

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**DESERT RIDGE**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (the "**Declaration**") is made on the date hereinafter set forth by **CENTEX HOMES**, a Nevada general partnership, hereinafter referred to as the "**Declarant**."

**WITNESSETH**

**WHEREAS**, Declarant owns certain real property in Sandoval County, New Mexico, described on Exhibit "A" attached hereto; and

**WHEREAS**, Declarant desires to create an exclusive planned community comprised of single family residences known as Desert Ridge, on the land described on Exhibit "A," and such other land as may be added thereto pursuant to the terms and provisions of this Declaration;

**NOW THEREFORE**, Declarant declares that the Property (as hereinafter defined) will be held, sold and conveyed subject to the restrictions, covenants and conditions declared below, which will be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot (as hereinafter defined) and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants will be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and will inure to the benefit of each Owner (as hereinafter defined) thereof.

**ARTICLE I**

**DEFINITIONS**

**Section 1.1** "**Builder**" will mean Centex Homes and any other residential building company acquiring Lots from the Declarant for the purpose of construction and sale of homes.

**Section 1.2** "**City**" will mean the City of Rio Rancho, Sandoval County, New Mexico.

**Section 1.3** "**Declarant**" will mean Centex Homes and its successors and assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign.

**Section 1.4** "**Declaration**" will mean this Declaration of Covenants, Conditions and Restrictions for Desert Ridge, and any amendments and supplements thereto made in accordance with its terms.

**Section 1.5** "**Lot**" will mean any of the plots of land indicated upon the recorded subdivision plat(s) of the Property or any part thereof creating single-family homesites, but only if the plot of land has in place an infrastructure (including utilities and streets) necessary to allow construction of a single-family home.

**Section 1.6** "**Owner**" will mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

**Section 1.7** "Plat" will mean the final, recorded plat of Desert Ridge, recorded in Volume 3, Folio 2449-A, Rio Rancho Estates Plat Book 17, Page 57 of the Official Records of Sandoval County, New Mexico on August 12, 2004.

**Section 1.8** "Property" will mean the real property described on Exhibit "A," and such additions thereto and made subject to this Declaration.

**Section 1.9** "Unit" will mean any single-family residential dwelling situated upon any Lot.

## ARTICLE II

### ARCHITECTURAL REVIEW

**Section 2.1** **Architectural Control Committee.** A committee to be known as the Architectural Control Committee (the "ACC") will be established consisting of 3 members.

(a) Until all Lots within the Property have been conveyed to Owners, the members of the ACC shall be appointed, terminated and/or replaced by the Declarant. The members appointed to the ACC are Norm Gregory, Rick Crawley and Kyle Fisher.

(b) The purpose of the ACC is to enforce the architectural standards of the community and to approve or disapprove plans for improvements proposed for the Lots.

(c) The ACC will act by simple majority vote, and will have the authority to delegate its duties or to retain the services of a professional engineer, architect, designer, inspector or other person to assist in the performance of its duties.

**Section 2.2** **Scope of Review.** No building, fence, wall, outbuilding, landscaping, pool, athletic facility or other structure or improvement will be erected, altered, added onto or repaired upon any portion of the Property without the prior written consent of the ACC, provided however, that improvements erected, altered, added onto or repaired by Declarant will be exempt from the provisions of this Article II.

**Section 2.3** **Submission of Plans.** Prior to the initiation of construction upon any Lot, the Owner (excluding Declarant) thereof will first submit to the ACC a complete set of plans and specifications for the proposed improvements, including site plans, grading plans, landscape plans, floor plans depicting room sizes and layouts, exterior elevations, specifications of materials and exterior colors, and any other information deemed necessary by the ACC for the performance of its function. In addition, the Owner will submit the identity of the individual or company intended to perform the work and projected commencement and completion dates.

**Section 2.4** **Plan Review.** Upon receipt by the ACC of all of the information required by this Article V, the ACC will have 30 days in which to review said plans. The proposed improvements will be approved if, in the sole and absolute opinion of the ACC: (a) the improvements will be of an architectural style and material that are compatible with the other structures in the Property; (b) the improvements will not violate any restrictive covenant or encroach upon any easement or cross platted building set back lines; (c) the improvements will not result in the reduction in property value, use or enjoyment of any of the Property; (d) the individual or company intended to perform the work is acceptable to the ACC; and (e) the improvements will

be substantially completed, including all cleanup, within 3 months of the date of commencement (6 months for the construction of a complete house). If the ACC fails to issue its written approval within 30 days of its receipt of the last of the materials or documents required to complete the Owner's submission, such failure by the ACC to issue its written approval shall be deemed disapproval.

**Section 2.5** **Non-conforming Structures.** If there will be a significant or material deviation from the approved plans in the completed improvements, such improvements will be in violation of this Article V to the same extent as if erected without prior approval of the ACC. The ACC or any Owner may maintain an action at law or in equity for the removal or correction of the non-conforming structure and, if successful, will recover from the Owner in violation all costs, expenses and fees incurred in the prosecution thereof.

**Section 2.6** **Immunity of ACC Members.** No individual member of the ACC will have any personal liability to any Owner or any other person for the acts or omissions of the ACC if such acts or omissions were committed in good faith and without malice. The Declarant shall defend any action brought against the ACC or any member thereof arising from acts or omissions of the ACC committed in good faith and without malice.

**Section 2.7** **Address for Notice.** Requests for ACC approval or correspondence with the ACC will be addressed to Desert Ridge Architectural Control Committee and mailed or delivered in care of Centex Homes at the address shown at the end of the signature block hereto, or such other address as may be designated from time to time by the ACC. No correspondence or request for approval will be deemed to have been received until actually received by the ACC in form satisfactory to the ACC.

### ARTICLE III

### EASEMENTS

**Section 3.1** **Utility Easements.** The Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Lots for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television, telephone, gas and electric systems. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on or in such easements.

**Section 3.2** **Declarant's Easement to Correct Drainage.** The Declarant hereby reserves for the benefit of Declarant or any Builder, a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance, and will be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein will be interpreted to impose any duty upon Declarant or any Builder to correct or maintain any drainage facilities within the Property.

**Section 3.3** **Easement for Unintentional Encroachment.** The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Lots caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement will exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching Property to the extent of such encroachment.

**Section 3.4 Easement for Perimeter Wall and Sidewalk.** The Declarant hereby reserves for the benefit of Declarant an exclusive easement (the "Perimeter Wall and/or Sidewalk Easement") for the construction of a perimeter masonry and/or wooden fence and sidewalk running at the rear (and in some cases, the side) of Lots along the streets surrounding the neighborhood. Such easements are located immediately adjacent to Lots 1 through 36 Block 1 inclusive; Lots 1 through 15 Block 2 inclusive. These Lots will be sold subject to the perimeter masonry and/or wooden fence and sidewalk and the fence and sidewalk easements described in this Section 3.4, and the easements will be coextensive with the footprint of the fence and sidewalk. Additionally, the owners of these Lots will be responsible for the maintenance of the masonry wall or wood fence, including, but not limited to, control of the watering in the area upon which the fence is situated to prevent the shifting of the foundation of the fence which could damage the wall and/or fence.

The property lines of Lots 20 through 36, Block 1 inclusive extend beyond the Perimeter Wall. In these cases, the portion of the Lot that extends beyond the Perimeter Wall (outside of the building area) is the responsibility of the individual Lot owner to maintain. Further, with respect to Lots 20 through 36, Block 1 inclusive, the individual Lot owner may not alter, in any way, the portion of their Lot outside the building area.

With respect to Lots 1 through 19 Block 1 inclusive the Perimeter Wall may be constructed solely on the individual Lot. This may reduce the backyard of these Lots by approximately one (1) foot or more.

**Section 3.5 Entry Easement.** If the Owner fails to maintain the Lot as required herein, or in the event of emergency, the Declarant will have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the Declarant will not be liable for any damage so created unless such damage is caused by the Declarant's willful misconduct or gross negligence.

**Section 3.6 Storm Drain, Sewer and Water Easements.** Easements for the installation and maintenance of utilities, storm water retention/detention ponds, are reserved as may be shown on the Plat. Within these easement areas, no structure, planting or other material will be placed or permitted to remain which may damage or interfere with the installation and maintenance of such utilities, or which may hinder or change the direction of flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein will be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or the utility company is responsible.

**Section 3.7 Temporary Completion Easement.** All Lots will be subject to an easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of the Property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the Property, provided that such easement will terminate 12 months after the date such Lot is conveyed to the Owner by the Declarant.

## ARTICLE IV

### USE AND OCCUPANCY

All Lots and dwellings will be used and occupied primarily for single-family residence purposes only. No Lot or dwelling may be used for commercial, institutional or other non-residential purpose (including residential day care facilities) if (a) the existence or operation of the business activity is apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity does not conform to all zoning requirements for the Property; (c) the business activity involves regular visitation of the Unit by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents in the Property; and (d) the business activity diminishes the residential character of the Property or constitutes a nuisance, or a hazardous or offensive use, or threatens the security or safety of the other residents in the Property. This prohibition will not apply to (i) "garage sales" conducted entirely on an Owner's Lot in accordance with guidelines (if any) established by the City ordinances, provided that no Owner will conduct more than 1 garage sale of no more than 2 days duration during any 6 month period, or (ii) the use of any Unit by Declarant or any Builder as a model home or sales office, or (iii) the use of any Lot as a site for a selection center trailer, construction office trailer and/ or sales office trailer and/or parking lot by Declarant or any Builder.

## ARTICLE V

### PROPERTY RIGHTS

**Section 5.1** Effect of Declaration. Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described or to this Declaration will be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees, or trustees of said parcels as fully and completely as if those easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

**Section 5.2** Rezoning Prohibited. No Lot will be rezoned to any classification allowing commercial, institutional or other non-residential use without the express consent of the Declarant, which may be withheld in Declarant's sole discretion. Declarant may enforce this covenant by obtaining an injunction against any unapproved rezoning at the expense of the enjoined party.

**Section 5.3** Lot Consolidation. Declarant may divide any Lot and/or consolidate any adjoining Lots and/or any portion thereof. Each Lot shall meet all lawful requirements of any applicable statute, ordinance or regulation.

**Section 5.4** Drainage Alteration Prohibited. The surface water drainage contours of each Lot will conform to the grading plan established by the Declarant or any Builder and approved by the City. No Owner will fill or alter any drainage swale established by the Declarant or any Builder, nor will any Owner install landscaping or other improvements that may damage or interfere with the installation and maintenance of utilities or which may obstruct or divert surface water runoff from the drainage patterns, swales and easements established by the Declarant or any Builder.

## ARTICLE VI

### USE RESTRICTIONS

**Section 6.1**     **Nuisances.** No noxious or offensive activity will be carried on upon any Lot, nor will anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

**Section 6.2**     **Development Activity.** Notwithstanding any other provision herein, Declarant and its successors and assigns or any Builder, will be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of Units on the Property.

**Section 6.3**     **Temporary Structures.** No structure of a temporary character, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structure will be used on any Lot at any time as a residence, either temporarily or permanently. This restriction will not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, selection center offices, construction offices or material storage facilities.

**Section 6.4**     **Signs.** No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the Property or the subdivision or carried by any person or by any other means displayed within the Property or the subdivision except the following:

(a)     **For Sale Signs.** An Owner may erect 1 sign not exceeding 2 feet by 3 feet in area, fastened only to a stake in the ground and extending not more than 3 feet above the surface of the ground advertising the property for sale.

(b)     **Declarant's Signs.** Signs or billboards may be erected by the Declarant or any Builder.

(c)     **Political Signs.** Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs will not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election.

(d)     **School and Business Logos.** Emblems or bumper stickers advertising a resident's school or business mounted upon vehicles parked or driven in the subdivision.

Declarant or its agents will have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirements; and in so doing, will not be subject to any liability in connection with such removal.

**Section 6.5**     **Vehicles.**

(a)     **Campers, Boats and Recreational Vehicles.** Campers, boats, marine craft, hovercraft, boat trailers, travel trailers, motor homes, camper bodies, golf carts, and other types of recreational vehicles and non-passenger vehicles, equipment, implements or accessories may be kept on any Lot, provided, however, they are kept in an area on the Lot designated by Declarant and the

same are fully enclosed within a garage located on such Lot and/or said vehicles and/or accessories are fully screened from view at the front of the Lot by a screening structure or fencing not less than 4 feet in height, approved by the ACC, and said vehicles and accessories are in operable condition. Such vehicles may not be stored on any Lot between the Unit and the City right-of-way. The ACC, as designated in this Declaration, will have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and fully enclosed and/or screened. Upon an adverse determination by said ACC, the vehicle and/or accessory will be removed and/or otherwise brought into compliance with this paragraph. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment will be permitted in any driveway or yard adjacent to a street.

(b) **Commercial Vehicles.** No commercial vehicle with a gross vehicle weight ratio greater than one (1) ton will be parked on any street right-of-way or Lot except within an enclosed structure which prevents such view thereof from adjacent lots and streets, unless such vehicle is temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity. No trucks or vehicles of any size which transport inflammatory or explosive cargo may be kept on the Property at any time. No vehicles or similar equipment may be parked on the landscaped areas of any Lot, except as provided by Section 6.5 (a).

(c) **Motor Vehicles.** No vehicles or similar equipment will be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks, and pick-up trucks with attached bed campers that are in operating condition and have current license plates and inspection stickers and are in daily use as motor vehicles on the streets and highways of the State of New Mexico. No abandoned, derelict or inoperable vehicles may be stored or located on any Lot.

**Section 6.6 Pets, Livestock and Poultry.** No animals, livestock or poultry of any kind will be raised, bred or kept on any Lot, except for cats, dogs or other generally recognized household pets, provided that they are not kept, bred, or maintained for any commercial purpose or for food. It is the purpose of these provisions to restrict the use of the Property so that no person will quarter on the premises cows, horses, bees, hogs, pigs, sheep, goats, ducks, geese, chickens, turkeys, skunks or other animals that may interfere with the quietude, health or safety of the community. No more than 4 animals may be kept on a single Lot. All such animals will be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the ACC. All animals must be properly tagged for identification. No animal will be allowed to run at large, and all animals will be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects and waste at all times.

**Section 6.7 Garbage and Refuse Disposal.** No Lot will be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste will not be kept except in sanitary containers. All equipment for the storage or disposal of such material will be kept in a clean and sanitary condition. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble, or debris will be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal but will be removed from view before the following day. Materials incident to construction of improvements may be stored on Lots during construction by Declarant.

**Section 6.8 Air-Conditioning Units.** No air-conditioning apparatus will be installed on the ground in front of a residence nor will any air-conditioning apparatus or evaporative cooler be attached to any front wall or any window of a residence.

**Section 6.9 Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways will be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them, at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations will apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree will be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 6.10 Parking.** No vehicles, trailers, implements or apparatus may be driven or parked on any Lot or on any easement unless such vehicle, trailer, implement or apparatus is in use for maintaining such area or easement, provided, however, that this restriction will not apply to driveways or streets intended for vehicular use.

**Section 6.11 Commercial or Institutional Use.** No Lot, and no building erected or maintained on any Lot, will be used for manufacturing, industrial, business, professional, commercial, institutional or other non-residential purposes, except as set forth in Article IV.

**Section 6.12 Detached Buildings.** No detached accessory buildings, including, but not limited to, detached garages (other than provided herein) and storage buildings, will be erected, placed or constructed upon any Lot without the prior consent of the ACC. Every outbuilding, inclusive of such structures as a storage building or greenhouse, will be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. Exterior paint and roofing materials of such outbuildings shall be consistent with the existing paint and roofing materials of the dwelling.

**Section 6.13 Fences.** All fences and walls will comply with City requirements. No fence, wall or hedge will be erected or maintained on any Lot nearer to the street than the building setback lines for the front and side yards, except for (i) fences erected in conjunction with model homes or sales offices, (ii) retaining walls constructed by Declarant. Fences constructed on corner lots may be erected for the side yard as long as such fencing complies with City requirements. All perimeter fences will be constructed of wood and/or masonry except for retaining walls installed by Declarant or retaining walls or decorative walls approved by the ACC. All side and rear property lines must be fenced and meet City setback criteria. All perimeter fences will be approximately 5 feet in height unless another height is approved by the ACC but, in any event, no such fence will be less than 4 feet in height. No chain-link, metal cloth or agricultural fences may be built or maintained on any Lot unless such fence is located within the perimeter fence in such a manner that it is not visible from any street, alley, park, or public area (unless otherwise approved by the ACC in the manner described below). Unless otherwise agreed between Owners, side and rear yard fences that separate adjacent Lots will be owned and maintained by the Owner on whose Lot the fence exists, or if the location is indefinite, such fence will be maintained by the Owners whose Lots are involved jointly with expenses being shared equally. Notwithstanding the foregoing, the ACC has the right and authority to approve variances of fencing height, material and/or location for reasonable cause or to alleviate hardship as determined in the sole judgment of the ACC; provided however, the ACC may not approve a variance which contradicts the zoning and/or subdivision ordinances of the City unless the City has previously approved the variance. No Owner may modify, adjust, or in any way alter the perimeter wall or any retaining wall installed by the Declarant.



**Section 6.14 Sidewalks.** All sidewalks will conform to City specifications and regulations. If a homeowner, its representative, agent or employee, causes damage to any sidewalk located on or adjacent to such homeowner's Lot, the homeowner must repair or replace the sidewalk so that it will be returned to its original condition.

**Section 6.15 Landscaping and Exterior Maintenance.** All landscaping located on any Lot will be properly maintained at all times by the Lot Owner. Each Lot Owner will keep all shrubs, trees, grass, and plantings of every kind on his Lot cultivated, pruned, free of trash, and other unsightly material. All improvements upon any Lot will at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Lot Owner. Declarant, and the ACC will have the right at any reasonable time to enter upon any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary; and to paint, repair, or otherwise maintain any improvements in need thereof, and to charge the cost thereof to the Lot Owner.

**Section 6.16 Antennae, Satellite Dishes and Solar Collectors.** Except with the written permission of the ACC or as provided herein, no Owner may erect or maintain (a) any direct broadcast satellite ("DBS") antenna greater than one meter (39 inches) in diameter, or (b) any multi-channel multipoint distribution service (wireless cable) ("MMDS") antenna greater than one meter (39 inches) in diameter; provided, however, such DBS or MMDS antenna being less than one meter in diameter may be placed in the least conspicuous location on a Lot where an acceptable quality signal can be received as long as such DBS or MMDS antenna is screened from view (for aesthetic reasons) of any street, alley, park, or other public area, unless otherwise approved in writing by the ACC. The installation of any other antennal structure, such as a television broadcast service ("TVBS") antenna, will be mounted in the attic of a residential structure unless written permission is given by the ACC to place such antennal structure in another location. Except with the written permission of the ACC, no solar collector panels may be placed on or around the residential structure.

**Section 6.17 Window Treatment.** No aluminum foil, reflective film or similar treatment will be placed on windows or glass doors. Temporary window treatments must be removed within 45 days.

**Section 6.18 Limitation on Square Feet.** The minimum square footage area of Units erected on the Lots will not be less than the 900 square feet.

**Section 6.19 Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind will be permitted upon or in any Lot, nor will oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas will be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any of the Lots above the surface of the ground.

**Section 6.20 Mail Boxes.** Mail boxes will be erected and maintained upon areas determined by the U.S. Postal Service in accordance with the current postal authority standards.

**Section 6.21 Garages and Driveways.** An enclosed garage able to accommodate up to 2 automobiles must be constructed and maintained for each residence. Additionally, all openings to garages must be situated within the setback lines set out in Section 6.22 below. Garages may be used as a builder's sales offices prior to permanent occupancy of the main structure; however, sales offices must be converted to garages prior to permanent occupancy. With the exception of periods when garages are used by the Declarant or any Builder as sales offices, all garages will be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation. No carport will be permitted on a Lot.

**Section 6.22    Setback Lines.** No dwelling will be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum setback lines shown on the Plat or required by the City. Notwithstanding the foregoing, the ACC will have the right and authority to approve variances from the setback requirements for reasonable cause or to alleviate a hardship; provided however, the ACC may not approve a variance which contradicts the setback requirements of the zoning and/or subdivision ordinances of the City unless the City has previously approved the variance.

**Section 6.23    Athletic and Recreational Facilities.** Outdoor athletic and recreational facilities such as playscapes, swing sets and sport courts of a permanent nature will not be placed on any Lot in the Property or the subdivision between the street right-of-way and the front of a Unit unless approved by the ACC pursuant to Article V. Basketball goals may be placed adjacent to the driveways, but within the Lot.

**Section 6.24    Security.** The Declarant is not responsible for security of the neighborhood or any Unit and the Owners are exclusively responsible for security for home and property.

**Section 6.25    Burning.** Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything will be permitted anywhere on the Property.

**Section 6.26    Utilities.** Except as to special street lighting or other aerial facilities which may be required by the City or by the franchise of any utility company or which may be installed by the Declarant pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) will be erected or installed on the Property whether upon individual Lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Property, and all utility service facilities (including, but not limited to, water, sewer, gas, cable, electricity and telephone) will be buried underground unless otherwise required by a public utility. No individual water supply system or sewage disposal system will be permitted on any Lot, including, but not limited to, water wells, cesspools or septic tanks.

**Section 6.27    Exterior Holiday Decorations.** Lights or decorations may be erected on the exterior of Units in commemoration or celebration of publicly observed holidays provided that such lights or decorations do not unreasonably disturb the peaceful enjoyment of adjacent Owners by illuminating bedrooms, creating noise or attracting sight-seers. All lights and decorations must be removed within 30 days after the holiday has ended. Christmas decorations or lights may not be displayed prior to November 1st of any year. For other holidays, decorations or lights may not be displayed more than 3 weeks in advance of the holiday. The ACC will have the right, upon 30 days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The ACC, and the individuals removing the lights and decorations, will not be liable to the Owner for trespass, conversion or damages of any kind except in the case of intentional misdeeds and gross negligence.

**Section 6.28    Construction Activities.** This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by a Lot Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the area. If construction upon any Lot does not conform to usual practices in the area

as determined by the ACC in its sole good faith judgment, the ACC will have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is an excessive accumulation of debris of any kind that is offensive or detrimental to the Property or any portion thereof, then the ACC may contract for or cause such debris to be removed, and the Lot Owner will be liable for all expenses incurred in connection therewith.

## ARTICLE VII

### **PICKETING AND DEMONSTRATIONS**

By acceptance of the deed to any Lot covered by this Declaration, the Owner covenants and agrees with the Owners of all other Lots within the Property that no Owner or resident of any Lot will engage in picketing, protest marches, sit-in demonstrations, protest speeches or other forms of public protest, including without limitation, displaying signs or placards within public view, upon any Lot or within any Common Area, easement or street right-of-way adjacent to any Lot, or affixed to any vehicle or apparatus upon or adjacent to any Lot. This prohibition will not affect the right of any person to participate in any other form of public protest conducted outside the area depicted on the recorded subdivision Plat. No Owner or resident of any Lot will engage in conduct that tends to vilify, ridicule, denigrate, or impugn the character of any other Owner or resident if such conduct occurs on any Lot, Common Area easement or street depicted on the subdivision Plat. Each Owner, by acceptance of the deed to any Lot, will be deemed to have accepted the foregoing prohibitions as reasonable limitations on his constitutional right of free speech, and to recognize and agree that all Owners have the right to the peaceful enjoyment of their property; the right of privacy; the right to practice their own religion; the freedom of association; and the right to engage in a profession, business or life-style of their own choosing provided that the conduct of such profession, business or life-style is not illegal and does not otherwise violate any provision of this Declaration.

## **ARTICLE VIII**

### **GENERAL**

**Section 8.1** **Term and Amendments.** The covenants and restrictions of this Declaration will run with and bind the land for a term of 30 years from the date this Declaration is recorded, after which time they will be automatically extended for successive periods of 10 years each, unless 75% of the votes outstanding will have voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial 30-year period or any extension thereof, which termination will be by written instrument signed by 75% of the Owners and properly recorded in Sandoval County, New Mexico. This Declaration may be amended during the first 30-year period by an instrument signed by not less than 90% of the Owners and by the Declarant, except as provided below. Any amendment must be recorded. Notwithstanding any provisions hereof to the contrary, the Declarant may, at its sole discretion and without consent being required of any other party, modify, amend or repeal this Declaration at any time prior to the closing of the sale of the first Lot covered hereunder, provided said amendment, modification or repeal is in writing and properly recorded in Sandoval County, New Mexico. Declarant further reserves, (a) prior to the closing of the sales of all of the Property, all rights which may be necessary to deal with the Property, including the right to vacate, amend or modify the Plat, and (b) the right at any time to amend this Declaration in order to correct scrivener's errors.

At the time Declarant sells or transfers the last Lot owned by Declarant, notice of such shall be sent to the Owners setting forth such effect, together with notification that each of the then members of the ACC are resigning. Such resignations shall be effective 30 days after the mailing of such notice. In the event no members remain on the ACC, new members may be chosen in the following manner: upon the written request of 10 percent of the Owners, a meeting shall be held for the purpose of selecting one or more members. Reasonable diligence shall be used to notify the Owners of the time and place of the meeting, and the purpose thereof. At such meeting, up to 3 persons may be selected as members of the ACC. Each Owner shall have one vote, and the persons receiving the most votes shall be selected as members of the ACC.

**Section 8.2 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order will in no way affect any other provisions which will remain, in full force and effect.

**Section 8.3 Rights and Obligations.** The provisions of this Declaration and the rights and obligations established thereby will be deemed to be covenants running with the land and will inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed will be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration, whether or not mention thereof is made in said deed.

**Section 8.4 Gender.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, will include all other genders, and the singular will include the plural, and vice versa.

**Section 8.5 Headings.** The headings contained in this Declaration are for reference purposes only and will not in any way affect the meaning or interpretation of this Declaration.

**Section 8.6 Partial Invalidity.** The invalidation of any one of these covenants by judgment or court order will in no way affect any of the other provisions, which will remain in full force and effect.

**IN WITNESS WHEREOF**, the Declarant has caused this instrument to be executed on its behalf, attested and its corporate seal to be hereunto affixed as of the day and year first above written.

**DECLARANT:**

**CENTEX HOMES,**  
a Nevada general partnership

By: 

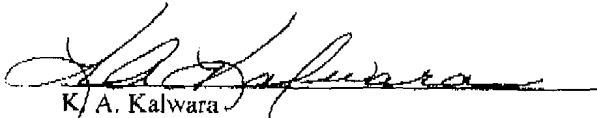
Richard T. Bressan  
Land Acquisition Manager

STATE OF NEW MEXICO

§  
§  
§

COUNTY OF SANDOVAL

The foregoing instrument was acknowledged before me on this the 12<sup>th</sup> day of August 2004 by Richard T. Bressan, Land Acquisition Manager of **CENTEX HOMES**, a Nevada general partnership.



K. A. Kalwara  
Notary Public, State of New Mexico  
My Commission Expires: March 21, 2006

**AFTER RECORDING RETURN TO:**

Centex Homes  
5120 Masthead NE  
Albuquerque, New Mexico 87109.  
Attn: Richard T. Bressan

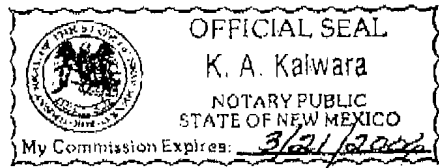


EXHIBIT "A"

**The Property**

All of the lots in Desert Ridge, a subdivision in Sandoval County, New Mexico, according to the plat recorded in Volume 3, Folio 2449-A Rio Rancho Estates Plat Book 17, Page 57 of the Official Records of Sandoval County, New Mexico on August 12, 2004.

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