

State of Colorado Filed for record the 2 day of Nov A.D. 1973 at 1045 o'clock A M. ALBERT P. VIGIL RECORDER
County of Huerfano No. 284910 By Skinner Deputy
BOOK 362 PAGE 111

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
PANADERO SUBDIVISION FILING NUMBER ONE

This declaration, made this 1st day of Oct, A.D., 1973
by PANADERO LTD,

WITNESSETH:

WHEREAS, Panadero Ltd is the owner of certain real property in the County of Huerfano, State of Colorado, which is more particularly described in Exhibit A which is attached hereto and made a part of this declaration; and

WHEREAS, Panadero Ltd desires to protect and enhance the value, desirability and attractiveness of said property for all parties having or acquiring any right, title or interest in the property described in said Exhibit A; and to this end, will convey the real property described in Article II subject to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Panadero Ltd, in order to insure that the purposes of this declaration are carried out, has caused the incorporation under the laws of Colorado of Panadero Property Owners Association, a non-profit corporation with the power of administering and enforcing the covenants, conditions and restrictions and collecting hereinafter set forth;

NOW THEREFORE, Panadero Ltd hereby declares that the real property described in Exhibit A is and shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges, liens, and hereinafter sometimes referred to collectively as "covenants and restrictions", all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property. These covenants and restrictions shall run with said real property and shall be binding on all persons having acquiring any right, title or interest in said property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS



ARTICLE I DEFINITIONS

SECTION I. The following terms when used in this Declaration or any Supplement or Amendment thereto shall have the following meanings unless prohibited by the context:

- (a) "Association" shall mean and refer to Panadero Property Owners Association.
- (b) "Properties" shall mean and refer to the real property described in Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation.
- (c) "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the members of the Association.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area as heretofore defined.
- (e) "Member" shall mean and refer to any person or entity who holds membership in the Association.
- (f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee entered in any Lot which is a part of the Properties except an owner who holds title or interest in any said Lot merely as security for the performance of an obligation.
- (g) "Declarant" shall mean and refer to Panadero Ltd.
- (h) "Developer" shall mean and refer to any person or entity who is the owner of two or more undeveloped lots which he or it purchased directly from the Declarant.
- (i) "Architectural Control Committee" shall mean the committee of three or more persons appointed by the Board of Directors of Panadero Property Owners Association to review and approve the plans for all improvements constructed on the Properties.

ARTICLE II MEMBERSHIP

SECTION I. Membership. Every person or entity who is an owner as hereinabove defined of any lot or condominium which is subject to assessment by the Association shall be a member of the Association. When more than one person is a record Owner of a Lot or Condominium, all such persons shall be members.

No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separate from ownership of any lot which is subject to assessment by the Association. Ownership of such Lot or Condominium shall be the sole qualification for membership.



SECTION 2. Classes of Membership. The Association shall have two classes of membership:

Class A. All the Owners as defined in Section 1 of this Article II with the exception of the Declarant and any Developers shall be Class A members.

Class B. The Declarant and all Developers shall be Class B members.

ARTICLE III VOTING RIGHTS

SECTION 1. Class A Members. Those Class A members holding an interest in any one Lot or condominium shall collectively be entitled to one vote for said Lot or Condominium. The vote for each Lot or Condominium shall be exercised by the Owners thereof as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or Condominium.

SECTION 2. Class B Members. The Class B members shall be entitled to three votes for each lot or condominium in which they hold the interest required for membership by Section 1 of Article II, Provided that the Class B membership shall cease and become converted to Class A membership on the happening or either of the following events, whichever occurs earlier: (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or (b) on 1 Oct, 1973AD

ARTICLE IV ANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. Except as provided in Section 2 of this Article, additional property shall be annexed to the Properties only by a two-thirds (2/3) vote of the votes represented by the Class A members and a vote of two-thirds (2/3) of the votes of the Class B members, if any, at a meeting of the members, written notice of which setting forth the fact that the question of annexation shall be considered shall be sent to all members not less than fifteen nor more than fifty days in advance of the meeting. The presence of members or of proxies entitled to cast sixty percent of the votes of each class of membership shall constitute a quorum to vote on the annexation question. If the required quorum is not forth coming at any meeting, another meeting may be called, subject to the notice requirements set forth above, and the required quorum at each subsequent meeting shall be one-half of the required quorum of the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 2. If within of the date of incorporation of the



Association, the Declarant should develop additional lands within the area described in Exhibit A which is attached hereto and made a part hereof, such additional lands may be annexed to the Properties without the assent of the Class A and B members by the Declarant recording a Certificate of Annexation in substantially the same form as the Exhibit A, specifically describing said lands. On the date and at the time said Certificate is recorded, said lands shall be deemed a part of the Properties.

ARTICLE V PROPERTY RIGHTS IN THE COMMON AREA

SECTION 1. Title to Common Area. The Declarant agrees to convey title to the Common Area to the Association prior to the conveyance of the first lot.

SECTION 2. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot or Condominium, subject to the following rights of the Association:

(a) The right of the Association, as provided in its Article of Incorporation and By-Laws, to suspend the voting rights and right to use the Common Area and any recreational facilities thereon of a Member or Members of his family for any period not to exceed thirty(30) days for any infraction of its published rules or regulations; and

(b) The right of the Association to charge reasonable admission or other fees for the use of any recreational facility situated on the Common Area and to limit the number of guests of the members using the Common Area; and

(c) The right of the Association, in accordance with its Article of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage or otherwise encumber said Common Area and its appurtenances and the rights of the persons so secured by said Common Area shall be subordinate to the rights of the Owners hereunder;

SECTION 3. Any Member, in accordance with the By-Laws, may share his right of enjoyment to the Common Area with the members of his family or delegate it to his tenants or contract purchasers provided that they all reside on the property.

ARTICLE VI CONVENANT OF MAINTENANCE ASSESSMENTS

SECTION 1. Personal Obligation for Assessment. The Declarant,



for each Lot or Condominium owned within the Properties, hereby convenats and each Owner of any Lot or Condominum, except those exempt under Section 10 of this Article, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: 1) annual assessments or charges, and 2) special assessments or charges, for capital improvements, such assessments to be established and collected from time to time by the Association as hereinafter provided. The annual and special assessments, together with such interest thereon, cost of collection and reasonable attorney's fees, shall be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The Association may bill and collect said annual assessments on a monthly or quarterly rather than an annual basis if it so desires.

SECTION 2. Purpose of Assessments. The assessments levied by the Association upon the Lots or Condominums shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties and in particular for the improvement and maintenance of improvements, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

SECTION 3. Basis and Maximum of Annual Assessments. Each Lot or Condominium shall, as hereinafter provided, be subject to an annual assessment of not more than \$120.00. The Board of Directors shall fix the annual assessment within this amount and may raise or lower said annual assessment within said maximum as they deem necessary in their discretion. From and after 1 Oct 19 23 AD, the maximum annual assessment may be increased or decreased by the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy, at a meeting of the Members written notice of which setting forth the fact that the questions of the change in the assessment limit shall be considered shall be sent to all Members not less than 15 days nor more than 50 days in advance of the meeting.

SECTION 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any fiscal year, a special assessment applicable to that year only which may be collected on a monthly basis, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including



the necessary fixtures and personal property related thereto, provided that, any such assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at the meeting of the members, written notice of which setting forth the fact that the question of the imposition of a special assessment shall be discussed, shall be sent to all members not less than 15 days nor more than 50 days in advance of the meeting.

SECTION 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all classes of Lots and Condominiums, provided that, the rate set for unimproved Lots owned by the Declarant or any developer shall be fixed at two-thirds the assessment rate for the improved Lots.

SECTION 6. QUORUM for any Action Authorized Under Sections 3 and 4. The quorum required for any action authorized by Section 3 and 4 hereof shall be as follows:

At the first meeting called, the presence at the meeting of Members or of proxies entitled to cast sixty percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting another meeting may be called, subject to the notice requirements set forth in Sections 3 and 4 and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty days following the preceding meeting.

SECTION 7. Date of Commencement of Annual Assessments: The annual assessments provided for herein shall commence as to all lots and condominiums on the first day of the month following the conveyance of the Common Area. The Board of Directors shall fix the amount of the annual assessment at least 30 days advance of said commencement date and for any change in the annual assessment shall not be effective for 30 days following its approval. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The association shall upon demand at any time furnish to any person with respect to a particular Lot or Condominium a certificate in writing signed by an officer of the Association, setting forth the amount of the annual and special assessments on said Lot or condominium and whether said assessments are current. A reasonable charge may be made by the Association for the issuance of the certificates. Such certificates shall be conclusive evidence of the facts stated therein.

SECTION 8. Assessment Lien. Assessments levied upon



said lots or condominiums until such assessments and any interest, penalties and charges which may accrue thereon shall have been paid or the conditions occur as hereinafter provided; but such liens shall be subordinate to the lien of any trust deed or mortgages. Sale or transfer of any Lot or Condominium shall not affect the assessment Lien. However, the sale or transfer of any Lot or Condominium which is subject to any trust deed or mortgage, pursuant to a decree of foreclosure under such trust deed or mortgage or any proceeding resulting from a default on the deed or mortgage and had in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot or Condominium from liability for any assessments thereafter becoming due or from the lien thereof.

SECTION 9. Effect of Nonpayment of Assessments: Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 10 percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

SECTION 10. Exempt Property. The following property subject to this declaration shall be exempt from the assessments, charges and liens created herein:
(a) All properties to the extent of any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use; (b) the Common Area.

ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE

Section 1. Appointment Duties. The Board of Directors shall appoint four persons who need not be Members of the Association to serve as the Architectural Control Committee to serve at the pleasure of the Board. It shall be the duty of the Architectural Control Committee and it shall have the power by the exercise of its best judgment to see that all structures, improvements, construction, decorating and landscaping on the Properties conform to and harmonize with the existing surroundings and structures. For convenience, the Architectural Control Committee shall hereinafter sometimes be referred to in this Article VII as the "Committee".



SECTION 2. Review by Committee. No structure, whether residence, accessory building, tennis court, swimming pool, antennae whether on a structure or on a lot, flag poles, fences, walls, house numbers, mail boxes, exterior lighting, or other improvements, shall be constructed or maintained upon any Lot and no alteration or repainting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications, and lot plans therefor, showing the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Committee, and a copy of such plans, specifications and lot plans as finally approved, deposited with the Committee.

SECTION 3. Procedure. The Committee shall approve or disapprove all plans and requests within thirty days after submission. In the event the Committee fails to take action within thirty days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with. A majority vote of the members of the Committee is required for approval or disapproval of proposed improvements. The Committee shall maintain written records of all applications submitted to it and of all action taken. In approving or disapproving the plans submitted to it, the Committee shall take into consideration the design, style and construction of the proposed building or alteration, its location on the lot, the harmony of its design, architecture and location with the terrain and surrounding neighborhood and shall determine whether such proposed building is consistent with the general terrain, the architecture of other buildings located upon the Properties subject to this Declaration and whether or not the construction or alteration of said building will adversely affect or decrease the value of other Lots because of its design, location, height or type of material used in construction. The Committee may make reasonable requirements of the Lot Owner, including the submission of additional plans, to insure conformance of such building when erected with these restrictions and covenants and the plans submitted and approved. The Committee may require such changes as may be necessary to conform to the general purpose as herein expressed.

The Committee shall have authority to grant variances from the provisions of this declaration in cases of irregularly shaped lots, unusual terrain, or other conditions wherein the strict enforcement of these restrictions would result in unusual hardship. The Committee shall be the sole and exclusive judge of whether or not said hardship exists.



Whenever the Committee disapproves of any proposed plans or specifications, it shall state in writing its reasons for such disapproval in general terms so that the objections can be met by alterations acceptable to the Committee.

All plans submitted to the Committee shall be left on file with the Committee.

It is the intent of these declarations that the Committee shall exercise broad discretionary powers hereunder and its decisions shall be final and conclusive except for an arbitrary abuse of its discretion or an excess of its authority.

The Committee shall resolve all questions of interpretation. They shall be interpreted in accordance with their general proposed and intent as herein expressed.

SECTION 4. Liability of Committee. The Committee shall not be liable in damages to any person submitting requests for approval or to any Lot owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE VIII

USE RESTRICTIONS, COVENANTS AND EASEMENTS

The following restrictions, covenants and easements are imposed uniformly upon the Properties and the use thereof as a common scheme for the benefit of each lot and the common area may be enforced by the Association or any Lot or Condominium owner.

SECTION 1. Land Use, Building Type and Occupancy. All lots unless otherwise designated in the recorded plot, shall be used for residential purposes only. With respect to those lots to be used for residential purposes, no building shall be erected, altered, placed or permitted to remain on any lot other than on detached single family dwelling. No building shall be permitted on any Lot unless such building has been duly constructed thereon and the removal of dwellings or structures from other locations to any lot shall not be permitted.

SECTION 2. Lot Size and Subdivision. No Lot or building site in the Properties shall be less than 21780 square feet in total area and no further subdivision or resubdivision of any Lot or combination of Lots as shown on a recorded plot shall be permitted except upon prior written approval of the Architectural Control Committee.

SECTION 3. Building Location. No building shall be located on any Lot or building site nearer to the front, side, or



rear lot line than shall be allowed by the applicable zoning and subdivision ordinances and building codes of the County of Huerfano, State of Colorado.

SECTION 4. Building Construction and Design Criteria.

All buildings erected on the Properties shall be designed and constructed in accordance with the following standards:

- (a) Roof material shall be a shake or cedar variety wood shingles unless a different material is approved by the Committee.
- (b) Gutters are not required; however, a minimum of three feet overhang shall be provided if gutters are not installed. Gutters and downspouts are required to be painted to blend with earthtone colors of the dwelling.
- (c) Only earthtone colors shall be used on exterior siding or garage doors.
- (d) Garage doors shall be wood or wood composition and be of a plain design.
- (e) All exterior walls shall be constructed of woods, stone, stucco or the following types of brick: sand brick, clinker brick and bricks without a sheen appearance, brick of a color that blends with natural surroundings. Standard red brick is an example of a disapproved material.
- (f) All fences shall be constructed of a natural colored wood or of color or material of the house.
- (g) All walls shall be constructed of stone stucco or brick of a variety allowed for the construction of exterior walls of the dwelling.
- (h) All fences shall be of a screening, privacy or patio type fence. Chain link or property boundary and separation fences will not be allowed.

SECTION 5. Landscaping. No live existing trees or rocks shall be removed from the lot unless required in construction of the dwelling or unless approved by the Architectural Control Committee. No exterior landscape watering or irrigation will be allowed, except for the re-establishment of the natural landscape after the initial construction period.

SECTION 6. Easements. Easements for the installation and maintenance of fences, utilities, and drainage facilities are reserved on, over and under a strip of ground 10 feet wide along each side lot line and on, over and under a strip of ground 20 feet wide along each rear lot line in a recorded subdivision of the Properties.



SECTION 7. Trash. No garbage, refuse, rubbish, or cuttings shall be deposited on any Street, Road or Common Area and not on any lot unless placed in a suitable container. The burning of trash in outside incinerators, barbeque pits or the like, is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Properties. Garbage cans are to be inside garages, behind decorative fencing or otherwise hidden from view to the street.

SECTION 8. Storage of Building Materials. No building material of any kind or character shall be placed upon any lot except in connection with construction or maintenance approved by the Committee. As soon as building materials are placed on any lot in such connection, construction shall be promptly commenced and diligently prosecuted.

SECTION 9. Commercial Enterprises, Nuisances. No manufacturing or commercial enterprises shall be conducted or maintained upon, in front of or in connection with any lot or lots or condominiums. No noxious or offensive activity shall be carried on upon any lot, condominium, street, road or common area, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood.

SECTION 10. Commercial Vehicles, Campers, Trailers. No commercial type vehicles and no trucks shall be stored or parked on any lot except in a closed garage nor parked on any street, road or common area except while engaged in transport to or from a dwelling or the common area. For the purposes of this restriction, a truck having a 3/4 ton manufacturing rated capacity, commonly known as a pick-up truck, shall not be deemed to be a commercial vehicle or a truck. Campers and trailers shall be parked or stored at the rear of the lot out of sight of street or kept in a garage.

SECTION 11. Free-standing Mailboxes. All freestanding mailboxes shall be of a wood design and construction approved by the Committee.

SECTION 12. Animals. No person shall be allowed to keep, breed or raise chickens, turkeys, cattle, horses, sheep, goats, swine, rabbits or other domestic farm or barnyard animals or fowl on any lot or condominium or other portion of the properties, or erect thereon any building designed to house the same. This restriction shall not be construed to prohibit any person from keeping dogs, cats or other household pets on any lot, provided they are not kept bred or raised for any commercial purpose. Horses may be ridden in the common area as specified by the Board of Directors. In the event an owner temporarily hobbles a horse in the common area, he shall be responsible to clean up the area utilized.



SECTION 13. Temporary Residences. No structure of temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently, and no used structure of any sort shall be moved into any lot.

SECTION 14. Signs. No sign of any kind shall be displayed to the public view on any lot except on professional sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder, developer or subdivider to advertise the property during construction, development and sales period.

All signs must conform to local county zoning regulations.

SECTION 15. Outside Clothesline, Aerials, Antennas, Carports, Patio Covers and other Similar Structures.

Outside aerials, clotheslines, antennas or aerials, whether on buildings or free standing, carports and patio covers or similar structures shall not be allowed unless approved by the Committee. All such approved structures shall be located out of view of the street.

SECTION 16. Removal of Trees. The removal of trees, shrubs or rocks and other improvements from the Common Area shall be prohibited.

SECTION 17. Repainting and Maintenance of house, garage, fence or other structure shall be in accordance with the original scheme established for the area by the Committee.

SECTION 18. Garage doors are to be kept closed at all times, except when in immediate use for ingress and egress of motor vehicles, equipment and the like.

SECTION 19. The Declarant or its nominee shall have the right to construct, operate and maintain water, sewer, gas and telephone lines on, over and across the common area as may be required for the development of area adjacent to the Properties. Said utility lines shall be located in delineated rights of way reserved by the declarant from its conveyance of the common area to the property owners association or designated by the declarant in writing and delivered to the property owners association prior to construction and use.

SECTION 20. Conflict with Zoning. In the event the terms and conditions of this declaration conflict with the applicable zoning and subdivision laws, then the higher standard shall control.

ARTICLE IX GENERAL PROVISIONS

SECTION 1. Duration. The covenants and restrictions of



this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot or Condominium subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty years from the date this Declaration is recorded, after which time, said covenants shall be automatically extended for for successive periods of ten years.

SECTION 2. Amendments. These covenants and restrictions of this Declaration may be amended during the first twenty years from the date of the Declaration, by an instrument signed by not less than ninety percent of the Members and thereafter by an instrument signed by not less than seventy five percent of the Members. Any amendment, to become effective and enforceable, must: (a) So long as there is a Class B membership, be first approved by the County Planning Commission; and (b) be properly recorded in Huerfano County, Colorado.

SECTION 3. Enforcement. The association or any owner shall have the right to enforce these covenants and any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure by the Association or any Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

SECTION 5. Notices. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, postpaid, to the last known address of the record owner of the lot or condominium in which the member has an interest as shown on the records of the Association at the time of such mailing.

PANADERO LTD

By: *[Signature]*
General Partner
Declarant

ATTEST:

Secretary

666



Lots 1-74 inclusive as shown on the Plat of Panadero Development, Filing No. 1, consisting of 4 sheets filed in the Office of the Clerk and Recorder of Huerfano County, Colorado on the 3rd day of October, 1973.

EXHIBIT "A"

to

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
PANADERO SUBDIVISION FILING NUMBER ONE

OCTOBER 1, 1973

