

**ACCESS AGREEMENT  
AND GRANT OF EASEMENT**

This Access Agreement and Grant of Easement ("Agreement") is entered into between R&R, LLC, a New Mexico limited liability company ("R&R"), and The Ranch Landowners Association, Inc., ("RLA").

1. R&R is the owner in fee simple absolute of the following tract of land located in Otero County, New Mexico, referred to in this Agreement as the "Property":

AN 88.876 ACRE TRACT IN LOTS 13, 14, 19, 20, 21 & 22, SECTION 2, T16S, R12E, AND LOTS 16 & 17, SECTION 3, T16S, R12E, NMPM, OTERO COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF LOT 17, SECTION 3, T16S, R12E, NMPM; THENCE, FROM THE POINT OF BEGINNING AND ALONG THE EAST LINE OF LOT 17, N00°06'14"E, A DISTANCE OF 590.06 FEET; THENCE, LEAVING THE EAST LINE OF LOT 17, N20°27'15"W, A DISTANCE OF 49.17 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 20°43'59", AN ARC LENGTH OF 36.19 FEET, AND HAVING A LONG CHORD THAT BEARS, N10°05'16"W, A DISTANCE OF 35.99 FEET TO A POINT OF TANGENCY; THENCE, N00°16'44"E, A DISTANCE OF 41.03 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF CURVE TO THE LEFT HAVING A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 26°42'10", AN ARC LENGTH OF 93.21 FEET, AND HAVING A LONG CHORD THAT BEARS, N13°04'21"W, A DISTANCE OF 92.37 FEET TO A POINT OF TANGENCY; THENCE, N26°25'26"W, A DISTANCE OF 75.82 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 41°07'51", AN ARC LENGTH OF 107.68 FEET, AND HAVING A LONG CHORD THAT BEARS, N05°51'30"W, A DISTANCE OF 105.38 FEET TO A POINT OF TANGENCY; THENCE, N14°42'25"E, A DISTANCE OF 204.91 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 600.00 FEET, THROUGH A CENTRAL ANGLE OF 34°39'39", AN ARC LENGTH OF 362.97 FEET, AND HAVING A LONG CHORD THAT BEARS, N02°37'24"W, A DISTANCE OF 357.46 FEET TO A POINT OF TANGENCY; THENCE, N19°57'14"W, A DISTANCE OF 109.22 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET, THROUGH A CENTRAL ANGLE OF 49°14'31", AN ARC LENGTH OF 64.46 FEET, AND HAVING A LONG CHORD THAT BEARS, N04°40'02"E, A DISTANCE OF 62.49 FEET TO A POINT OF TANGENCY; THENCE, N29°17'17"E, A DISTANCE OF 91.68 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE TO LEFT HAVING A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 26°18'05", AN ARC LENGTH OF 91.81 FEET, AND HAVING A LONG CHORD TO THE LEFT THAT BEARS, N16°08'14"E, A DISTANCE OF 91.01 FEET TO A POINT OF TANGENCY; THENCE, N02°59'12"E, A DISTANCE OF 169.53 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 14°23'27", AN ARC LENGTH OF 75.35 FEET, AND HAVING A LONG CHORD THAT BEARS, N04°12'32"W, A DISTANCE OF 75.15 FEET TO A POINT OF TANGENCY; THENCE, N11°24'15"W, A DISTANCE OF 375.24 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 45°01'09", AN ARC LENGTH OF

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235.72 FEET, AND HAVING A LONG CHORD THAT BEARS, N33°54'50"W, A DISTANCE OF 229.70 FEET TO A POINT OF TANGENCY; THENCE, N56°25'24"W, A DISTANCE OF 192.06 FEET TO A POINT ON THE NORTH LINE OF LOT 16, SECTION 3, T16S, R12E, NMPM, FOR THE NORTHWEST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF LOT 16, S88°34'04"E, A DISTANCE OF 378.88 FEET TO THE CORNER COMMON TO LOTS 9 & 16, SECTION 3 AND LOTS 12 & 13, SECTION 2; THENCE, N88°58'29"E, A DISTANCE OF 1293.44 FEET; THENCE, S85°25'19"E, A DISTANCE OF 51.52 FEET TO THE NORTHWEST CORNER OF THE RANCH SUBDIVISION FOR THE NORTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE WEST LINE OF THE RANCH SUBDIVISION, S00°06'32"W, A DISTANCE OF 2765.20 FEET TO A POINT FOR THE SOUTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF THE RANCH SUBDIVISION, S88°38'56"W, A DISTANCE OF 1344.86 FEET TO THE NORTHWEST CORNER OF LOT 31 OF THE RANCH SUBDIVISION, FOR THE SOUTHWEST CORNER OF THIS TRACT; THENCE, N02°05'33"W, 15.53 FEET TO THE POINT AND PLACE OF BEGINNING, ENCLOSING 88.867 ACRES, MORE OR LESS.

2. Ownership of Roads. Per the Stipulated Judgment in Cause No. D-1215-CV-2010-00843 in the Twelfth Judicial District Court styled *Holland v. Hoffman et al.*, fee simple title to the roads within The Ranch Subdivision (the "Roads") is vested in The Ranch Landowners Association ("RLA").

3. Acknowledgment and Grant of Access Easements. R&R and RLA agree that the Property is benefited by an appurtenant easement for ingress, egress, and utilities on Young Canyon Road and Ely Lane from U.S. Highway 82 to the Property. The RLA hereby grants R&R an appurtenant easement for ingress, egress, and utilities on Lee Circle. There are no limitations or conditions on the right of use of the appurtenant easements for ingress, egress and utilities by owners of the Property with the exceptions that at no time shall owners of the Property be permitted to increase the existing footprint of the Roads from Highway 82 to the Property, pave or alter the Roads in such a way as to increase water runoff, or disturb drainage on the Roads without the express approval of the RLA. These appurtenant easements shall run with the Property.

4. Recognition of Utility Easement. The parties further agree that R&R, or future owners of any part of the Property, at their expense may extend existing utilities and utility easements that service The Ranch Subdivision from Highway 82 for the benefit of the Property.

5. Road Maintenance. R&R and RLA shall sign a Road Maintenance Agreement in the form attached to this Agreement as **Exhibit 1**.

6. Property Subdivision. Any division of the Property from its current configuration must be in accordance with the provisions of the Otero County Subdivision Regulations. Notwithstanding compliance with the Otero County Subdivision regulations, at no time shall the owner(s) of the Property be permitted to increase the existing footprint of the Roads within The Ranch Subdivision, pave or alter the Roads in such a way as to increase water runoff, or disturb drainage on the Roads without the express approval of the RLA.



7. Property Covenants. R&R agrees to impose restrictive covenants on the Property in the form attached to this Agreement as *Exhibit 2*. This paragraph does not prevent R&R from imposing additional restrictions on the Property.

8 R&R may not grant to any landowner outside of and adjacent to the Property use of the roads within the boundaries of the R&R Property to access Lee Circle, including but not limited to Holland, his successors or assigns.

9. Fees and Costs. In any court proceeding that arises from, is related to, or is brought to enforce the provisions of this Agreement, the prevailing party is entitled to recover their reasonable, documented attorney's fees, costs, and expenses from the non-prevailing party.

10. Agreement Binding. This Agreement is binding upon the parties hereto and their heirs, successors, members, grantees, assigns, and representatives.

11. Governing Law. This Agreement shall be construed in accordance with New Mexico law.

12. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. The terms of this Agreement can be modified, altered, or amended only by means of a written instrument executed by all the parties.

R&R, LLC

By: *C. Michael Shyne*  
C. Michael Shyne, Sole Member

Date: 11/23/2020

**ACKNOWLEDGEMENT**

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF OTERO )

This instrument was acknowledged before me on November 23, 2020 by C. Michael Shyne, Sole member of R&R, LLC, a New Mexico limited liability company, on its behalf.

*Fallon Davila*  
Notary Public



THE RANCH LANDOWNERS  
ASSOCIATION, INC.

By: *Preston Brashear*

Date: *11/12/2020*

Name: *Preston Brashear*

Title: *President*

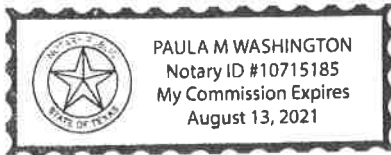
**ACKNOWLEDGEMENT**

STATE OF *Texas* )  
 ) ss.  
COUNTY OF *Dallas* )

This instrument was acknowledged before me on *11-12*, 2020, by  
*Preston Brashear*, as *President* of the Ranch Landowners' Association, Inc., on its behalf.

*Paula M Washington*  
Notary Public

My Commission Expires:  
*8-13-21*



*(over)*

**ROAD MAINTENANCE AGREEMENT**

This Road Maintenance Agreement ("Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between R&R LLC, a New Mexico limited liability company, ("R&R") and the Ranch Landowners' Association, Inc. ("RLA").

**Recitals**

A. R&R is the owner in fee simple absolute of the following tract of land located in Otero County, New Mexico referred to in this Agreement as the "R&R Property":

AN 88.876 ACRE TRACT IN LOTS 13, 14, 19, 20, 21 & 22, SECTION 2, T16S, R12E, AND LOTS 16 & 17, SECTION 3, T16S, R12E, NMPM, OTERO COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEAST CORNER OF LOT 17, SECTION 3, T16S, R12E, NMPM; THENCE, FROM THE POINT OF BEGINNING AND ALONG THE EAST LINE OF LOT 17, N00°06'14"E, A DISTANCE OF 590.06 FEET; THENCE, LEAVING THE EAST LINE OF LOT 17, N20°27'15"W, A DISTANCE OF 49.17 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 20°43'59", AN ARC LENGTH OF 36.19 FEET, AND HAVING A LONG CHORD THAT BEARS, N10°05'16"W, A DISTANCE OF 35.99 FEET TO A POINT OF TANGENCY; THENCE, N00°16'44"E, A DISTANCE OF 41.03 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF CURVE TO THE LEFT HAVING A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 26°42'10", AN ARC LENGTH OF 93.21 FEET, AND HAVING A LONG CHORD THAT BEARS, N13°04'21"W, A DISTANCE OF 92.37 FEET TO A POINT OF TANGENCY; THENCE, N26°25'26"W, A DISTANCE OF 75.82 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, THROUGH A CENTRAL ANGLE OF 41°07'51", AN ARC LENGTH OF 107.68 FEET, AND HAVING A LONG CHORD THAT BEARS, N05°51'30"W, A DISTANCE OF 105.38 FEET TO A POINT OF TANGENCY; THENCE, N14°42'25"E, A DISTANCE OF 204.91 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 600.00 FEET, THROUGH A CENTRAL ANGLE OF 34°39'39", AN ARC LENGTH OF 362.97 FEET, AND HAVING A LONG CHORD THAT BEARS, N02°37'24"W, A DISTANCE OF 357.46 FEET TO A POINT OF TANGENCY; THENCE, N19°57'14"W, A DISTANCE OF 109.22 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET, THROUGH A CENTRAL ANGLE OF 49°14'31", AN ARC LENGTH OF 64.46 FEET, AND HAVING A LONG CHORD THAT BEARS, N04°40'02"E, A DISTANCE OF 62.49 FEET TO A POINT OF TANGENCY; THENCE, N29°17'17"E, A DISTANCE OF 91.68 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE TO LEFT HAVING A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 26°18'05", AN ARC LENGTH OF 91.81 FEET, AND HAVING A LONG CHORD TO THE LEFT THAT BEARS, N16°08'14"E, A DISTANCE OF 91.01 FEET TO A POINT OF TANGENCY; THENCE,

N02°59'12"E, A DISTANCE OF 169.53 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 14°23'27", AN ARC LENGTH OF 75.35 FEET, AND HAVING A LONG CHORD THAT BEARS, N04°12'32"W, A DISTANCE OF 75.15 FEET TO A POINT OF TANGENCY; THENCE, N11°24'15"W, A DISTANCE OF 375.24 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 45°01'09", AN ARC LENGTH OF 235.72 FEET, AND HAVING A LONG CHORD THAT BEARS, N33°54'50"W, A DISTANCE OF 229.70 FEET TO A POINT OF TANGENCY; THENCE, N56°25'24"W, A DISTANCE OF 192.06 FEET TO A POINT ON THE NORTH LINE OF LOT 16, SECTION 3, T16S, R12E, NMPM, FOR THE NORTHWEST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF LOT 16, S88°34'04"E, A DISTANCE OF 378.88 FEET TO THE CORNER COMMON TO LOTS 9 & 16, SECTION 3 AND LOTS 12 & 13, SECTION 2; THENCE, N88°58'29"E, A DISTANCE OF 1293.44 FEET; THENCE, S85°25'19"E, A DISTANCE OF 51.52 FEET TO THE NORTHWEST CORNER OF THE RANCH SUBDIVISION FOR THE NORTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE WEST LINE OF THE RANCH SUBDIVISION, S00°06'32"W, A DISTANCE OF 2765.20 FEET TO A POINT FOR THE SOUTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF THE RANCH SUBDIVISION, S88°38'56"W, A DISTANCE OF 1344.86 FEET TO THE NORTHWEST CORNER OF LOT 31 OF THE RANCH SUBDIVISION, FOR THE SOUTHWEST CORNER OF THIS TRACT; THENCE, N02°05'33"W, 15.53 FEET TO THE POINT AND PLACE OF BEGINNING, ENCLOSING 88.867 ACRES, MORE OR LESS.

B. The RLA holds fee simple title to the roads within The Ranch Subdivision, located in Otero County, New Mexico in proximity to the R&R Property. The Ranch Subdivision is comprised of approximately 311 acres and is more particularly described as a tract of land in that certain Warranty Deed recorded September 19, 1984 in Book 562 at Page 810 of the records of the County Clerk of Otero County, New Mexico (the "Ranch Subdivision").

C. Three existing private ingress and egress roads located within The Ranch Subdivision, known as Young Canyon Road, Ely Lane and Lee Circle, (the "Ranch Roads"), serve the Ranch Subdivision and the owners of property within the Ranch Subdivision (the "Ranch Property Owners").

D. R&R proposes to develop and subdivide the R&R Property and to utilize the Ranch Roads for ingress and egress for itself and its successors in interest.

E. R&R and its successors in interest ("R&R Property Owner(s)") agree to share in the Maintenance and Repair costs of the Ranch Roads as defined and set forth in this Road Maintenance Agreement.

F. The parties desire to establish an arrangement for maintaining and repairing the Ranch Roads so that year-round vehicular access is maintained as follows:

## AGREEMENT

1. Maintenance. Maintenance includes the cost of maintenance, repair and replacement of the Ranch Roads' surface, including clearing snow, in order to assure year-round vehicular passage. Maintenance further includes the cost of obtaining and maintaining liability insurance to cover the Ranch Roads with a minimum single limit of \$250,000 per occurrence combined bodily injury and property damage liability.

2. Repairs. Repairs required for damage to the Ranch Roads caused by construction vehicles traveling to and from the R&R Property engaged in the development of and/or engaged in construction on the R&R Property shall be paid for by the R&R Property Owner(s) on whose property the development and/or construction occurs.

3. Division of Costs. Until R&R completely sells all the R&R Property, R&R shall pay the same amount as a single lot owner in the Ranch Subdivision. In addition to R&R, all R&R Property Owner(s) who own one or more tracts of land shall share with the Ranch Property Owners the cost of maintenance of the Ranch Roads with associated charges, assessments, and any special assessments calculated and assessed pursuant to Paragraph P of the Amendments to Restrictive Covenants, as recorded in the Office of the County Clerk of Otero County, New Mexico on July 13, 2015 as Instrument No. 201505071 (Amending the Restrictive Covenants for The Ranch Subdivision, recorded at Book 609, Page 13 of the records of the Otero County Clerk and Ex Officio Recorder) ("The Ranch Restrictive Covenants"), as if the R&R Property Owner was an "Owner" as defined in those Restrictive Covenants, and any current or future amendments thereto that address road maintenance and the allocation of costs. In the event R&R wants to upgrade any portion of Lee Circle beyond any road maintenance work performed by the RLA, all costs of this upgrade will be the responsibility of R&R or its successors.

4. Payment. The R&R Property Owner(s) shall be billed annually for their respective share of the assessed maintenance costs in accordance with The Ranch Restrictive Covenants. The RLA shall give R&R Property Owner(s) prior written notice of the meeting in which the annual budget is presented in accordance with the bylaws of the RLA, and shall allow the R&R Property Owner(s) an opportunity for comment on the proposed budget before the annual budget is approved. Payment is due from each R&R Property Owner thirty (30) days after billing. Repair costs to the Ranch Roads caused by construction vehicles traveling to and from the R&R Property during development and construction of the R&R Property shall be billed to the R&R Property Owner(s) on whose property the development and/or construction occurs, thirty (30) days after receipt of invoice for costs of such repairs.

5. Notice Requirements. The R&R Property Owner on whose property the development and/or construction occurs shall give the RLA at least a ten (10) days prior written notice at its address before commencing development and/or construction activity on the R&R Property that will require heavy equipment vehicles to use the Ranch Roads. Such notice shall include the name, mailing address, telephone number and electronic mail address for the R&R Property Owner, and the



proposed dates when such activity will be conducted. Failure to fully comply with this notice requirement shall not jeopardize the R&R Property Owner's rights in this Agreement.

6. Right of Use. Prior written approval must be obtained from the Ranch Landowners' Association, within its sole discretion, for use of the Ranch Roads by any property other than the R&R Property, the Ranch Subdivision, and any other property receiving such permission from the RLA.

7. Scope of Use. At no time shall the R&R Property Owner(s) be permitted to increase the existing footprint of the Ranch Roads, pave or alter the Ranch Roads in such a way as to increase water runoff, or disturb drainage on the Ranch Roads without the express approval of the RLA.

8. Default. In the event of a default of any payment obligation under this Agreement which continues uncured for a period of forty five (45) days from the due date, the RLA may remedy such default pursuant to Paragraph P of the Amendments to Restrictive Covenants referenced in paragraph 3 above.

9. Binding Nature. This Agreement is binding upon the heirs, assigns, their authorized agents, representatives, grantees, and successors in title to the parties to this Agreement. This Agreement benefits and burdens the lands described in it, and shall run with the land. All future owners of land governed by this Agreement shall automatically become subject to its terms.

[SIGNATURE PAGES FOLLOW]



R&R, LLC

By: \_\_\_\_\_  
C. Michael Shyne, Sole Member

Date \_\_\_\_\_

**ACKNOWLEDGEMENT**

STATE OF NEW MEXICO        )  
  ) ss.  
COUNTY OF OTERO            )

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by C. Michael Shyne, sole Member of R&R, LLC, a New Mexico limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



**DECLARATION OF  
RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (“Declaration”) is entered into by R&R LLC, a New Mexico limited liability company, (“Declarant”) effective upon the recording of this Declaration in the real estate records of Otero County, New Mexico.

**Statement of Intent**

1. Declarant is the sole owner in fee simple of the following described tract of land located in Otero County, New Mexico referred to in this Declaration as the “Property”:

AN 88.876 ACRE TRACT IN LOTS 13, 14, 19, 20, 21 & 22, SECTION 2, T16S, R12E, AND LOTS 16 & 17, SECTION 3, T16S, R12E, NMPM, OTERO COUNTY, NEW MEXICO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

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DISTANCE OF 91.01 FEET TO A POINT OF TANGENCY; THENCE, N02°59'12"E, A DISTANCE OF 169.53 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 14°23'27", AN ARC LENGTH OF 75.35 FEET, AND HAVING A LONG CHORD THAT BEARS, N04°12'32"W, A DISTANCE OF 75.15 FEET TO A POINT OF TANGENCY; THENCE, N11°24'15"W, A DISTANCE OF 375.24 FEET TO A POINT OF CURVATURE; THENCE, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET, THROUGH A CENTRAL ANGLE OF 45°01'09", AN ARC LENGTH OF 235.72 FEET, AND HAVING A LONG CHORD THAT BEARS, N33°54'50"W, A DISTANCE OF 229.70 FEET TO A POINT OF TANGENCY; THENCE, N56°25'24"W, A DISTANCE OF 192.06 FEET TO A POINT ON THE NORTH LINE OF LOT 16, SECTION 3, T16S, R12E, NMPM, FOR THE NORTHWEST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF LOT 16, S88°34'04"E, A DISTANCE OF 378.88 FEET TO THE CORNER COMMON TO LOTS 9 & 16, SECTION 3 AND LOTS 12 & 13, SECTION 2; THENCE, N88°58'29"E, A DISTANCE OF 1293.44 FEET; THENCE, S85°25'19"E, A DISTANCE OF 51.52 FEET TO THE NORTHWEST CORNER OF THE RANCH SUBDIVISION FOR THE NORTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE WEST LINE OF THE RANCH SUBDIVISION, S00°06'32"W, A DISTANCE OF 2765.20 FEET TO A POINT FOR THE SOUTHEAST CORNER OF THIS TRACT; THENCE, ALONG THE NORTH LINE OF THE RANCH SUBDIVISION, S88°38'56"W, A DISTANCE OF 1344.86 FEET TO THE NORTHWEST CORNER OF LOT 31 OF THE RANCH SUBDIVISION, FOR THE SOUTHWEST CORNER OF THIS TRACT; THENCE, N02°05'33"W, 15.53 FEET TO THE POINT AND PLACE OF BEGINNING, ENCLOSING 88.867 ACRES, MORE OR LESS.

2. The Property is located south of U.S. Highway 82 and east of Cloudcroft, New Mexico, adjoining The Ranch Subdivision.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT: Declarant declares that, once the Property is subdivided, the following restrictions shall apply to all subdivided lots and buildings thereon, and all conveyances of lot or lots within the Property.

**Restrictive Covenants**

A. All lots on the Property shall be used only for (1) single family residences and (2) home businesses that do not receive clients or customers as a normal daily practice.

B. No structure shall be erected other than single-family dwellings and reasonable accessory structures to accommodate the single-family dwellings. Accessory structures for single family residences include "in-law" quarters, observatories, workshops, storage buildings, workrooms, pump houses, corrals, detached garages, and structures for related uses (hereafter, "Accessory Structure").

C. The Property adjoins the Lincoln National Forest. The forest and trees located on the Property are an important attribute of the Property. Therefore, no clearing of the land is allowed other than as is needed for development and construction of improvements, for yards,

for views, for forest fire safety areas, or for thinning of the forest solely for forest fire prevention purposes and not for the sale of timber.

D. No single-family dwelling shall be erected or permitted to remain on any lot nearer than thirty (30) feet to an adjacent lot line or the boundary of a road and no Accessory Structure shall be erected or permitted to remain on any lot nearer than ten (10) feet to an adjacent lot line or the boundary of a road. For purposes of these covenants, roofs, eaves, steps, and open porches are considered as part of the building.

E. No single-family dwelling is permitted on any lot having a ground floor square foot area less than eight hundred (800) square feet of heated living space, excluding porches and garages.

F. No trailer, mobile home, basement, tent, shack, garage, barn, or other similar building shall at any time be used as a dwelling on either a temporary or permanent basis. No dwelling of a temporary character shall be erected or permitted to remain, excluding temporary buildings or trailers used during construction. Construction, once commenced, must be completed on the exterior within one year and all temporary buildings and trailers removed within that one year.

G. Outside lighting shall be shielded or covered to direct lighting downward to limit light pollution and enhance astronomical observations. Outside lighting is limited to areas where needed for outside activities, security, or safety purposes.

H. No campgrounds or public camping sites are allowed.

I. Commercial buildings or commercial activities on the Property are prohibited. Commercial activities exclude (1) home businesses that do not receive clients or customers as a normal daily practice and (2) lot sale marketing activities.

J. No activity shall occur on any lot that is unusual to the neighborhood and is an annoyance or nuisance to the neighbors. This restriction applies to the harboring of any specie(s) of animal or animals in a manner that is offensive to other lot owners through unreasonable noise, odor, or property damage to other lot owners or their property. No more than one large animal (defined as horse, cow, bull, sheep, goat, swine, or similar large animal) per five acres is allowed. Large animals shall be fenced to prohibit the animal from being within fifteen (15) feet of adjacent lot lines and the boundary of roads.

K. All systems, facilities and methods for the handling and disposal of refuse and garbage shall comply with state and county health codes and regulations.

L. All chimneys, flues and other vents used in conjunction with open fire heating such as fireplaces, shall be equipped with spark arresters and comply with state building codes.

M. The burning of brush, trash or other material must comply with the fire regulations of Otero County and the Lincoln National Forest.

N. Propane tanks and water storage tanks must conform to state and county codes, and be discretely located or visually shielded to minimize their view from adjoining lots.

O. Access to tracts within the Property may be by platted or recorded road easements within The Ranch Subdivision, specifically Ely Lane and Lee Circle as granted by the Access Agreement and Grant of Easement recorded in the records of the County Clerk of Otero County, New Mexico on November \_\_, 2020 as Instrument No. \_\_\_\_\_ (“Access Agreement”). No easement is granted by the Access Agreement over private property owned by individual landowners of the Ranch Subdivision. Until the year 2032, such access is limited to a total of ten tracts within the Property. No further subdivision that would use any road within The Ranch Subdivision may occur until 2032. Ely Lane and Lee Circle may be used for utility access serving the Property. For purposes of these Restrictive Covenants, the words “tract”, “tracts”, “lot” and “lots” include all divisions, subdivisions that comprise the Property. The word “Owner” means the holder of the real property interest in a lot or larger acreage within the Property.

P. No Owner shall maintain or keep more than four four-wheel motor vehicles on the lot, which are not garaged. No inoperable vehicles or equipment shall be stored on any lot unless it is garaged or completely out of sight of people standing at ground level of any other lot or road.

Q. Once a lot has been sold by the Declarant, no signs are allowed on the lots except as (1) required by legal proceedings, (2) needed during the time of construction of any single family dwelling or other improvement, (3) “For Sale” signs that do not exceed three square feet, (4) home business signs that do not exceed three square feet, and (5) name and address signs that do not exceed three square feet.

### **General Provisions**

R. The burdens and benefits of these restrictions and covenants run with the land and are binding on Declarant and its grantees, transferees, lessees, representatives, heirs, successors and assigns of the real estate described in Paragraph 1 above.

S. The Property is subject to a Road Maintenance Agreement (“RMA”) recorded in the real property records of Otero County. Owners are required to pay road maintenance fees in accordance with the provisions of the RMA. If road maintenance fees are not paid, the Ranch Landowner’s Association may file a lien against the property of the non-paying Owner. Owners also are responsible for any damage they cause to roads within the Property or The Ranch Subdivision.

T. Invalidity of any one restriction or covenant by judgment or court order shall in no way affect any other provision, which provisions shall remain in full force and effect.

U. These restrictions and covenants shall remain in effect for thirty (30) years unless a vote to amend these restrictions and covenants is held and passed as provided below in this

paragraph and is consented to as provided below in Paragraph V. After thirty (30) years, the restrictions and covenants shall automatically renew for ten-year periods. These restrictions and covenants may be amended, modified, or repealed at any time by a three-quarters majority vote of Owners who hold fee simple title and Owners holding equitable title, if purchased under a real estate contract. Only one vote per lot or tract is allowed, irrespective of the number of Owners of a specific lot. A real estate contract seller has no vote.

V. During the initial thirty (30) year term hereof, Owners may not amend the restrictions and covenants set forth in this Declaration without the approval of The Ranch Landowners Association Inc., which approval will not be unreasonably withheld and which approval must be in writing and affixed to the recorded amendment document.

W. If a violation of these Restrictive Covenants occurs or is threatened, any Owner(s), including lot owners within The Ranch Subdivision, may file an action at law or in equity against the person(s) violating, or attempting to violate, the restriction or covenant, except that such legal actions for violations or threatened violations of Paragraphs J., P. or Q., if filed by owner(s) of lot(s) within the Ranch Subdivision, may only be so-filed if the Ranch lot owner's lot is located adjacent to the violating lot. The prevailing party is entitled to recover reasonable attorney's fees and costs from the non-prevailing party.

X. No delay or omission on the part of an Owner in exercising any right, power, or remedy herein provided for in the event of a breach of any restriction or covenant shall be construed as a waiver thereof or acquiescence therein.

Y. Every Owner of any part of the Property is conclusively deemed to have consented and agreed to every covenant, condition, maintenance expense and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which the Owner acquired an interest in any lot or any portion of the Property.

Z. The laws of New Mexico govern the interpretation and performance of this Declaration.

**IN WITNESS WHEREOF**, the Declarant has signed this Declaration of Restrictive Covenants as of this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

[SIGNATURE PAGE FOLLOWS]

R&R, LLC

By: \_\_\_\_\_  
C. Michael Shyne, Sole Member

**ACKNOWLEDGEMENT**

STATE OF NEW MEXICO      )  
  ) ss.  
COUNTY OF OTERO         )

This instrument was acknowledged before me on \_\_\_\_\_, 2020 by C. Michael Shyne, sole member of R&R, LLC, a New Mexico limited liability company, on its behalf.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

