Owner or other third party is or shall be deemed to be a third party beneficiary of such inspections.

2.6 ARC Decision Final. The ARC shall have the authority to employ professional consultants at the expense of the Association to assist it in performance of its duties. The decision of the ARC shall be final, conclusive and binding upon the applicant. The ARC members shall not be entitled to any compensation for any services rendered pursuant to this Declaration.

2.7 No Liability. Neither the ARC nor its members nor the members of the Board shall be liable to any person (including Owners and builders) for any damage or injury to property arising out of their acts hereunder, except in the case of gross negligence or wilful misconduct. Neither the ARC nor its members nor the members of the Board shall be deemed to have made any warranty or misrepresentation to any Owner, builder, or other third party about any matter whatsoever arising out of any approvals or inspections. Without limiting the foregoing, it is expressly agreed that no approval of Plans by the ARC and no construction inspection approvals shall be deemed a representation or warranty by the ARC that any Residence has been or will be completed in a good and workmanlike manner. No discretionary acts by the ARC (such as approval or disapproval of Plans) shall give rise to any liability of the ARC or its members or the members of the Board.

2.8 Number of Members. The number and identity of the initial ARC members shall be decided by Declarant. So long as Declarant owns at least two (2) Tracts, in the event of the death or resignation of any member of the ARC, Declarant shall have full power and authority to appoint a successor committee member or members, chosen in its sole discretion, with like authority. When Declarant no longer owns at least two (2) Tracts, or when Declarant has otherwise elected to cede control of the Association to the Members, the Board shall appoint the members of the ARC, which shall consist of at least three (3) but no more than five (5) members, and which may be members of the Board.

2.9 Design Guidelines. The ARC may promulgate and publish Design Guidelines. The Design Guidelines are incorporated into this Declaration by this reference. A copy of the Design Guidelines will be furnished to any Owner on request. Such Design Guidelines will supplement this Declaration and may make other and further provisions as to the approval and disapproval of Plans, prohibited materials and other matters relating to the appearance and design and quality of improvements. Such Design Guidelines may be amended from time to time upon the affirmative vote of two-thirds of the members of the ARC and the consent of the Board.

ARTICLE 3 GENERAL RESTRICTIONS

3.1 Single Family Residential Only. (a) No part of a Tract, or improvements thereon, shall be used for any purpose other than one Residence on each Tract, except as expressly set forth in subpart (b) below. Certain accessory improvements, as specifically authorized elsewhere in this Declaration, are allowed. Except as expressly set forth in subpart (b) below, it is the intent of Declarant that Sierra la Rana be a single family residential, agricultural, and wildlife conservation community as more specifically described herein.

(b) Any Tract of 200 acres or more may have two (2) Residences constructed thereon, provided the ARC has approved the location thereof and all aspects of the Plans for each of the two Residences as otherwise provided in this Declaration.

3.2 No Commercial Use. An Owner may maintain an office in the Owner's home for business purposes so long as: (a) the business does not involve any employee, customer, client, co-worker, or other party being present on the Tract; and (b) there is no sign or other visible evidence of the business on the Tract. No other business or commercial activity of any kind shall be conducted on a Tract, whether for profit or non-profit. Private orchards, gardens, and limited raising of livestock as expressly allowed herein shall not be deemed to be commercial or business activity. No hobby may be conducted on any Tract which attracts vehicular or pedestrian traffic to the Tract. No garage sales, yard sales, patio sales, sample sales, promotional parties, or similar activities shall be conducted on any Tract.

3.3 Lease Restrictions. A Residence may be leased for a period of no less than one (1) year. All leases must be in writing and a copy of the lease delivered to the Board within ten (10) days after its execution. The lease of a Residence shall not discharge the Owner from compliance with any of the obligations and duties of the Owner. Owners shall provide tenants with a copy of this Declaration. All leases shall be subject to this Declaration and the other documents of the Association, without the

necessity of specific reference to them or delivery of this Declaration to the tenant, and all tenants shall be bound to their terms and conditions.

3.4 No Mobile Homes. (a) Except as otherwise specifically set forth herein, no mobile home, manufactured home, modular home (single or double wide), or pre-fabricated home of any kind, whether or not the wheels have been removed, shall be allowed on any Tract.

(b) Prior to construction of a Residence, an Owner or guests of the Owner, with ARC approval, may reside on the Tract, in a single camper trailer, travel trailer, fifth-wheel travel trailer, motor home, or other similar hard-sided travel style vehicle or camper (not a "pop-up" or similar tent trailer) for up to a total of 45 days during any twelve (12) consecutive month period, taking into account all days spent by the Owner and guests of the Owner in the aggregate.

(c) After construction of a Residence, guests of an Owner may reside on the Tract, in a single camper trailer, travel trailer, fifth-wheel travel trailer, motor home, or other similar hard-sided travel style vehicle or camper (not a "pop up" or similar tent trailer) for up to a total of 90 days during any twelve (12) consecutive month period, taking into account all days spent by all guests in the aggregate.

(d) The Owner of a Tract may reside in a mobile home, camper trailer, travel trailer, fifth-wheel travel trailer, motor home, or other similar style hard-sided vehicle or camper (not a "pop up" or similar tent trailer) with ARC approval during the actual construction of the Residence, so long as construction proceeds with diligence, but for a period not to exceed twelve months in any event.

3.5 No Temporary Structures. (a) Except for the benefit of Declarant or as otherwise allowed herein, no structure of a temporary character (whether trailer, tent, shack, etc.) shall be used on any Tract at any time for storage or as a residence, either temporarily or permanently.

(b) A tent may be erected on a Tract for the purpose of camping only, but for no more than three consecutive weeks and for no more than 30 days per year in the aggregate, taking into account all such instances.

3.6 No Subdividing. (a) No Tract may be subdivided except as expressly set forth in subpart (b) below.

(b) Any Tract of 200 acres or more may be subdivided into two separate tracts of land and each of the two separate tracts shall thereafter be considered a Tract under this Declaration; provided, however, no such subdivision shall be effective if any resulting tract of land or remaining tract of land is less than 50 acres. There shall be no further subdivision of the resulting Tract or the remaining Tract. No subdivision of any Tract shall be effective, and no deed shall be recorded conveying any part thereof, unless and until the Owner of the Tract to be subdivided has given Declarant and the Association written notice of the proposed subdivision, including a copy of a survey plat and accompanying field notes showing the Tract as a whole and each of the two separate tracts as they are proposed to be subdivided. The subdivided Tracts will be subject to subpart (c) below.

(c) Upon only the first sale by any Owner of a subdivided Tract, and as a condition precedent to such sale being effective, the Owner shall pay to Declarant an amount equal to the greater of: (i) 5% of the sales price or (ii) 5% of the fair market value of the land sold as determined by a bona fide appraisal prepared by an appraiser approved by Declarant. [FOR EXAMPLE ONLY: A Tract of 200

acres is subdivided into two Tracts of 100 acres each. Thereafter, one of the subdivided Tracts is sold by the Owner thereof to an unrelated third party for \$100,000.00, and that is determined to be the fair market value thereof. The amount due to Declarant is \$5,000.00. Thereafter the other subdivided Tract is sold by the Owner thereof to a relative for \$50,000.00, though the fair market value thereof is determined to be \$100,000.00. The amount due to Declarant is \$5,000.00. Upon any subsequent sale of either subdivided Tract, no payment is due to Declarant.] The 5% amount payable to Declarant as set forth in this subpart (c) is to compensate and reimburse Declarant for the enhanced value created by Declarant's subdivision of the Property and to compensate Declarant for allowing for further subdivision of a Tract. It is acknowledged and agreed by each Owner to be a fair and reasonable sum.

3.7 Parking. All vehicles belonging to Owners or guests must be parked in the Owner's driveway, garage, or other suitable parking area overnight. In no case may vehicles be parked overnight on the Roads. Vehicles shall not be parked within any building set back. No tractor trailer rigs may be parked on any part of the Property, other than the temporary parking of a rig that is delivering or loading an Owner's livestock. No trailer, camper, recreational vehicle, or similar vehicle shall at any time be parked in front of the Residence, unless approved by the ARC, or within any building setback area. No more than four (4) vehicles bearing commercial insignia or names shall be parked on any Tract, and then only if the vehicle is utilized by the Owner as transportation to and from the Owner's place of employment. No vehicle of any size which transports flammable or explosive cargo may be kept on a Tract at any time other than the temporary parking of a properly licensed fuel truck that dispenses fuel to an Owner's on-site fuel tank.

3.8 Storage of Vehicles. (a) No trailer, motor home, tent, boat, marine craft, hovercraft, aircraft, recreational vehicle, motorcycle, four wheeler, camper body, travel trailer, or truck larger than a one (1) ton pick-up (except those used by a builder during the construction of a Residence) or tractor shall be parked or stored in front of any Residence. No stripped down, wrecked, junked, or inoperable trailer, motor home, tent, boat, marine craft, hovercraft, aircraft, recreational vehicle, motorcycle, four-wheeler, camper body, travel trailer, truck, tractor, or wrecked, junked, or inoperable vehicle of any kind shall be kept, parked, stored or maintained on any Tract unless in an enclosed structure or in a screened area which prevents the view thereof from any other Tract or Road. No dismantling or assembling of any such vehicle or any other machinery or equipment shall be permitted unless in an enclosed structure or in a screened area which prevents the view thereof from any other Tract or Road. The ARC shall have the absolute authority to determine from time to time whether a vehicle is operable and, if not, adequately screened from public view. Upon an adverse determination by the ARC, the vehicle shall be removed or otherwise brought into compliance with these Restrictions.

3.9 No Drilling Operations by Owners. Declarant will reserve one-half of all oil, gas, or other minerals owned by Declarant with respect to the Property and all executive rights. No Owner other than Declarant may execute any lease, authorize any oil or gas exploration or drilling, oil or gas development operations, oil refining, quarrying, or mining operations of any kind on any Tract, nor may any Owner other than Declarant authorize oil wells, storage tanks, tunnels, mineral excavation, or shafts on any Tract. No derrick or other structure designed for use in boring for oil or natural gas will be erected on any Tract by any Owner other than Declarant. Each Owner understands and agrees that Declarant may allow oil and gas drilling and other development of oil, gas, and other minerals on the Property, so long as such drilling or other development does not unreasonably interfere with an Owner's use of the surface of a Tract for a Residence.

3.10 Trash. (a) No trash, garbage, debris, or other refuse may be burned, stored, disposed of, or allowed to remain upon any Tract or Road, whether the Tract is vacant or otherwise. No Tract will be

used or maintained as a dumping ground for rubbish, rocks, brush, grass clippings, garbage, or trash. Garbage and other waste will be kept in sealed, sanitary containers prior to disposal.

(b) Declarant or the Association may, but is not obligated to, contract with a garbage collection service for the pick up and disposal of all household garbage on the Property and, in such event, the cost thereof will be an expense of the Association, which shall be paid by the Owners through the assessments provided for in this Declaration. Declarant or the Association may also designate and provide receptacles at collection sites into which each Owner shall deposit its garbage in order to promote clean and efficient removal thereof.

3.11 No Nuisance or Noxious Activity. No noxious or offensive activity shall be carried on upon any Tract or Road by any Owner, construction workers hired by any Owner, or an Owner's guest, nor shall anything be done upon any Tract or Road which may be or become an annoyance or nuisance to the neighbors (such as, but not limited to, the noise created by the operation of an excessive or unreasonable number of off-road vehicles or motorcycles on a Tract. No junk, railroad cars, buses, inoperative cars or other vehicles, or other noxious, offensive or unsafe equipment or materials may be stored on the Property.

3.12 Animals. Farm and domestic animals (but not hogs or swine) in reasonable numbers (as determined by the Association) may be kept on a Tract provided the Tract is fenced in accordance with this Declaration. No Owner shall allow a household pet to run loose or become a nuisance to the other residents. Neither dogs nor cats may be raised for sale, and commercial kennels of any kind are expressly prohibited. Hogs or swine may be kept on a Tract only if they are raised by the Owner's children registered with the 4H Club or FFA and the animal is raised for Livestock Show Competition and in no event shall more than two (2) per child be allowed on the Tract at any one time. All corrals, pens, and barns shall be cleaned regularly so as to reduce odor and flies. Dangerous pets of any type (i.e. pit bulls) that may pose a safety or health threat to the community shall not be kept on any Tract. All animals shall be kept in strict accordance with all applicable laws and ordinances, and in accordance with all rules established by the Association.

3.13 Lawns. All grass, weeds, and vegetation within 100' of each Residence shall be kept mowed at regular intervals as needed to maintain a neat and well maintained appearance. All landscaping, including lawns and shrubs, shall utilize native plants. Without limiting the foregoing, Saint Augustine grass, zoysia, and ornamental bermudas are expressly prohibited as lawn grasses.

3.14 Signs. (a) An Owner may erect an entrance sign to the Owner's Tract so long as the Owner first seeks and obtains approval of the Plans for such sign.

(b) Signs are not otherwise allowed on any Tract except as set forth herein. One sign per Tract will be allowed, not more than five square feet, advertising a Tract for sale or lease. Declarant is permitted to use more signs and larger signs and to erect permanent signs at each entrance to the Property. Signs advertising contractors, subcontractors, or suppliers are specifically prohibited. Political signs may be erected upon a Tract by the Owner of the Tract advocating the election of one or more political candidates or the sponsorship of a political party, issue, or proposal provided that such signs shall not exceed five square feet, shall be erected no more than ninety (90) days in advance of the election to which they pertain, and are removed within five (5) days after the election. Declarant or the Association shall have the right to remove any sign that does not comply with the above, and in doing so shall not be subject to any liability in connection with such removal.

3.15 No Adverse Conditions. No Owner or occupant shall construct any improvements or perform any work that will impair any easement or right-of-way, or do any act or allow any condition to exist which will adversely affect the other Tracts or their owners or residents.

3.16 Insurance. Each Owner must carry all risk casualty insurance for the full insurable value of the Residence on the Tract. Each Owner must use all insurance proceeds required to properly rebuild in case of a partial loss or damage or, in the case of complete damage, to either rebuild or clear all debris and return the Tract to substantially the natural state as it existed prior to destruction. Reconstruction must be promptly commenced and diligently pursued to completion (and in any event must be completed within twelve (12) months and if not the Owner shall make payment as described in section 4.7). No damaged buildings, including the foundation, shall be allowed to remain on any Tract unless they are to be promptly repaired or restored. Each Owner must carry homeowner's liability insurance at all times, including prior to the construction of improvements on the Tract.

3.17 Property Taxes. Each Owner shall be responsible for the payment of all ad valorem and other property taxes owing on the Owner's Tract, including, but not limited to, any rollback taxes applicable to the Tract in the event the Tract loses its agricultural exemption. To the extent practicable, all Owners are encouraged to take reasonable measures to maintain an agricultural tax exemption for all or part of their Tract by preserving or enhancing the agricultural and/or wildlife conservation uses of their Tract, consistent with the terms hereof. Declarant makes no representations, warranties, or agreements of any kind concerning whether an Owner can or cannot maintain an agricultural exemption.

3.18 Underground Utilities. All utility lines and other facilities installed by or for any Owner for electricity, water, cable, telephone, sewer, storm sewer, or other utilities must be installed underground; but this provision shall not apply to above-ground utilities existing on the date hereof (including Declarant's water lines) and any replacement thereof by Declarant or those otherwise expressly authorized in writing by the ARC.

3.19 Alternative Energy Sources. In the event electricity is not available to a Tract of 50 acres or greater, or it is cost prohibitive to bring electricity to the Tract, an Owner may, with ARC approval, install a gas-powered generator, solar panels, or other alternative energy source. Any such installation must be shielded from public view.

ARTICLE 4 CONSTRUCTION RELATED RESTRICTIONS

4.1 Minimum Construction Requirements. Each Residence shall have a minimum contiguous interior living area of 1,500 square feet, exclusive of garages, carports, porches, or patios. All exterior construction shall be of new materials and shall be natural or ARC-approved natural-appearing materials such as brick, stucco, lap siding, or log. No Residence or other structure shall exceed two (2) stories in height unless approved by the ARC due to unusual topography. Each Residence shall have a garage capable of housing at least two (2) vehicles. Carports may be constructed in lieu of a fully enclosed garage, but only if they are attached to and built of the same materials as the Residence. All carports and garages shall be constructed at right angles to the main residence. Construction materials having a life of less than twenty-five (25) years, as determined by the ARC, shall not be utilized in the construction of any improvements on a Tract. Roofing shall be either slate, tile, factory treated fire retardant wood, metal, dimensional composition shingles, or other materials as approved by the ARC.

4.2 Accessory Improvements. (a) Buildings that are immediately accessory to the Residence and other similar improvements to the Residence, such as a detached garage, maid's quarters, guest house, or cabana may be allowed, provided they conform to the same style and architecture and are constructed of the same materials as the Residence and are approved by the ARC. No such accessory building to the Residence shall exceed 50% of the interior living area of the Residence.

(b) Storage buildings, shops, livestock barns, and other similar buildings and improvements constructed on a Tract that are more than 200 feet from the Residence and at least 50 feet behind the rear plane of the Residence, shall be allowed and need not conform to the size limitations described in (a) above or to the same style and architecture and be constructed of the same materials as the Residence provided the Plans therefor are approved by the ARC and they otherwise conform with (c) below.

(c) All accessory buildings, wells, storage tanks, and other improvements of every kind shall be located behind the Residence unless otherwise approved by the ARC.

4.3 Recreational Improvements. Basketball goals, batting cages, tennis courts, swimming pools, or any other similar sporting or recreational equipment or improvement shall be placed behind the Residence unless otherwise approved by the ARC.

4.4 Minimum Setback. No improvements of any kind (other than approved fences) may be placed closer than one hundred feet (100') from any property line, except in cases where rugged terrain is encountered, thus necessitating or making highly desirable the use of such space, in which case this restriction may be waived or modified by written approval of the ARC, within its sole discretion.

4.5 Storage of Building Materials. No building materials of any kind may be stored on any Tract for longer than one week prior to the commencement of work for which the materials were purchased unless they are stored in an enclosed building or located such that they cannot be viewed from any other Tract.

4.6 Construction Clean-up. From time to time during construction as required to maintain a neat and orderly appearance, and upon completion of construction, the Owner of the Tract will be responsible for the removal of any trash or debris that may have been thrown, placed, or discarded on any part of the Tract or on any other Tract if the trash or debris originated at the Owner's Tract.

4.7 Completion of Construction. In order to promote the marketing of Sierra la Rana and to maintain the aesthetics of the development, once construction of a Residence is commenced on a Tract it shall be diligently continued to completion. No Residence shall remain incomplete for more than twelve (12) months after construction has commenced. An owner who breaches this section 4.7 shall pay to Declarant, as liquidated damages, the sum of \$50.00 per day for each day construction remains incomplete beyond this twelve (12) months.

4.8 Air Conditioning. No air conditioning apparatus shall be used, placed, or maintained on any Residence except on the ground or the walls of the side or back of the Residence or on the roof of the Residence. No air conditioning apparatus shall be installed at or on the front of a Residence.

4.9 Lighting. (a) In general, outside lighting used in connection with the occupancy of a residence shall be kept to the minimum required for safety and security. Landscape lighting is allowed. All outside lights must have a bonnet or shield preventing the light from traveling in an upward direction. No fluorescent or neon lights shall be used to illuminate the outside areas of a Tract. No exterior lighting

of any sort shall be installed or maintained on a Tract where the light source is offensive or a nuisance to other Owners or Tracts (tennis court or similar lighting is permitted with the approval of the ARC).

(b) Specifically, all outdoor lighting shall comply with the Alpine Outdoor Lighting Ordinance as adopted by the City of Alpine, Texas, on May 23, 2000, as amended from time to time.

4.10 Sound Devices. No exterior speakers, horns, whistles, bells, or other sound devices (except reasonable security devices) audible from any adjoining Tract shall be placed or used upon any Tract.

4.11 Fences. (a) All livestock or perimeter fencing shall be in accordance with the "Standards and Specifications for Fencing" as published by the United States Department of Agriculture, Soil Conservation Service, in its publication available at the Agency's offices in Alpine, Texas, and shall be made of wire net, barbed wire, smooth wire, chain link, pipe, or pipe and cable. No other livestock or perimeter fencing will be allowed without ARC approval.

(b) A privacy fence or wall not exceeding eight (8) feet in height may be erected by an Owner to enclose an area behind or to the side of the Owner's Residence not to exceed 10,890 square feet in the enclosed area. No privacy fence or wall shall be built or maintained forward of the front wall line of the main structure, not including decorative walls, fences or hedges which are part of the architectural design of the main structure and approved in writing by the ARC. All privacy fences or walls shall be of the following composition: all masonry, brick, cedar wood, red wood, or other durable wood (not white wood) or other material approved by the ARC. Chain-link fences are allowed, but may not include metal or vinyl "slats" inserted therein to make the fence a privacy fence.

(c) No fence or gate (other than the main entry gates into the Property) may be erected across any Road. All fences shall be constructed at least fifteen feet (15') from the outside edge of any Road.

(d) Each Owner shall maintain in a safe and neat manner all fences on the Owner's Tract. In order to facilitate the use of all easements described herein, fences erected across any easement shall contain either: (1) a twelve foot (12') wide gate or (2) two (2) six foot (6') wide gates or (3) a twelve foot (12') section of fence that is susceptible to reasonably easy removal (without damage to the balance of the fence) and replacement.

4.12 Driveways. Driveways on each Tract must be constructed of concrete, asphalt, caliche, or gravel (or other natural surface if approved by the ARC).

4.13 Sewage Disposal. Each Owner must install an aerobic or septic tank septic system for sewage disposal. All septic systems must be installed by a state certified licensed installer and must be permitted and inspected by Brewster County. Septic Systems must be inspected by a state certified licensed installer every three years and must be regularly maintained so as to remain fully functional. No outside toilets or cesspools will be permitted.

4.14 Water Wells. (a) The Owner of each Tract of 30 acres or less shall have the right, subject to the approval of and permitting by all appropriate governmental authorities, to have and maintain no more than one (1) producing water well on the Tract for the Owner's personal and domestic consumption in connection with the ownership of that Tract. The Owner of each Tract of more than 30 acres shall have the right, subject to the approval of and permitting by all appropriate governmental authorities, to have and maintain no more than two (2) producing water wells on the Tract for the

Owner's personal and domestic consumption in connection with the ownership of that Tract. No well shall be fixed with a pump that exceeds a pump rate of 15 gallons per minute. In the event the well or wells authorized by this section do not provide sufficient amounts of water for the Owner's personal and domestic consumption, the Board may allow an additional well or wells as reasonably required so long as the aggregate production of those wells does not exceed 15 gallons per minute (or 30 gallons per minute if the Tract exceeds 30 acres). Each Owner is strictly prohibited from selling any water commercially from any well, but the Owner shall have the right to sell an undivided interest in a well to no more than two neighboring Owners for the personal and domestic consumption of the water by such neighboring Owners. The drilling and operation of any well shall meet the approval of all federal, state, county, or municipal regulatory authorities entitled by law to approve, regulate, or supervise same, and obtaining such approval and the cost thereof shall be the sole responsibility of the Owner.

(b) Declarant makes no representation or warranty of any kind, express or implied, with respect to: (1) whether the Owner will be allowed by appropriate governmental authorities to drill a water well; (2) whether water will be found on any Tract; (3) the quantity of water available to any Tract now or in the future; (4) whether any water found on any Tract will be potable (safe to drink). Each Owner acknowledges that the Property is located in an arid region and that the topography of any given Tract may effect the availability, quality, or quantity of any water.

(c) If an Owner is unsuccessful in completing a water well on a Tract, the Owner may, to the extent allowed by applicable law, connect to one of the water wells owned by Declarant (or, if applicable, the Association). The Owner shall bear all cost and expense of the connection, including but not limited to all water lines, storage tanks, pumps, and fittings. The Owner may use the water only for personal and domestic consumption in connection with ownership of the Tract. Owner shall pay to Declarant (or, if applicable, the Association) on the first day of each month a monthly charge for water as established from time to time by Declarant (or, if applicable, the Association). The charge for such water shall be initially \$25 per month.

4.15 Impoundment of Surface Water. No party may impound water in lakes or ponds which would violate any applicable law or could affect the safety or do harm to life and property down stream should the impoundment break. All stock tanks must be approved by the ARC. Typical stock tanks with a surface area of not greater than five percent (5%) of the surface of the entire Tract.

4.16 Antenna. No microwave dishes, radio, citizen band or otherwise, or television axial wires or antennas (except no more than two antennas for Ham radios not exceeding twenty-five (25) feet in height and located in a location approved by the ARC) shall be maintained on any portion of any Tract, or in the common area, except direct broadcast satellite (DBS) antennae less than one meter in diameter, multichannel multipoint distribution system (MMES) antennae less than one meter in diameter, or television broadcast antennae, which Owner shall screen from view as much as possible without impairing the installation, maintenance or use. All matters set forth in this provision require the express approval, in advance, of the ARC, which shall be exercised in conformity with the rules of the Federal Communications Commission.

4.17 Solar Panels. Solar panels or any other solar apparatus, other than a solar cell utilized to open an entry gate, must be screened from public view.

4.18 Building Codes. All construction will comply with the Building Code, any other applicable building codes or fire codes, and any other applicable laws, ordinances or regulations of any governmental body or agency.

4.19 Storage Tanks. Propane and other storage tanks shall be screened from public view with stone, stucco, or other masonry material approved by the ARC.

ARTICLE 5 MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

5.1 Control by Declarant. So long as Declarant owns at least two (2) Tracts, and notwithstanding any provision of the Bylaws to the contrary, Declarant shall, at Declarant's option, have exclusive control of the Association by being the sole voting Member. Declarant may, at any time and at Declarant's option, turn over control of the Association to the Members by filing an instrument to that effect in the Real Property Records of Brewster County, Texas. At the point in time that Declarant owns less than two (2) Tracts, control shall be delivered to the Members without the need for any further act or action on the part of Declarant. At such time as Declarant cedes control of the Association to the Members, or at such earlier time as Declarant may choose, Declarant shall also deed to the Association title to the Roads and any other common elements owned by Declarant.

5.2 Membership and Voting. (a) Subject to paragraph 5.1 above, every person or entity who is a record owner of a fee interest in any Tract shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest in a Tract merely as security, unless such persons or entities acquire title to a Tract through judicial or non-judicial foreclosure, or deed in lieu of foreclosure. Membership shall be appurtenant to and may not be separated from ownership of any Tract. Ownership of such Tract shall be the sole qualification for membership. When more than one person holds a membership interest in any Tract, all such persons shall be Members, and the vote for such Tract shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Tract.

(b) Upon acquiring a Tract, the owner thereof shall promptly notify the Association, in writing, of the owner's name, physical address (not just a post office box), telephone number, and the identity of the Tract acquired.

5.3 Suspension of Voting Rights. All voting rights of an Owner may be suspended by the Board of Directors during any period in which such Owner is delinquent in the payment of any duly established assessment or is otherwise in default and/or violation of these Restrictions or under the Bylaws or rules and regulations of the Association.

5.4 Registration with the Association. In order that Declarant and the Association can properly determine voting rights and acquaint every Tract purchaser and every Owner with these Restrictions and the day-to-day matters within the Association's jurisdiction, each Owner shall have an affirmative duty and obligation to originally provide, and thereafter revise and update, within fifteen (15) days after a material change has occurred, various items of information to the Association such as: (a) the full name and address of each Owner; (b) the business address, occupation and telephone number of each Owner; (c) the description and license plate number of each automobile owned or used by a Owner and brought within the Property; (d) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Owner cannot be located) in case of an emergency; and (e) such other information as may be reasonably requested from time to time by the Association. In the event any Owner fails, neglects or refuses to so provide, revise and update such information, then the Association

may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

ARTICLE 6
MAINTENANCE BY AND OTHER ACTIVITIES OF ASSOCIATION

6.1 Area to be Maintained.

- (a) It shall be the responsibility of the Association to maintain or cause to be maintained: (1) the entry signs into the Property and related landscaping and improvements; (2) the entry gates into the Property; (3) the Roads; and (4) any other common elements owned or controlled by the Association..
- (b) Notwithstanding subpart (a) above, until the date that is the earlier of (1) the date that Declarant has sold twenty (20) Tracts or (2) the date that is three (3) years after the effective date of this Declaration, Declarant will pay up to \$5,000 per year of the costs of the maintenance described in subpart (a) above, and shall be entitled to dollar for dollar reimbursement from the Association for all such costs up to, but not more than, the total amount of assessments received by the Association during such period. Declarant may contract to have maintenance done by a third party contractor or Declarant may utilize Declarant's own equipment and employees or those of related entities and charge for the maintenance work done (in which case Declarant agrees that the charge for such maintenance work will be competitive with the charges of local third party contractors).

6.2 Easement for Use and Maintenance. Declarant and the Association shall have an easement upon and across all affected Tracts for the use and maintenance of the common properties described in section 6.1 and, as may be reasonably required, upon and across all Tracts adjoining said common properties, and there is hereby granted and reserved to Declarant and the Association an easement for those purposes. Declarant, the Association, and any officer or agent thereof shall not be guilty of trespass because of such entry.

6.3 Easement for Use and Maintenance of Entrance Road. The Association shall have an easement upon and across the Entrance Road for the use, maintenance, general upkeep and repair thereof.

6.4 Wildlife Management Plan. The Association may adopt a Wildlife Management Plan for the purpose of promoting wildlife conservation on the Property. A Wildlife Management Plan, if adopted, may impose certain further restrictions and burdens on an Owner's Tract. If adopted, the Wildlife Management Plan may be terminated at the discretion of the Association. This provision shall not preclude two or more Owners from developing their own plan or from forming a Wildlife Conservation Association of their own.

6.5 Easement for Association Cure of Violations. If, pursuant to section 13.2 or 13.3, the Association intends to cure an Owner's violation of the Restrictions, the Association shall have an easement across the Owner's Tract for purposes of curing the violation. [FOR EXAMPLE ONLY: If an Owner dumps rubbish and debris on the Owner's Tract and refuses to remove it after notice pursuant to

section 13.2 or 13.3, the Association may enter upon the Tract, remove the rubbish, and charge the cost to the Owner.]

ARTICLE 7 COVENANT FOR ASSESSMENT

7.1 Creation of the Lien and Personal Obligation of Assessment. Each Owner of any Tract, other than Declarant, by acceptance of the deed therefor, whether or not it shall be so expressed in the deed, hereby covenants and agrees to pay to the Association regular assessments and special assessments as provided for in this Declaration, and covenants to the enforcement of payment of the assessments and the lien of the Association as hereinafter provided. Such assessments shall be fixed, established, and collected from time to time as provided by the Association. The regular and special assessments, together with any interest thereon and costs of collection thereof, including reasonable attorney's fees, shall be a charge upon the Tract and a continuing lien upon the Tract against which each such assessment is made. Each such assessment, together with any interest and costs of collection thereof, including reasonable attorney's fees, shall also be a personal obligation of the Owner of the Tract at the time when the assessment became due. Such personal obligation shall not pass to the Owner's successors in title unless expressly assumed by them, but shall pass as a lien upon the applicable Tract. No Tract shall be assessed until conveyed by Declarant to an Owner. A Tract or Tracts owned by Declarant may be assessed at such time as Declarant owns no more than two (2) Tracts.

7.2 Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the residents in the Property, for the improvement and maintenance of the Roads and any other capital improvements owned or controlled by the Association, implementing, maintaining, and enforcing any Wildlife Management Plan adopted by the Association, establishing and maintaining repair and replacement reserves as determined by Declarant or the Association, and any other purpose reasonable, necessary, or incidental to such purposes as determined by the Board.

7.3 Regular Assessments. The regular assessments shall be based upon the cash requirements, as the Board shall from time to time determine, necessary to provide for the payment of all estimated expenses arising out of or connected with the purposes described above. The regular assessments may be due monthly, quarterly, or annually, as determined by the Board from time to time. The Board may increase, decrease, or cease regular assessments at any time and from time to time. Assessments will be made initially in accordance with Exhibit E attached hereto and incorporated herein by this reference.

7.4 Special Assessments. Upon vote of the Board or the Members as set forth in the Bylaws, the Association may levy, in addition to the annual assessments, one or more special assessments in any calendar year applicable to that year only: (a) applicable to all Owners, for the purpose of defraying in whole or in part the costs of construction, reconstruction, repair or replacement of a capital improvement or Road or otherwise, including necessary fixtures and personal property related thereto, or for such other lawful purposes related to the use and maintenance of the Property as the Board or Members may determine; (b) applicable only to a particular Owner (or Owners), for the purpose of defraying the costs of reconstruction, repair or replacement of a capital improvement or Road, including necessary fixtures and personal property related thereto, in the event a particular Owner (or Owners) has taken any action or has failed to take action which has resulted in damage to, or extraordinary wear and tear of, a capital improvement or Road; and (c) applicable only to a particular Owner (or Owners), to reimburse the Association for expenditures made pursuant to section 13.2 or 13.3.

7.5 The Effect of Non-Payment of Assessments: Remedies of the Association. Each Owner shall be deemed to covenant and agree to pay to the Association the assessments provided for herein, and each agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner against whom collection or enforcement or other action is taken agrees to pay reasonable attorney's fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. In the event of a default in payment of any such assessment when due, the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, specifically including:

(a) Enforcement By Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the highest legal rate from the date of delinquency, plus court cost, and reasonable attorney's fees.

(b) Enforcement by Lien. There is, to the full extent permitted by law, hereby created and granted a lien, with power of sale, on each Tract to secure payment to the Association of any and all assessments levied against all Owners of such Tracts under these Restrictions, together with interest thereon at the highest legal rate from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. At any time after the occurrence of any default in payment of any such assessment, the Association, or any authorized representative, may, but shall not be required to, make a written demand for payment to the defaulting Owner, on behalf of the Association. The demand shall state the date and the amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid after delivery of such demand, or even without such a written demand being made, the Board may elect to file a claim of lien on behalf of the Association against the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- (1) The name of the delinquent Owner;
- (2) The legal description and, if applicable, street address of the Tract against which the claim of lien is made;
- (3) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and reasonable attorney's fees; and
- (4) That the claim of lien is made by the Association pursuant to the Restrictions.

Notwithstanding the foregoing, it is expressly intended that the lien herein described shall immediately attach and become effective in favor of the Association as a lien upon any Tract against which an assessment is levied regardless of whether any demand is made or claim of lien filed. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof,

except only tax liens for real property taxes on any Tract assessments in favor of any municipal or other governmental assessing unit, and the liens which are hereinafter specifically described in subpart (b)(5) below. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust or other contracted lien with power of sale as set forth by the laws of the State of Texas, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and all other Tract Owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Tract. In the event such foreclosure is by action in court, reasonable attorney's fees, court costs, title search fees, interest, and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Tract, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

(5) Subordination of the Lien to Mortgages. The lien described herein shall be subordinate to any first deed of trust lien on a Tract which was recorded before the delinquent assessment became due and any deed of trust home equity lien or lien for improvements on a Tract which was recorded before the delinquent assessment became due.

ARTICLE 8 ADMINISTRATION AND MANAGEMENT

8.1 Rules and Regulations. The Association shall have the right to promulgate and publish rules and regulations with which each Member shall strictly comply.

8.2 Governing Documents. The administration of the Property shall be governed by these Restrictions, the Bylaws, and any rules and regulations of the Association as published from time to time.

8.3 Evidence of Compliance with Declaration. Records of Declarant or the Association with respect to compliance with this Declaration shall be conclusive evidence as to all matters shown by such records. A certificate of completion and compliance issued by Declarant or the secretary of the Association stating that the improvements to a Tract were made in accordance with this Declaration, or a certificate as to any matters relating to this Declaration issued by Declarant or the secretary of the Association, shall be conclusive evidence that shall justify and protect any title company insuring title to any portion of the Property and shall fully protect any purchaser or lender in connection therewith.

8.4 Association Insurance. The Association shall be vested with the authority to obtain property insurance, comprehensive public liability insurance, and errors and omissions insurance on behalf of the directors, officers, managers and employees. The Association has the power to assess for the cost of insurance obtained by the Association.

8.5 Personal Property for Common Use. The Association may acquire and hold property, tangible and intangible, real and personal, in the name of the Association, for the use and benefit of all Members and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by the Members, and their interest therein shall not be transferable; however, the interest of a Member shall be deemed to be transferred upon the transfer of title to the Member's Tract, including foreclosure.

ARTICLE 9 PROPERTY RIGHTS OF DECLARANT

So long as Declarant owns any interest in the Property, Declarant hereby specifically excepts, excludes, and reserves the following rights and interests in the Property:

9.1 Amendments. So long as Declarant owns at least two (2) Tracts, Declarant shall have the right to amend this Declaration and each amendment shall apply to all of the Property, whether owned by Declarant or not.

9.2 Revision. Declarant reserves the right to revise the acreage and configuration of Tracts owned by Declarant, to change any building lines or setback lines, or change the course or size of easements or roads so long as Declarant holds legal title to the affected Tracts.

9.3 Sales and Construction Activities. Declarant shall have the right to maintain sales and administrative offices, construction offices or trailers, model homes, and parking facilities, storage facilities, and signs on the Property and to conduct sales activities on the Property as long as Declarant owns at least two (2) Tracts.

9.4 Construction Work by Declarant. Declarant shall have the right to construct and complete the construction of Roads and any other common improvements on the Property. In connection therewith, Declarant reserves the right to use, occupy, and excavate the surface and subsurface of the ground for the erection, construction, and installation of said improvements including, but not limited to, the right to locate, install, maintain, and repair all utilities and utility lines, whether temporary or permanent, necessary for Declarant's construction, reconstruction, maintenance, and operation. Declarant also reserves the right to extend the Roads located or to be located on the Property to other property. Declarant, in addition, reserves the right to convey to any county, water district, sanitary sewer district, or other municipal or quasi municipal corporation all sewer lines and mains, water lines and mains, and any other utilities constructed or to be constructed on the Property, together with suitable rights-of-way over said lands for the required maintenance, repair, replacement, and operation thereof. The foregoing rights reserved by Declarant do not impose on Declarant the obligation to construct or install any improvements of any kind; specifically, but without limitation, Declarant has no obligation to provide any utilities to any Tract.

9.5 General Easements for Declarant. Declarant, so long as it shall retain record title to at least two (2) Tracts, reserves for itself and for the Association the right and easement to the use of any Tract, or any portion thereof, as may be needed for repair, maintenance, or construction on any of the Property in accordance with these Restrictions.

9.6 Easements for Declarant's Water Storage Tanks, Water Lines and Other Utilities. Declarant reserves ownership of the Well Sites and all windmills, water storage tanks, associated pumps, above and below ground water lines, and all other equipment and lines related thereto (including electric lines), to the extent such improvements exist as of the date hereof or are hereafter installed by Declarant and other utility lines of every kind owned by Declarant, now or in the future, on or under any part of the Property. Declarant shall have and there is hereby reserved to Declarant an easement over and across all of the Property for access to the Well Sites and the use, maintenance, and replacement of all of Declarant's windmills, water storage tanks, associated pumps, above and below ground water lines, and all other equipment and lines related thereto (including electric lines) and other utility lines of every kind, whether located on the Well Site or elsewhere.

9.7 Road Easement for Declarant. Declarant reserves an easement over and across the Property for the use of the Roads and any other existing roads and rights-of-way on the Property.

9.8 Grazing Lease and Easement for Grazing. Each Owner hereby leases to Declarant or its assigns or sublessees for livestock grazing, for the sum of One Dollar (\$1.00) per calendar year (or part thereof if less than a year), any unfenced portion of any Tract. In addition, Declarant reserves an exclusive livestock grazing easement over and across each Tract for the purpose of grazing the livestock of Declarant or its assigns on any unfenced portion of any Tract. Until an Owner fences the Owner's Tract, no Owner may lease the Tract to any other party for grazing. Declarant shall have no liability to any Owner for grass and other plants consumed by such livestock or damage caused by such livestock. The lease and easement described in this section may be assigned or sublet by Declarant and shall terminate on the earlier of notice of termination from Declarant or at such time as Owner has fenced the Tract.

ARTICLE 10
OTHER EASEMENTS AND RIGHTS

10.1 Roads, Utility, and other Easements.

- (a) **An easement for egress and ingress is hereby reserved to Declarant, the Association, all Owners, and each of their respective authorized employees and agents, family members, and authorized guests, over and across all of the Roads. No Owner may deny, limit, impair, restrict, or otherwise interfere in any way with the use of the Roads by Declarant, the Association, any Owner, or any of their respective authorized employees and agents, family members, and authorized guests.**
- (b) Without limiting the foregoing, it is understood that Declarant may at any time and from time to time develop along or adjacent to the Entrance Road commercial developments and use the Entrance Road to serve those commercial developments.
- (c) Declarant will bring an underground electric line and an underground telephone line to the utility easement adjacent to each Tract. Each Owner will be responsible for bringing electricity and telephone service from such point to the Residence. A utility easement fifteen feet (15') in width is hereby reserved to the Declarant and Association inside and along the property lines of each Tract (that is, each Tract shall be burdened with a utility easement 15' in width measured from the property line and then 15' into each Tract and running parallel to the property line). In the event topography necessitates or makes desirable a route for utilities other than within the 15' easement described above, Declarant and the Association shall each have the right to use such other route as is reasonable, and an easement for such route, once recorded by Declarant or the Association, shall be binding on all Owners of the affected Tract. The utility easements described herein shall be for the purpose of installation and maintenance of possible utilities, above or below ground (or both) including electricity, telephone, TV cable, water, sewer, and natural gas lines, for the purpose of drainage and erosion and water control, and for any other purpose deemed by Declarant or the Association to be beneficial to the Property as a whole. Nothing contained herein shall be construed as imposing upon Declarant or the Association any obligation to provide any utilities or services. Furthermore, Declarant reserves the right to

sell, lease, license, or assign, in whole or in part, such easements and to otherwise negotiate as to such lines, utilities, or other facilities for the providing of services by a municipality, governmental agency, or other private or public service corporation. **Except the Declarant's obligation set forth in the first sentence of this Section 10.1 (b), each Owner shall be responsible for, and shall pay for, the installation and maintenance of all utilities to the Owner's Tract and Declarant does not warrant or guaranty the availability of utilities or the economic feasibility of bringing utilities to any Tract.**

- (d) On, over, and across each Tract, upon which is now or hereafter constructed (or replaced) all or any part of any common gate or common entryway into the Property, there is hereby reserved to Declarant and the Association an easement for the construction, maintenance, repair, and replacement of all common gate and common entryway improvements including, but not limited to, gates, poles and posts associated therewith, motors and electrical lines associated therewith, irrigation systems and water lines, brick, stone, metal, or other decorative fences, walls, planters, or other improvements, landscaping, and similar common gate or common entryway improvements. **Further, each Owner acknowledges and agrees that all emergency services such as, but not limited to, fire, police, and ambulance service, shall be granted emergency access through all common gates.**

10.2 Maintenance Easement for Utilities. An easement of ingress and egress is hereby granted on and across all Tracts in favor of Declarant and the Association for the purpose of repair, construction, and maintenance of all utility lines; provided, however, no new utility line may be constructed and no existing utility line may be relocated without the prior approval of the Association.

10.3 Perpetual Easements. All easements reserved or created in any part of this Declaration for the benefit of Declarant or the Association are perpetual. All easements reserved or created herein for the benefit of Declarant may be granted or assigned by Declarant, in whole or in part, on an exclusive or nonexclusive basis, to any third party. Utility easements reserved or created herein for the benefit of the Association may be granted or assigned by the Association, in whole or in part, on an exclusive or nonexclusive basis, to any public utility or utilities.

ARTICLE 11 INSURANCE AND INDEMNIFICATION

11.1 Insurance Requirements Generally. The Association shall obtain and maintain in full force and effect commercial general liability insurance and such other insurance as it deems necessary or desirable. All such insurance shall be obtained from responsible companies duly authorized and licensed to do business in the State of Texas. To the extent possible, the insurance shall:

- (a) Provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents and Members; and
- (b) Provide that the policy of insurance shall not be terminated, canceled, or substantially modified without at least thirty (30) days prior written notice to the Association.

Any insurance policy may contain such deductible provisions as the Board deems consistent with good business practice. The cost and expense of all insurance obtained by the Association shall be paid out of Association funds.

11.2 Indemnification. Each officer, director, ARC or other committee member, or agent of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an officer, director, committee member, or agent of the Association; provided, however, that (a) in the case of Declarant or any affiliate entity of Declarant, or any officer, director, or employee of Declarant or any affiliate, this indemnification shall not apply if Declarant or any affiliate or the indemnified officer, director, or employee of Declarant or any affiliate is adjudged guilty of gross negligence or malfeasance in the performance of its or his obligations hereunder, and (b) in the case of any other indemnified party, this indemnification shall be applicable only as set forth in the Bylaws of the Association.

ARTICLE 12 PROTECTION OF MORTGAGEES

12.1 Notice to Association. An Owner who mortgages his Tract shall notify the Association, giving the name and address of the mortgagee. Each mortgagee shall be permitted to notify the Association of the fact that such mortgagee holds a deed of trust or mortgage on a Tract. The Association shall maintain a record of such information.

12.2 Examination of Books. The Association shall permit first or second mortgagees to examine the books and records of the Association during normal business hours.

ARTICLE 13 GENERAL PROVISIONS

13.1 Term of and Amendment to Restrictions. The provisions hereof, including the Restrictions, shall run with the Property and be binding on each Owner for a period of thirty (30) years from the date hereof, at which time all provisions shall be automatically extended for successive periods of ten (10) years, unless prior to the expiration of any such initial period or extended period, Declarant and at least seventy-five percent (75%) of the other Owners shall have executed and recorded an instrument to become operative at the expiration of the particular period. So long as Declarant owns at least two (2) Tracts, these Restrictions may be amended or revoked only by Declarant, and no other Owner shall have a vote regarding amendment or revocation. After Declarant no longer owns at least two (2) Tracts, these Restrictions may be amended with the consent of seventy-five percent (75%) of the Tract Owners, with each Tract being entitled to one (1) vote.

13.2 Complaints by Owner. If any Owner believes any other Owner is in violation of this Declaration, he or she may so notify such Owner in writing, explaining the reasons for such complaint. If the Owner fails to remedy the alleged violation in ten (10) days after delivery of such notice, a complaint may be transmitted in writing to the President of the Association, who shall thereupon notify the Board. The Board shall have the right (but not the obligation or duty) to institute appropriate legal action, at law or in equity, to enforce this Declaration, and may recover its reasonable expenses, including attorney's fees. Without limiting the foregoing, the Association may take such other action as it deems necessary to cure the Owner's violation and the cost expended by the Association in doing so shall be a charge and lien upon the subject Tract.

13.3 Complaints by Association. If the Association believes any Owner is in violation of this Declaration, it shall so notify such Owner in writing, explaining its reason for such complaint. If the Owner fails to remedy the alleged violation within ten (10) days following delivery of such notice, then the Association shall have the right (but not the obligation or duty) to institute appropriate legal action, at law or in equity, to enforce this Declaration, and may recover its reasonable expenses, including attorney's fees. Without limiting the foregoing, the Association may take such other action as it deems necessary to cure the Owner's violation and the cost expended by the Association in doing so shall be a charge and lien upon the subject Tract.

13.4 Waiver of Enforcement. Waiver of enforcement of any provision of this Declaration shall be limited to that particular provision which is waived, in writing, as to a particular matter as it relates to a particular Tract, and shall not be construed to be a waiver of any other provision of this Declaration.

13.5 Effect of Ordinances. Police, fire, and other public safety ordinances of any governmental corporation or unit having jurisdiction over any portion of the Property shall govern where more restrictive than this Declaration.

13.6 Bylaws. To the extent of any conflict between this Declaration and the Bylaws, this Declaration shall control.

13.7 Severability. Invalidation of any provision of this Declaration by judgment or court decree shall in no way affect any other provisions which shall remain in full force and effect. Nothing herein shall be in conflict with Texas homestead law. Should a provision herein be in conflict, Texas homestead law shall apply. All other provisions shall remain in full force and effect.

13.8 Dispute Resolution between Owners. (a) Each Owner agrees that if any dispute arises between such Owner and Declarant, the Association, or the ARC as to any matter arising out of or related to this Declaration, then before proceeding with any legal action the parties shall, with reasonable promptness, arrange a mutually agreeable time for a face-to-face meeting between fully authorized representatives to seek to resolve the dispute in a mutually acceptable manner.

(b) If the meeting described in (a) above fails to resolve the dispute or fails to occur, then said parties shall agree to promptly submit the dispute to mediation in Brewster County, Texas before a single attorney mediator practicing law in Brewster County, Texas (or any surrounding county) chosen by Declarant or the Association, as the case may be, and approved by the Owner within the Owner's reasonable discretion.

(c) If the mediation described in (b) above fails to resolve the dispute or fails to occur, then subject to 13.3 above and subpart (i) below, upon demand by either party the parties shall submit to binding arbitration all disputes between or among them arising out of or relating to this Agreement.

(d) Any arbitration proceeding in accordance with (c) above will (i) proceed in a location in Brewster County, Texas (or any surrounding county) selected by the American Arbitration Association ("AAA"); (ii) be governed by the Federal Arbitration Action (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the parties shall mutually agree

upon, in accordance with the AAA's commercial dispute resolution procedures (the commercial dispute resolution procedures to be referred to as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a proper demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute.

(e) The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of Texas and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief by Declarant or the Association or pursuit of a provisional or ancillary remedy by Declarant or the Association shall not constitute a waiver of the right of to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(f) In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than twenty (20) days before the hearing date and within ninety (90) days of the filing of the dispute with the AAA. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(g) The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) To the maximum extent practicable, the AAA, the arbitrators, and the parties shall take all action required to conclude any arbitration proceeding within one hundred and twenty (120) days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a dispute, the arbitration provision most directly related to the Declaration or the subject matter of the dispute shall control.

(i) Notwithstanding the foregoing, this section 13.8 shall not preclude the Declarant or the Association from exercising its rights pursuant to section 13.3 or from seeking, in an appropriate court of law, an injunction or temporary restraining order otherwise designed to enforce against any such compliance with, and prohibit any further violation(s) of, this Declaration.

13.9 Additional Property. Declarant may at any time subject additional land to this Declaration and the Restrictions by filing an amendment or supplement to this Declaration covering the additional land and declaring it to be subject hereto. Unless the additional land is an easement interest or common use area, the land covered by the amendment to this Declaration shall be deemed to be a Tract or Tracts, as described in the amendment or supplement, and part of the Property and each owner of the

additional land shall be deemed an Owner, and entitled to membership in the Association, in accordance with the terms of this Declaration.

EXECUTED to be effective the date first written above.

SIERRA LA RANA, LTD., a Texas limited partnership

By: JH-Del-GP, Inc., a Delaware corporation, its
general partner

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on _____, 2004, by
_____, _____ of JH-Del-GP, Inc., a Delaware
corporation, the sole general partner of Sierra la Rana, Ltd., a Texas limited partnership on behalf of the
limited partnership.

Notary Public, State of Texas

My Commission Expires:

Printed Name of Notary:

AFTER RECORDING RETURN TO:
Kendall D. Adair, Esq.
Harris, Finley & Bogle, P.C.
777 Main Street, Suite 3600
Fort Worth, Texas 76102-5341

Exhibit List

- Exhibit A - Legal Description of Tracts
- Exhibit B - Drawing of the Property
- Exhibit C - Legal Description of the Entrance Road
- Exhibit D - Legal Description of Sierra la Rana Roads
- Exhibit E - Initial Assessments
- Exhibit F - Legal Description of Well Sites

Exhibit A

[Legal Description of Tracts]

See Attached 59 Pages

Exhibit B

[Drawing of the Property]

See Attached 1 Page

Exhibit C

[Legal Description of Entrance Road]

See Attached 4 Pages

Exhibit D

[Legal Description of Sierra la Rana Roads]

See Attached 7 Pages

Exhibit E

[Initial Assessments]

The initial regular assessments will be \$25.00 per acre per year; payable quarterly or as otherwise determined by the Association. Any partial acre will be rounded up to the next whole acre [for example only: for assessment purposes 10.2 acres will be rounded up to 11 acres].

Exhibit F

[Legal Description of Well Sites]

See Attached 4 Pages