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BYLAWS OF THE
BELLA VISTA HOMEOWNERS ASSOCIATION, INC.
A Corporation Not for Profit under the
Laws of the State of New Mexico

Article I

IDENTITY. These are the Bylaws of Bella Vista Home-owners Association, Inc., hereinafter called the "Association," a corporation not for profit under the laws of the State of New Mexico, the Articles of Incorporation of which were filed in the office of Sec. of State on the _____ day of _____, 1980. The Association has been organized for the purpose of administering a condominium pursuant to Chapter 4, Article 7, New Mexico Statutes, herein called the Building Unit Ownership Act, which condominium is identified by the name Bella Vista, a Condominium Residence Enterprise, and is located upon the following land:

Lot 10, Block H, Angel Fire
Village, Unit No. 1.

The office of the Association shall be at _____ P.O. Box 8
Angel Fire, New Mexico. The fiscal year of the Association shall be the
_____ calendar year.

The seal of the Corporation shall bear the name of the Corporation,
the words "New Mexico," the words "Corporation Not for Profit" and the year
of incorporation.

Article II

MEMBERS' MEETINGS.

(a) The annual members' meeting shall be held at the office of the Corporation at 3:00 p.m., on the 27th day of December of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members. If that day is a legal holiday, the meeting shall be held at the same hour on the next day.

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers.

(c) Notice of all members' meetings, stating the time and place and the objects for which the meeting is called, shall be given by the President or Vice President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the

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Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given, by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

(d) A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. If any meeting of the members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting for at least ten (10) days, and adequate notice of the new date shall be given as described in paragraph (c) of this Section.

(e) In any meeting of members the owners of apartments shall be entitled to cast the number of votes indicated in the attached Schedule A unless the decision to be made is required to be by the owners of a stated percentage of the common elements.

If an apartment is owned by one person his right to vote shall be established by the record title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the Secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate of appointment signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked, or until superseded by a subsequent certificate, or until a change in the ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any owner thereof.

(f) Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated and must be filed with the Secretary before the appointed time of the meeting.

(g) The order of business at annual members' meetings, and as far as practical at all other members' meetings, shall be:

- (1) election of chairman of the meeting;
- (2) calling of the roll and certifying of proxies;
- (3) proof of notice of meeting or waiver of notice;
- (4) reading and disposal of any unapproved minutes;
- (5) reports of officers;
- (6) reports of committees;
- (7) election of inspectors of election;
- (8) election of directors (if necessary);
- (9) unfinished business;
- (10) new business; and
- (11) adjournment.

ARTICLE III

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ADMINISTRATION OF THE PROPERTY.

1. Board of Directors. The Association shall be managed by, elect and act through, a Board of Directors (hereinafter referred to as the "Board"), consisting of three (3) persons. If the mortgagee of fifty percent (50%) or more of all the apartments demands representation, the Board shall consist of four (4) persons, one who shall be designated by the mortgagee, and three (3) persons, who shall be elected in the same manner set forth herein.

Election of directors shall be conducted at the annual members' meeting. A nominating committee of five (5) members shall be appointed by the Board of Directors not less than thirty (30) days prior to the annual members' meeting. The committee shall nominate one person for each director then serving. Additional nominations for directorships and directors may be made from the floor. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

Except as to vacancies provided by removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining directors.

Any director may be removed by concurrence of two-thirds of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

Until the Developer has completed and sold all of the apartments of the condominium, or until the Developer elects to terminate its control of the condominium, whichever shall first occur, the first directors of the Association shall serve, and in the event of vacancies the remaining directors shall fill the vacancies, and if there are no remaining directors the vacancies shall be filled by the Developer.

The term of each director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

Two (2) members of the Board, after the expiration of the terms of the members of the initial Board, shall be apartment owners; provided, however, if an Apartment Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director, officer, partner, beneficiary or trustee, as the case may be, of such an entity shall be eligible to serve as a member of the Board of Directors.

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2. Directors' Meetings.

(a) The organization meeting of a newly-elected Board of Directors shall be held within ten (10) days of its election at such place and time as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary providing a quorum shall be present.

(b) Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting.

(c) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third of the directors. Notice of the meeting shall be given personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting, which notice shall state the time, place, and purpose of the meeting.

(d) Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(e) A quorum at directors' meetings shall consist of a majority of the entire board of directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of directors is required by the Declaration of Condominium, herein called the "Declaration", the Articles of Incorporation, or these Bylaws. If at any meeting of the Board of Directors less than a quorum is present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.

(f) The presiding officer of directors' meetings shall be the Chairman of the Board if such an officer has been elected, or if not, the President shall preside. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

(g) The order of business at directors' meetings shall be:

- (1) calling of roll;
- (2) proof of due notice of meeting;
- (3) reading and disposal of any unapproved minutes;
- (4) reports of officers and committees;
- (5) election of officers;

- (6) unfinished business;
- (7) new business; and
- (8) adjournment.

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3. Officers.

(a) The executive officers of the Association shall be a President, who shall be a director, a Vice President, who shall be a director, a Treasurer, a Secretary, and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be removed by vote of the directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors may from time to time elect other officers to exercise such powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.

(c) The Vice President shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

(e) The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer.

4. General Powers and Duties of the Board of Directors. The Board shall have in behalf of the Association, the power and duty, for the benefit of all the apartment owners, to acquire or furnish (by purchase order), and, for

the fund described in Article IV herein, pay for (by payment voucher), the following:

a. Water, sewer and trash removal, for all apartment owners.

b. A policy or policies of insurance wherein the building is insured against damage caused by fire, lightning, perils described in the "extended coverage" endorsement, vandalism and malicious mischief, and such additional perils as may be available through usual insurance markets.

(1) The amount of such insurance shall be 100% of the replacement cost of such building, as determined within 30 days of the end of each fiscal year of the Association, and increased or decreased by the Board from year to year, according to changes in the replacement costs.

(2) The named insured of such policy shall be the Association as Trustee for the apartment owners, acting by and through the Board of Directors of the Association.

(3) Such policy shall contain the following endorsement:

Named Insured and Mortgagee: The named insured for purposes of this insurance, shall be Bella Vista Commons Homeowners Association, Inc., acting by and through its Board of Directors, as Insurance Trustee for all of the apartment owners of the condominium real property. Any loss hereunder shall be adjusted with the Named Insured, and payment for any adjusted loss shall be made to

as Trustee for the named insured, all apartment owners and all mortgagees, as their interests may appear at the time of loss.

c. A policy or policies insuring the Association, members of the Board, their agents and employees, and the apartment owners, against any liability to the public or to the owners of the apartments and of the common areas and facilities for a limit of liability not less than One Million Dollars, combined single limit for personal injury liability and property damage liability (such limit to be reviewed at least annually by the Board and increased in its discretion).

- d. Workers' Compensation insurance to the extent necessary to comply with any applicable laws; taxes and utilities for the common areas and facilities.
- e. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair, and replacement of the limited common areas, common areas and facilities (excluding the items for which Owner is responsible, as itemized in Paragraph 5 of this Article III) and such furnishings and equipment for the common areas and facilities as the Board shall deem necessary and proper.
- f. Any other: Materials, supplies, furniture, labor, services, maintenance, repairs, or structural alterations; insurance or assessments which the Board is required to secure or pay for pursuant to the terms of the Declaration or these Bylaws; as the Board deems necessary for administration, maintenance and operation of the property as a first-class residential condominium or for the enforcement of the Declaration or these Bylaws.
- g. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire property or any part thereof which may in the opinion of the Board constitute a lien against the property or against the common areas and facilities; provided, however, if such lien is created by an apartment owner, or by the act or omission of apartment owner, the amount of such lien, and any costs relating thereto shall be specially assessed by the Board, against such apartment owner, as a special expense.
- h. Any amount necessary to provide maintenance and repair of any apartment, deemed necessary, in the discretion of the Board, to protect the common areas and facilities or any other portion of the buildings, if the apartment owner of such apartment has failed or refused to perform said maintenance and repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to such apartment owner; provided, however, the cost of such repairs and maintenance shall be specially assessed by the Board against such apartment owner, as a special expense.
- i. The services of any person or firm employed by the Board in furtherance of its general powers and duties stated herein.

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5. Owner's Responsibility for Repair, Maintenance, Replacement:
Each apartment owner shall repair, replace and maintain:

a. All interior areas of the apartment, including but not limited to, interior walls, appliances, hot water heater, electrical fixtures and wiring, switches, plumbing fixtures, pipes and lines, faucets, shower-heads, plugs, heating systems and fixtures, which are situated within the apartment, excluding, however, replacement of water and sewer lines necessitated by a cause other than the act or omission of Apartment Owner or occupant.

b. All glass, windows, doors, vestibules and entryways, which are appurtenances to the apartment.

6. Reserve for Replacement and Contingencies: The Board shall also assess, beginning with the second fiscal year, as a common expense, a reasonable amount, annually, as deemed necessary by the Board, in its discretion, to create a reserve for replacements and contingencies, which reserve shall be maintained and increased annually.

7. Purchases and payments: All purchases shall be made by purchase order, and payment therefor by payment voucher, on forms adopted by the Board, each of which shall be executed by such officers or agents of the Board as are designated by the Board.

8. Limitations of the Powers of the Board of Directors. The Board shall have no power or authority to acquire, or pay for, any capital addition, capital improvement or any structural alteration having a total cost in excess of Two Thousand Dollars (\$2,000.00) (except to replace or restore portions of the common areas and facilities as otherwise authorized by this Declaration), without in each case the prior approval of two-thirds of the voting members of the Association.

9. Rules and Regulations: The Board shall adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the property, and for the mutual health, comfort, safety and general welfare of the apartment owners, and occupants thereof. Written notice of such rules and regulations shall be given to all apartment owners and occupants, and the Board shall obtain strict compliance with such rules and regulations, by suit for damages or injunctive relief, or both.

ARTICLE IV.

COMMON EXPENSE FUND AND ASSESSMENTS

1. Mutual Covenants to Pay Assessment: Developer, as owner of the Property, and of the completed but unsold apartments, covenants, and each apartment owner by acceptance of a deed to an apartment, covenants and

agrees with each other apartment owner, and with the Association, to pay all assessments levied by the Board, as required in this Declaration, whether or not such covenant is contained in such deed. Provided, however, that Developer shall not be assessed, or pay assessments, on planned but incomplete units.

2. Creation of Common Expense Fund: The Board shall establish a "Common Expense Fund", to enable the Association, and the Board, to exercise the powers and perform the duties stated in Article III herein. Such fund shall be funded by assessments as hereinafter provided, to be paid by all apartment owners, including Developer. Such fund shall be administered on a fiscal year basis, beginning on the first day of the month following the date the first apartment is conveyed, and the annual assessment shall be \$31,000.00 for such first year.

The first year's assessment is based upon the existence of 31 condominium units being completed during the first year. If 31 units are not completed, the \$31,000.00 is subject to change to a figure which shall represent the actual number of units completed, on an annual basis. The parties hereto expressly understand that the Developer shall not be liable for any difference between the \$31,000.00 and whatever the annual figure may actually be.

3. Annual Budget: Each year, at least 30 days prior to the end of such fiscal year, the Board shall prepare an estimate of the total amount it deems necessary, for the ensuing year, to pay the common expenses to be incurred in the administration, maintenance, repair, replacement and improvement of the common areas and facilities, and limited common area, as a first class residential condominium (hereinafter called "Annual Budget"), and shall furnish each apartment owner an itemized copy thereof 15 days prior to the beginning of such ensuing fiscal year. The budget shall take into account the following items:

- (a) "Current expense,"
- (b) "Reserve for deferred maintenance,"
- (c) "Reserve for replacement,"
- (d) "Additional improvements,"
- (e) "Operations," (working fund).

4. Assessments: Effective the first day of each such fiscal year each apartment owner, including Developer, shall be assessed a sum equal his percentage of ownership of the common areas and facilities, multiplied times the total Annual Budget which sum shall be paid by the apartment owner, three-twelfths each quarter, on the first day of each of the quarters of each fiscal year, continuing until a new assessment is made by the Board. Developer's percentage ownership shall be the total percentages of all completed but unsold apartments.

If the amount of the annual budget proves inadequate for any reason, including, without limitation, non-payment of any apartment owner's assessment, the Board may, at any time, levy a further assessment, by increasing the annual budget, and each apartment owner shall be assessed a sum equal to his percentage of ownership of common areas and facilities multiplied times such increase; provided, however, extraordinary expenses omitted from the annual budget, which may become due during the fiscal year, shall first be paid from the replacement and contingency reserve, and provided further, if inadequate funds exist during a fiscal year, the Association may borrow sufficient funds, from Developer or otherwise, but Developer shall not be obligated to loan any funds to the Association. The Board shall give written notice of any such increase, and the reasons therefor, to each apartment owner, and shall state the date and terms of payments of such increase.

All such assessments collected shall be paid and expended for the purposes authorized herein, and (except for such special assessments as may be levied against less than all the apartment owners, and for such adjustments as may be required to reflect delinquent or unpaid assessments) shall be deemed to be held for the benefit, use and account of all the apartment owners in the same percentages as their percentage ownership of the common areas and facilities specified herein.

5. Annual Accounting: Within 20 days of the end of a fiscal year, the Board shall furnish to all apartment owners, for the preceding fiscal year, an itemized accounting of the common expenses actually incurred, paid, or accrued, together with a statement of the total assessments collected, showing the net operating loss or gain. Any such gain, in excess of the amount required for incurred or accrued expenses and replacement and contingency reserves, shall be apportioned according to each apartment owner's percentage of ownership in the common areas and facilities as a credit to the next monthly assessments, until exhausted; any such loss shall be apportioned according to each apartment owner's percentage of ownership in the common areas and facilities, and added to the next monthly assessments, for the six (6) months succeeding the month of rendering of such accounting.

6. Books of Account: The Board shall maintain current, detailed books of account in accordance with generally accepted accounting principles and procedures, which reflect all receipts, disbursements, assets and liabilities of the Association. Such books, records, purchase orders and payment vouchers, shall be available for inspection by any apartment owner, or any duly authorized representative of any apartment owner, at reasonable times during the normal business hours. Apartment owner's mortgagee shall be deemed an authorized representative of owner upon ten (10) days' notice to the Board and payment of a reasonable fee, any apartment owner, or his mortgagee, may demand and be furnished, a statement of his account, which reflects the amount of any unpaid assessments or other charges due and owing from such apartment owner.

7. Delinquencies and Default of Apartment Owner: The amount of any unpaid assessment, including, without limitation, any assessment for special expenses, together with interest at the highest lawful rate permitted by New Mexico usury laws, from the due date thereof, plus reasonable attorney fees for collection thereof, shall constitute a lien on the apartment until paid. The Board, or manager thereof, may bring suit for collection of such unpaid assessment, and the remaining balance of assessments due for the fiscal year, plus interest at such highest lawful rate, plus costs and attorneys fees, without waiving such lien, or such lien may be foreclosed in the same manner as foreclosure of a mortgage on real property wherein the period of redemption is one month; provided, however, the Board shall mail notice of such default to any mortgagee of the apartment owner, ten (10) days prior to any foreclosure of lien. Such lien is inferior to the balance due on any first mortgage of record, and any real property taxes which constituted a tax lien against the apartment prior to the assessment lien. During foreclosure, the apartment owner shall pay a reasonable rental for the apartment, and a receiver shall be appointed to collect such rent.
8. Unpaid Assessment; Disclosure: The Board shall furnish a statement of the total unpaid assessments to any grantee of an apartment, upon request for same, and, the grantee shall be jointly and severally liable, with the grantor, for the amount so stated, but not in excess of such amount stated, and the apartment shall not be conveyed subject to a lien for any amount in excess of the amount disclosed in such statement.
9. Assessments for common expenses of emergencies which cannot be paid from the annual assessments for common expenses shall be made only after notice of the need therefor to the apartment owners concerned. After such notice and upon approval in writing by persons entitled to cast more than one-half of the votes of the apartment owners concerned, the assessment shall become effective, and it shall be due after 30 days' notice thereof in such manner as the Board of Directors may require.
10. Amendments: Amendments to this Article IV shall be effective only upon the unanimous vote of all apartment owners and their mortgagees.
11. Assessments - Non Use: No Apartment Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas and facilities, by abandonment of the apartment, or by any other means whatsoever.

ARTICLE V

AMENDMENTS. These Bylaws may be amended in the following manner:

- (a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

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(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by at least 75% of the entire membership of the Board of Directors and by not less than 75% of the votes of the entire membership of the Association; or by at least 80% of the votes of the entire membership of the Association. Until the first election of directors, all directors must approve any amendment.

(c) No amendment shall discriminate against any apartment owner or against any apartment or class or group of apartments unless the apartment owners so affected shall consent. No amendment shall change any apartment nor the share in the common elements appurtenant to it, nor increase the owner's share of the common expenses, nor change the voting rights of members, unless the record owner of the apartment concerned and all record owners of liens thereon shall join in the execution of the amendment.

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Public Records of Colfax County, New Mexico.

The foregoing were adopted as the Bylaws of Bella Vista Condominium Association, Inc., a corporation not for profit under the laws of the State of New Mexico, at the first meeting of the Board of Directors on January 1, 1980.

APPROVED:

Virginia Drummond
President

Virginia Drummond
Secretary



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STATE OF NEW MEXICO	} ss.
COUNTY OF COLFAX	
This instrument was filed for record	
on this <u>23rd</u> day of <u>July</u>	
<u>1980</u> A.D. at <u>10:51</u> o'clock	
<u>9</u> M. and duly recorded in Book	
<u>94</u> of <u>M. 229</u> page <u>229</u> - <u>348</u>	
<u>Laurenz G. Sutherland</u> County Clerk	
By _____	Deputy _____

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DECLARATION OF CONDOMINIUM OWNERSHIP

FOR

BELLA VISTA

A CONDOMINIUM RESIDENCE ENTERPRISE

094300

DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
EASEMENTS, RESTRICTIONS AND COVENANTS
FOR
BELLA VISTA
A CONDOMINIUM RESIDENCE ENTERPRISE
QUALIFIED FOR BUSINESS IN NEW MEXICO

Pursuant to the New
Mexico Apartment
Ownership Act

This Declaration is made, submitted and effective as of the date it is recorded with the Colfax County Clerk by Bella Vista Commons, Inc., a Delaware Corporation qualified for business in New Mexico (hereinafter called "Developer").

ARTICLE I

DEFINITIONS

Certain words and terms used in this Declaration are defined as follows:

Apartment: A part of the property within one of the buildings, including one or more rooms or enclosed spaces, occupying one or more floors or a part or parts thereof, designed and intended for a residence or such other uses permitted by this Declaration, and having lawful access, through the Common Area or otherwise, to a public way. Each apartment is identified by number as to its location within buildings: A, B, C, D, E, and F, of Group I; A of Group II, and A, B, C, D, and E of Group III. The immediate access of each apartment to a common area, is identified on floor plans and drawings filed herewith. A copy of the detailed floor plans of all the aforementioned buildings, certified as required by NMSA 70-4-13, will be recorded simultaneously with recording of this Declaration and with the County Clerk of Colfax, New Mexico.

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Apartment Owner: The person or persons whose estates or interests, individually or collectively aggregate fee simple absolute ownership of an Apartment ownership.

Apartment Ownership: A part of the property consisting of one apartment and the undivided interest in the Common Area and facilities appurtenant thereto.

Association: The Apartment Owners acting through the Bella Vista Homeowners Association, a New Mexico Corporation.

Board: The Board of Directors of the Association.

Common Expenses: Charges against the property as a whole and expenses declared to be common expenses by the provisions of this Declaration, including but not limited to the following:

1. Expenses of administration of the property;
2. Expenses for maintenance, repair, replacement, and operation of, insurance of, snow and trash removal from, the common areas and facilities, and the limited common areas;
3. Expenses for water and sewer for all Apartment Owners;
4. All sums assessed against the Apartment Owners by the Association.

Declaration: Means this "Declaration of Condominium Ownership and of Easements, Restrictions and Covenants of Bella Vista, a Condominium Residence Enterprise, pursuant to the New Mexico Apartment Ownership Act," and any supplemental Declarations.

Occupant: A person or persons, other than the Apartment Owner, in possession of an apartment.

Person: A natural individual, corporation, partnership, combination, association, trustee, or other legal entity capable of holding title to real property.

Property: Buildings A, B, C, D, E and F of Group I; Building A of Group II and Buildings A, B, C, D, and E of Group III; Lot 10, Block H Angel Fire Village, Unit No. 1, a Subdivision of Colfax County, New Mexico, along with all of the land, buildings, improvements, structures, and spaces, easements, servitudes,

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rights and privileges belonging or appurtenant thereto, and all chattels intended for use in connection therewith.

Regulations: The rules promulgated by the Board from time to time in the manner permitted by the Articles of Incorporation and By-Laws of the Association.

Special Expenses: Charges against a particular apartment owner for expenses of administration, maintenance, operation and other services, or dues attributable to the particular apartment of such apartment owner and for his special benefit as distinguished from the general benefit of the property as a whole or the Common Area and facilities.

Mortgagee: Any person named as Mortgagee, or successor thereof, under any mortgage or other security document, by which an apartment ownership is encumbered.

Supplemental Declaration: Any instrument which amends or terminates this Declaration, or which accomplishes some action taken under this Declaration, and which has been executed and acknowledged, in the manner required by this Declaration and recorded with the Colfax County Clerk.

ARTICLE II

GENERAL PLAN OF DEVELOPMENT OF

BELLA VISTA

1. The Property. Developer is the owner in fee simple of Lot 10; Developer intends that the property will be submitted to the provisions of the Apartment Ownership Act, to come within this Declaration as though originally a part hereof; Developer intends that Lot 10 shall have a maximum of thirty (30) units. (X)

Developer, in its sole discretion, may elect to not complete all of the units in Lot 10. (X)

Developer will bear no financial responsibility to the Association, nor pay for the Association's Common Areas in units which are uncompleted. (X)

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Developer may, in its sole discretion, take back fee simple title to Lot 10 for use as Developer wishes. (X)

ARTICLE III

SUBMISSION TO NEW MEXICO BUILDING UNIT
OWNERSHIP ACT

1. Developer hereby submits the Property to the New Mexico Building Unit Ownership Act, as amended from time to time, and Developer hereby publishes and declares that all of such Property is and shall be held, owned, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the New Mexico Building Unit Ownership Act, as amended from time to time, and subject to this Declaration, as amended from time to time, and subject to the rights, easements, privileges, covenants and restrictions stated herein, which shall be deemed to run with the land and shall be a burden and a benefit to Developer, its successors and assigns, and to any person acquiring or owning an interest in such property, their grantees, successors, assigns, heirs, executors and administrators.

ARTICLE IV

BUILDINGS, APARTMENTS, COMMON AREAS AND
FACILITIES AND EASEMENTS.

1. Description of Land and Buildings: There are to be three groups of buildings, named Group I, Group II, and Group III,

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located upon Lot 10, Block H, Angel Fire Village, Unit No. 1, as shown on the site plan filed in the floor plans herewith, containing thirty (30) apartments, which apartments are designated as follows:

"On Group I:

Apartments I-A1, I-A2, I-B1, I-B2, I-C1, I-C2, I-D1, I-D2, I-E1, I-E2, I-F1 and I-F2.

On Group II:

Apartments II-A1, II-A2, II-A3.

On Group III:

Apartments III-A1, III-A2, III-A3, III-B1, III-B2, III-B3, III-C1, III-C2, III-C3, III-D1, III-D2, III-D3, and III-E1, III-E2, III-E3.

All the enumerated apartments are shown and designated on the floor plans filed herewith.

The buildings are to be a combination of one (1), two (2) and three (3) bedroom apartments; and are to be constructed of the following principal materials:

Subfloor and crawl space; wood framing,
wood exterior walls, wood floors; insulation;
wood interior walls and composition ceilings;
cedar shake roof.

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2. Description of Apartments:

Sheet 1A (Site Plan), 13, 14, 15, 16, 18, 19 and 20.

and are filed herewith and incorporated herein by reference as though set forth in detail herein, to reflect the location, apartment number, dimensions of the apartment, area, layout, number of rooms, the name of the building in which the apartment is located, and a description of the common area to which the apartment has immediate access; detailed floor plans (bearing the certified statement of a registered architect or licensed professional engineer, certifying that it is an accurate copy of portions of the plans of the buildings as filed with and approved by the governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings), shall be recorded with the County Clerk of Colfax County, New Mexico, simultaneously with the recording of this Declaration; and such floor plans shall contain a reference to the book, page and date of recording of this Declaration. This Declaration, when recorded, shall contain a reference to the book, page and date of recording

of such floor plans, said floor plans, containing 15 sheets filed simultaneously with Declaration in Colfax County, NM Condominium Floor Plans file, July 23, 1980; only Group III constructed at this time (Groups I and II not constructed and filed

3. Description of Common Areas and Facilities: The

herein).

Common areas and facilities are described as follows:

- a. The real estate and buildings (excluding the apartments as described in subparagraph 6 (b) of this Article), described in floor plans referred to above and filed herewith, the space on which the buildings are located, and all easements, servitudes, rights and privileges belonging or in any wise appertaining thereto;

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- b. The foundations, columns, beams, supports, main and supporting walls, roofs, stairs and stairways, including interior party walls and partitions or ceilings;
- c. The grounds, driveways, parking areas, walks and walkways;
- d. The installations of central service, including sewer, light, water, heating, sewage disposal and incinerating, including but not limited to pipes, ducts, flues, conduits, wires and other utility installations;
- e. The tanks, pumps, motors, fans, compressors, ducts, and all apparatus and installations existing for common use;
- f. All other parts of the property necessary in common use or convenient to its existence, maintenance and safety which are not included in the description of an apartment, under subparagraph 6 (b) of this Article;
- g. Limited Common Areas described in paragraph 4 of this Article;
- h. Any electrical fixtures, public utility lines, faucets, showerheads, plugs, connections, switches, or structural components running through an apartment or within an apartment; provided, however, the care, maintenance, repair and replacement of electrical fixtures, utility pipes and lines, faucets, showerheads, plugs, switches, or connections, situate within an apartment, shall not be deemed a common expense, and shall be the sole responsibility of the Owner of such apartment, except the replacement of water and sewer lines necessitated by a cause other than the act of omission of the Apartment Owner.

4. Description of Limited Common Areas and Facilities:

The balcony or decking of each apartment shall be reserved for the use of the occupants of the apartment to which such area or facility is attached; all such areas and facilities are hereby defined as the "limited common areas."

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5. Value of the Property and of each Apartment: The value of each apartment, together with the undivided interest in the common areas and facilities appurtenant thereto, or of each "apartment ownership" as herein defined, is declared to vary between \$37,600.00 and \$88,500.00, as itemized in paragraph 7 of this Article IV. The percentage ownership of common areas, voting rights, and assessment of common expenses of each apartment owner shall be that percentage that the value of each apartment bears to the total value of the property, as stated in paragraph 7 of this Article IV.

6. Ownership and Description of Apartments:

(a) Each Apartment Owner shall own an apartment in fee, simple, absolute. No apartment owner shall, by deed, plat or otherwise subdivide or in any manner cause his apartment to be separated into any tracts or parcels smaller than the whole apartment. Every deed, lease, mortgage or any other instrument may legally describe an apartment by its identifying number, as shown on floor plans filed herewith, and every such description shall be deemed good and sufficient for all purposes.

(b) Each apartment consists of the space enclosed or bounded by the undecorated surfaces of the perimeter walls, floors and ceilings of each such family unit, the dimensions, layouts and descriptions of each such family unit being shown on floor plans filed herewith, which may include without limitations:

- (1) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and any other finishing material applied to said perimeter walls, floors, and ceilings;
- (2) All window sashes and doors exclusive of door frames in the interior and perimeter walls and the space occupied thereby;
- (3) The space within all fixtures located within the bounds of a family unit and the space occupied by the fixtures themselves;
- (4) All unenclosed space, if any, within or occupied by structural parts of the building which may project into the family unit, as defined above, from the unfinished perimeter floor level to the unfinished perimeter ceiling level and including by way of illustration, but not by way of limitation, the space between the shelves of built-in bookcases, if any, and the space within built-in cabinets, if any;
- (5) All space between interior walls, floors and ceilings, including the space occupied by structural and component parts of the building and utility pipes, wires and conduits;

but excepting therefrom all of the following items located within the bounds of the family unit as described above:

- (1) The structural and component parts of all interior walls, floors and ceilings, except the decorated surfaces thereof;
- (2) All vent covers, grills, plate covers and other covering of space affixed to interior and perimeter walls, floors and ceilings, which are hereby defined as parts of said walls, floors and ceilings;
- (3) All fixtures located wholly or partly within the family unit, and all control knobs, switches and thermostats affixed to or projecting from the interior and perimeter walls, floors and ceilings;
- (4) All structural portions of the building, lying within the bounds of the family unit as above defined;

- (5) All plumbing, electric, heating and other utility or service lines, pipes, wires, plugs and outlets lying within the bounds of a family unit as above defined.

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7. Ownership of Common Areas and Facilities: Each Apartment Owner of Buildings in Groups I, II, and III, shall own, for all purposes including assessment for common expenses and voting, an undivided interest in the common areas and facilities, expressed as a percentage, as follows:

<u>Group of Buildings and Apartment No.</u>	<u>Approx. Sq. Ft. Heated Living Area</u>	<u>Present Value</u>	<u>Percentage Interest</u>
<u>Group I</u>			
I-A1	1,161	76,300	.0361191981
I-A2	1,480	88,500	.0418944827
I-B1	1,161	76,300	.0361191981
I-B2	1,480	88,500	.0418944827
I-C1	1,161	76,300	.0361191981
I-C2	1,480	88,500	.0418944827
I-D1	1,161	76,300	.0361191981
I-D2	1,480	88,500	.0418944827
I-E1	1,161	76,300	.0361191981
I-E2	1,480	88,500	.0418944827
I-F1	1,161	76,300	.0361191981
I-F2	1,480	88,500	.0418944827
<u>Group II</u>			
II-A1	919	65,300	.0309119742
II-A2	1,238	77,500	.0366872589
II-A3	485	37,600	.0177992379
<u>Group III</u>			
III-A1	847	63,800	.0302018983
III-A2	1,144	76,350	.0361428673
III-A3	660	48,500	.0229591233

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<u>Group of Buildings and Apartment No.</u>	<u>Approx. Sq. Ft. Heated Living Area</u>	<u>Present Value</u>	<u>Percentage Interest</u>
III-B1	847	63,800	.0302018983
III-B2	1,144	76,350	.0361428673
III-B3	660	48,500	.0229591233
III-C1	847	63,800	.0302018983
III-C2	1,144	76,350	.0361428673
III-C3	660	48,500	.0229591233
III-D1	847	63,800	.0302018983
III-D2	1,144	76,350	.0361428673
III-D3	660	48,500	.0229591233
III-E1	847	63,800	.0302018983
III-E2	1,144	76,350	.0361428673
III-E3	660	48,500	.0229591233

Each apartment owner shall own his undivided interest in the common areas and facilities as a tenant in common with all other apartment owners, and, except as otherwise limited in this Declaration.

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shall have the right to use the common areas and facilities, and any chattels owned by the Association for all purposes incident to the use and occupancy of his apartment as a residence and such other incidental uses permitted by the Declaration, which right shall be appurtenant to and shall run with each apartment.

The undivided interest of each Apartment Owner in the common areas and facilities shall be permanent, and shall remain unaltered unless altered by the unanimous consent and approval of all apartment owners, and all their mortgagees, which consent and approval shall be expressed in an amended declaration complying in all respects with the New Mexico Apartment Ownership Act, and with the Provisions of this Declaration.

8. No Severance or Partition of Common Areas and Facilities or of Ownership Thereof: The common areas and facilities and the undivided interest of each Apartment Owner in the common areas and facilities shall not be severed or separated from the apartment to which they are appurtenant.

No Apartment Owner shall execute any deed, lease, mortgage or other instrument affecting title to his apartment or his apartment ownership, unless he includes therein both his title or interest in the apartment and his then corresponding fraction or percentage title or interest in the common areas and facilities appurtenant thereto. Any such deed, lease, mortgage, or other instrument purporting to affect the one without including the other, shall be deemed and taken to convey, encumber or affect the title or interest so omitted, even though the interest is not expressly mentioned or described.

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The Common areas and facilities shall remain undivided among the apartment owners. There shall be no partition of the common areas and facilities through judicial proceedings or otherwise until this Declaration is terminated and the property is removed from the provisions of the New Mexico Apartment Ownership Act.

9. Memberships:

- a. Each Apartment Owner shall be a member of the Baca Grande Angel Fire Country Club, shall maintain such membership, and pay the annual dues therefor.
- b. If Developer elects, pursuant to subparagraph VII-1 (b) herein, to join Resort Condominiums International or similar each Apartment Owner shall become a member thereof, subject to the provisions of subparagraph VII-1 (b) herein, and shall pay monthly dues therefor.
- c. If any Apartment Owner fails to pay such monthly or annual dues, the Board shall pay such dues, and assess the amount thereof as a special expense to the Apartment Owner.

10. Easements: Each apartment ownership shall have and be burdened with, the following easements:

- a. Ingress and Egress: An easement and right of way for the mutual benefit of the apartment owners, their successors and assigns, for purposes of ingress to and egress from the property, is hereby declared and established for the benefit of all apartments and their owners, shown on the plat attached hereto as Exhibits A1, A2, and A3, which easement and right of way shall be deemed to run with the land.
- b. Common Area Encroachment. If, by reason of the construction, settlement or design of any one or more of the buildings, any part of the common areas or facilities encroaches or shall hereafter encroach upon any part of any apartment, or if an apartment encroaches or shall hereafter encroach upon any part of the common areas or facilities, or if an apartment encroaches or shall hereafter encroach upon another apartment, valid easements for the reasonable

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use, existence, repair and replacement of such encroachment are hereby established, so long as all or part of any one or more of the apartment building containing such apartment shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the apartment owner if such encroachment occurred due to the willful conduct of said apartment owner or owners.

c. Reciprocal Easements for Ingress and Egress. Developer reserves and grants, for and in behalf of Developer, its grantees, assigns, successors and representatives, and for and in behalf of all apartment owners, and for and in behalf of any other person who may own or occupy the property or any part or parcel thereof, the right of ingress and egress in, to, upon, through and over, common areas contained in the property and all Apartment Owners of the property, or any part or parcel thereof, shall have the reciprocal easement for ingress and egress in, to, upon through and over the property, including without limitation, all roads constructed through such property.

d. Public Utility Easements. Developer reserves to itself the right, power, authority and license to execute and deliver such easements for public utility purposes as Developer deems necessary; from time to time, for such utilities as electricity, telephone, gas, sewer, water and television, for use at the Property, which easements may include installation of equipment and lines which traverse along, across, over, under or through any of the common areas and facilities.

e. Overhang, Encroachment. If any drain, flue, ductwork, equipment or structure encroaches upon or overhangs an apartment, as originally constructed, such apartment shall be burdened with a perpetual easement for the use, existence, repair and replacement of such overhang or encroachment; provided, however, such overhang or encroachment shall not be enlarged without the consent of the owner of such apartment.

f. Maintenance and Repair Easement. The Board or its agents may, and shall have an easement to enter any apartment when necessary in connection with any maintenance, repair or construction therein, or in connection with maintenance, repair or construction of common areas and facilities accessible therefrom and for making emergency repairs to prevent damage to the common areas and facilities or to another apartment,

for which the Board is responsible. It may, and shall have an easement to likewise enter any patio, balcony or enclosed area for maintenance, repairs, construction or painting. Such entry shall be made with as little inconvenience to the apartment owner as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the common expense fund.

g. Run with Land. All easement and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon the undersigned, their successors and assigns, and any apartment owner, purchaser, mortgagee, and other person having any interest in the property, or any part or portion thereof.

h. Reference to in Deeds. Reference to easement described in the Declaration, in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, shall be deemed reference to the easement and rights described in immediately preceding subparagraphs, or described in any other part of the Declaration, and shall be sufficient to create and reserve such easements and to create the rights to the respective grantees, mortgagees or trustees or other obligee of such parcels as fully and completely as though such easement and rights were recited fully and set forth in their entirety in such documents.

ARTICLE V

ADMINISTRATION OF THE PROPERTY

1. Association of Apartment Owners and Board of Directors.

The direction, management and administration of the common areas and facilities shall be vested in an incorporated association of all the apartment owners, known as BELLA VISTA HOMEOWNERS ASSOCIATION (Hereinafter called the "Association"), a New Mexico Corporation, a true copy of the By-Laws and Articles of Incorporation of the Association are attached hereto, and are incorporated herein by reference. The Association shall be managed by, elect and act through, a Board of Directors (hereinafter referred to as the "Board"), consisting of three (3) persons or four (4)

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persons if the mortgagee of fifty percent (50%) or more of all the apartment designates a member, who shall be elected in the manner set forth in the By-Laws. Two members of the Board, after the expiration of the terms of the members of the initial Board, shall be apartment owners; provided, however, if an Apartment Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director, officer, partner, beneficiary or trustee or other legal entity other than a natural person or persons, then any director, officer, partner, beneficiary or trustee, as the case may be, of such an entity shall be eligible to serve as a member of the Board of Directors.

2. General Powers and Duties of the Board of Directors:

The Board shall have in behalf of the Association, the power and duty, for the benefit of all the apartment owners, to acquire or furnish (by purchase order), and, for the fund described in Article VI herein, pay for (by payment voucher), the following:

a. Water, sewer and trash removal, for all apartment owners.

b. A policy or policies of insurance wherein the building is insured against damage caused by fire, lightning, perils described in the "extended coverage" endorsement, vandalism and malicious mischief, and such additional perils as may be available through usual insurance markets.

(1) The amount of such insurance shall be 100% of the replacement cost of such building, as determined within 30 days of the end of each fiscal year of the Association, and increased or decreased by the Board from year to year, according to changes in the replacement costs.

(2) The named insured of such policy shall be the Association as Trustee for the apartment owners, acting by and through the Board of Directors of the Association.

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(3) Such policy shall contain the following endorsement:

Named Insured and Mortgagee: The named insured for purposes of this insurance, shall be Bella Vista Homeowner's Association, Inc., acting by and through its Board of Directors, as Insurance Trustee for all of the apartment owners of the condominium real property. Any loss hereunder shall be adjusted with the Named Insured, and payment for any adjusted loss shall be made to Bella Vista Homeowners Association, Inc. as Trustee for the named insured, all apartment owners and all mortgagees, as their interests may appear at the time of loss.

c. A policy or policies insuring the Association, members of the Board, their agents and employees, and the apartment owners, against any liability to the public or to the owners of the apartments and the common areas and facilities for a limit of liability not less than One Million Dollars, combined single limit for personal injury liability and property damage liability (such limit to be reviewed at least annually by the Board and increased in its discretion).

d. Workmen's Compensation insurance to the extent necessary to comply with any applicable laws; taxes and utilities for the common areas and facilities.

e. Landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintenance, decorating, repair, and replacement of the limited common areas, common areas and facilities (excluding the items for which Owner is responsible, as itemized in paragraph 3 of this Article V) and such furnishings and equipment for the common areas and facilities as the Board shall deem necessary and proper.

f. Any other: Materials, supplies, furniture, labor, services, maintenance, repairs, or structural alterations; insurance or assessments which the Board is required to secure or pay for pursuant to the terms of this Declaration or by law; as the Board deems necessary for administration, maintenance and operation of the property as a first-class residential condominium or for the enforcement of this Declaration or the By-Laws.

g. Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire property or any part thereof which may in the opinion of the Board constitute a lien against the property or against the common areas and facilities; provided, however, if such lien is

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created by an apartment owner, or by the act or omission of apartment owner, the amount of such lien, and any costs relating thereto shall be specially assessed by the Board, against such apartment owner, as a special expense.

h. Any amount necessary to provide maintenance and repair of any apartment, deemed necessary, in the discretion of the Board, to protect the common areas and facilities or any other portion of the buildings, if the apartment owner of such apartment has failed or refused to perform said maintenance and repair within a reasonable time after written notice of the necessity thereof has been delivered by the Board to such apartment owner; provided, however, the cost of such repairs and maintenance shall be specially assessed by the Board against such apartment owner, as a special expense.

i. The services of any person or firm employed by the Board in furtherance of its general powers and duties stated herein.

3. Owner's Responsibility for Repair, Maintenance, Replacement:

Each apartment owner shall repair, replace and maintain:

a. All interior areas of the apartment, including but not limited to, interior walls, appliances, hot water heater, electrical fixtures and wiring, switches, plumbing fixtures, pipes and lines, faucets, shower-heads, plugs, heating systems and fixtures, which are situated within the apartment, excluding, however, replacement of water and sewer lines necessitated by a cause other than the act or omission of Apartment Owner or occupant.

b. All glass, windows, doors, vestibules and entryways, which are appurtenances to the apartment.

4. Reserve for Replacement and Contingencies: The Board shall also assess, beginning with the second fiscal year, as a common expense, a reasonable amount, annually, as deemed necessary by the Board, in its discretion, to create a reserve for replacements and contingencies, which reserve shall be maintained and increased annually.

5. Purchases and payments: All purchases shall be made by

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purchase order, and payment therefor by payment voucher, on forms adopted by the Board, each of which shall be executed by such officers or agents of the Board as are designated by the Board.

6. Limitation of the Powers of the Board of Directors:

The Board shall have no power or authority to acquire, or pay for, any capital addition, capital improvement or any structural alteration having a total cost in excess of Two Thousand Dollars (\$2,000.00) (except to replace or restore portion of the common areas and facilities as otherwise authorized by this Declaration), without in each case the prior approval of two-thirds of the voting members of the Association.

7. Rules and Regulations: The Board shall adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the property, and for the mutual health, comfort, safety and general welfare of the apartment owners, and occupants thereof. Written notice of such rules and regulations shall be given to all apartment owners and occupants, and the Board shall obtain strict compliance with such rules and regulations, by suit for damages or injunctive relief, or both.

ARTICLE VI.

COMMON EXPENSE FUND AND ASSESSMENTS

1. Mutual Covenants to Pay Assessment: Developer, as owner of the Property, and of the completed but unsold apartments, covenants, and each apartment owner by acceptance of a deed to an apartment, covenants and agrees with each other apartment owner, and with the Association, to pay all assessments levied by the Board, as required in this Declaration, whether or not such covenant is contained in such deed. Provided, however, that Developer shall not be assessed, or pay assessments, on planned but incompletd units.

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2. Creation of Common Expense Fund: The Board shall establish a "Common Expense Fund", to enable the Association, and the Board, to exercise the powers and perform the duties stated in Article V herein. Such fund shall be funded by assessments as hereinafter provided, to be paid by all apartment owners, including Developer. Such fund shall be administered on a fiscal year basis, beginning on the first day of the month following the date the first apartment is conveyed, and the annual assessment shall be \$30,000.00 for the first year.

The first year's assessment is based upon the existence of 30 condominium units being completed during the first year. If 30 units are not completed, the \$30,000.00 is subject to change to a figure which shall represent the actual number of units completed, on an annual basis. The parties hereto expressly understand that the Developer shall not be liable for any difference between the \$30,000.00 and whatever the annual figure may actually be.

3. Annual Budget: Each year, at least 30 days prior to the end of such fiscal year, the Board shall prepare an estimate of the total amount it deems necessary, for the ensuing year, to pay the common expenses to be incurred in the administration, maintenance, repair, replacement and improvement of the common areas and facilities, and limited common areas, as a first class residential condominium (hereinafter called "Annual Budget"), and shall furnish each apartment owner an itemized copy thereof 15 days prior to the beginning of such ensuing fiscal year.

4. Assessments. Effective the first day of each such fiscal year each apartment owner, including Developer, shall be assessed a sum

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equal his percentage of ownership of the common areas and facilities, multiplied times the total Annual Budget which sum shall be paid by the apartment owner, three-twelfths each quarter, on the first day of each of the quarters of each fiscal year, continuing until a new assessment is made by the Board. Developer's percentage ownership shall be the total percentages of all completed but unsold apartments.

If the amount of the annual budget proves inadequate for any reason, including, without limitation, non-payment of any apartment owner's assessment, the Board may, at any time, levy a further assessment, by increasing the annual budget, and each apartment owner shall be assessed a sum equal to his percentage of ownership of common areas and facilities multiplied times such increase; provided, however, extraordinary expenses omitted from the annual budget, which may become due during the fiscal year, shall first be paid from the replacement and contingency reserve, and provided further, if inadequate funds exist during a fiscal year, the Association may borrow sufficient funds, from Developer or otherwise, but Developer shall not be obligated to loan any funds to the Association. The Board shall give written notice of any such increase, and the reasons therefor, to each apartment owner, and shall state the date and terms of payments of such increase.

All such assessments collected shall be paid and expended for the purposes authorized herein, and (except for such special assessments as may be levied against less than all the apartment owners, and for such adjustments as may be required to reflect delinquent or unpaid assessments) shall be deemed to be held for the benefit, use and account of all the apartment

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owners in the same percentages as their percentage ownership of the common areas and facilities specified herein.

5. Annual Accounting: Within twenty (20) days of the end of a fiscal year, the Board shall furnish to all apartment owners, for the preceding fiscal year, an itemized accounting of the common expenses actually incurred, paid, or accrued, together with a statement of the total assessments collected, showing the net operating loss or gain. Any such gain, in excess of the amount required for incurred or accrued expenses and replacement and contingency reserves, shall be apportioned according to each apartment owner's percentage of ownership in the common areas and facilities as a credit to the next monthly assessments, until exhausted; any such loss shall be apportioned according to each apartment owner's percentage of ownership in the common areas and facilities, and added to the next monthly assessments, for the six (6) months succeeding the month of rendering of such accounting.

6. Books of Account: The Board shall maintain current, detailed books of account in accordance with generally accepted accounting principles and procedures, which reflect all receipts, disbursements, assets and liabilities of the Association. Such books, records, purchase orders and payment vouchers, shall be available for inspection by any apartment owner, or any duly authorized representative of any apartment owner, at reasonable times during the normal business hours. Apartment owner's mortgagee shall be deemed an authorized representative of owner upon ten (10) day's notice to the Board and payment of a reasonable fee, any apartment owner, or his mortgagee, may demand and be furnished, a statement of his account, which reflects the amount of any unpaid assessments or other charges due and owing from such apartment owner.

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7. Delinquencies and Default of Apartment Owner: The amount of any unpaid assessment, including, without limitation, any assessment for special expenses, together with interest at the highest lawful rate permitted by New Mexico usury laws, from the due date thereof, plus reasonable attorney fees for collection thereof, shall constitute a lien on the apartment until paid. The Board, or manager thereof, may bring suit for collection of such unpaid assessment, and the remaining balance of assessments due for the fiscal year, plus interest at such highest lawful rate, plus costs and attorneys fees, without waiving such lien, or such lien may be foreclosed in the same manner as foreclosure of a mortgage on real property wherein the period of redemption is one month; provided, however, the Board shall mail notice of such default to any mortgagee of the apartment owner, ten (10) days prior to any foreclosure of lien. Such lien is inferior to the balance due on any first mortgage of record, and any real property taxes which constituted a tax lien against the apartment prior to the assessment lien. During foreclosure, the apartment owner shall pay a reasonable rental for the apartment, and a receiver shall be appointed to collect such rent.

8. Unpaid Assessment; Disclosure: The Board shall furnish a statement of the total unpaid assessments to any grantee of an apartment, upon request for same, and, the grantee shall be jointly and severally liable, with the grantor, for the amount so stated, but not in excess of such amount stated, and the apartment shall not be conveyed subject to a lien for any amount in excess of the amount disclosed in such statement.

9. Amendments: Amendments to this Article VI shall be effective only upon the unanimous vote of all apartment owners and their mortgagees.

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10. Assessments - Non-Use: No Apartment Owner may waive or otherwise escape liability for the assessments provided for herein, by non-use of the common areas and facilities, by abandonment of the apartment, or by any other means whatsoever.

ARTICLE VII

COVENANTS AND RESTRICTIONS

AS TO USE AND OCCUPANCY

1. Restrictions: The apartments and common areas and facilities shall be occupied and used as follows:

a. Residential Use: The apartments and common areas and facilities shall be used and occupied solely and exclusively for the purpose of residence for the apartment owner, his family, guests and agents as hereinafter provided, and shall be kept in good order and repair; provided, however, Developer may use an apartment owned by it for a sales office and model unit or the building of offices with adjoining apartment.

b. Leasing: An apartment may be leased or rented by its owner. Developer may manage the property by leasing units, individually or as a group, to persons, when Developer, in his sole discretion, believes such management and leasing is in the best interests of the Association and Developer. Developer may place an agent on the property, or elsewhere, who shall serve as manager of the units in the absence of the Developer. Developer may, if it so elects, cause the Property to be submitted to membership in Resort Condominiums International, or a similarly constituted organization, whose purpose is to provide an exchange of use of apartments between owners of condominiums situated in various areas of the world. If so submitted, Developer may bind the Association to pay monthly dues per apartment, as a common expense, provided, however, no such membership shall require an apartment owner to actively participate or exchange use of the owner's apartment unless the apartment owner elects to actively participate.

c. Use of Common Areas: There shall be no obstruction of the common areas and facilities nor shall anything be stored in the limited common areas, or common areas and facilities, except as hereinafter expressly provided. No clothes,

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sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the common areas and facilities, or the limited common area. The common and limited common areas and facilities shall be kept free and clear of rubbish, debris and other unsightly materials. Nothing shall be altered or constructed or removed from the common areas or facilities, or limited common areas except upon the written consent of the Board.

d. Increase in Insurance Rate: Nothing shall be done or kept in any apartment or in the common areas and facilities, or the limited common areas, which will increase the rate of insurance of the building, or contents thereof, applicable for office use, without the prior written consent of the Board. No apartment owner shall permit anything to be done or kept in his apartment or in the common areas and facilities which will result in the cancellation of insurance on the buildings, or contents thereof, or which would be in violation of any law. No waste will be committed in the common areas and facilities.

e. Exterior Use Limitations: Apartment owners shall not cause or permit anything to be hung, placed or displayed, in or on the outside of windows, the outside walls of the buildings, or the limited common areas, and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior of the building, common areas, or limited common areas.

f. Nuisances: No noxious or offensive activity shall be carried on in any apartment or in the common areas and facilities, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to the other apartment owners or occupants.

g. General Limitations of Use: Nothing shall be done in any apartment or in, on or to the common areas and facilities, or the limited common areas, which will impair the structural integrity of the buildings, which would jeopardize the soundness or safety of the buildings which would structurally change the buildings, except as is otherwise provided herein, or which would reduce the value of or impair easements, servitudes, rights, privileges or hereditaments belonging to or in any wise appertaining to the property.

h. Signs: No apartment owner shall permit or maintain any "For Sale", "For Rent" or any other signs or other window displays or advertising on any part of the apartment, limited common area, or common areas or facilities which is visible to exterior view. The right is reserved by the Developer, or its agent, to place "For Sale" or "For Rent" signs on any unsold or unoccupied apartments,

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and the right is hereby given to any mortgagee, who may become the owner of any apartment, to place such signs on any apartment owned by such mortgagee. The right is reserved by the Developer or its agent, to use any unsold apartment or apartments for sales or display purposes.

i. Interior Use Limitations: Window coverings which are visible to outside view shall be esthetically harmonious with exterior design, color and other apartments, as determined by the Board. All such window coverings shall not be installed until the Board approves same.

j. Limited Common Area Use: Apartment owners are prohibited from parking, storing or repairing boats, campers or trailers on outside surface parking areas for any period of time in excess of twenty-four (24) hours.

ARTICLE VIII

SALE OR OTHER ALIENATION

1. Sale: Any apartment owner, other than the Developer, who wishes to sell his apartment ownership, or any interest therein, to any person not related by blood or marriage to the apartment owner, shall give to the Board prior written notice of the terms of any contemplated sale, together with the name and address of the proposed purchaser or lessee. The Board, acting on behalf of the other apartment owners, shall at all times have the first right to purchase such apartment ownership or interest therein upon the same terms stated in the notice, which right shall be exercisable for a period of thirty (30) days following the date of receipt of such notice. If said right is not exercised by the Board within said thirty (30) days, the apartment owner may, at the expiration of said thirty (30) day period and at any time within sixty (60) days after the expiration of said period, convey such apartment ownership to the proposed purchaser named in such notice, upon the terms specified therein.

2. Gift: Any apartment owner, other than the Developer, who wishes to make a gift of his apartment ownership or any interest therein to any person or persons who would not be heirs at law if the apartment owner, under the laws of the State of New Mexico, were to die within ninety (90)

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days prior to the contemplated date of such gift, shall give the Board prior written notice of the intent to make such a gift, together with the name and address of the intended donee and the contemplated date of said gift. The Board, acting on behalf of the Association, shall have the first right to purchase such apartment ownership therein, for cash, for a price equal to the fair market value thereof, to be determined by arbitration as herein provided, which right shall be exercisable for a period forty-five (45) days following the date of receipt of such notice of intended gift. Within fifteen (15) days after receipt of such notice, the Board, and the apartment owner desiring to make such gift, shall each appoint a qualified real estate appraiser to act as arbitrators. The two (2) arbitrators so appointed shall, within ten (10) days after their appointment, appoint another qualified real estate appraiser to act as the third arbitrator. Within fifteen (15) days after the appointment of said arbitrator, the three (3) arbitrators shall determine by majority vote, the fair market value of the apartment ownership or interest therein which apartment owner contemplates conveying by gift, and shall thereupon give written notice of such value to the apartment owner and the Board. If the Board fails to purchase such interest, within forty-five (45) days of the date of notice of the intended gift, as noticed within sixty (60) days of the expiration of the Board's right to purchase.

3. Devise: If any apartment owner dies leaving a Will devising his or her apartment ownership, or any interest therein to any person or persons not heirs-at-law of the deceased apartment owner under the laws of the State of New Mexico, the said Will is admitted to probate, the Board, acting on behalf of the Association, shall have the first right to

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purchase such apartment ownership or interest, for cash, at fair market value thereof, to be determined by arbitration in the same manner provided in paragraph 2 of this Article VIII, either from the devisee, devisees, executor, or trustee of any testamentary trust, at any time within ninety (90) days of the date of death of the apartment owner.

The Board shall be deemed to have exercised its right to purchase, if it tenders the required sum of money to said devisee, devisees, executor, or trustee, as the case may be, within ninety (90) days of the date of death of any apartment owner. Nothing herein contained shall be deemed to restrict the rights of the members of the Board, acting on behalf of the Association, or their authorized representative, pursuant to authority given to the Board by the apartment owners as hereinafter provided, to bid, at any sale of the apartment ownership held pursuant to an order or direction of the Court having jurisdiction over the deceased apartment owner's estate.

4. Involuntary Sale: If any apartment ownership or interest therein is sold at a judicial or execution sale, the person acquiring title through such sale shall, before taking possession of the unit so sold, give thirty (30) days written notice to the Board of his intention to do so, and the Board, acting on behalf of the association, shall have the first right to purchase such apartment ownership or interest therein at the same price for which it was sold at said sale, which right shall be exercisable for a period of thirty (30) days following the receipt of such notice. The Board shall be deemed to have exercised its right if it tenders the required sum of money to the purchaser within said thirty (30) day period.

If any apartment owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust

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deed against his apartment ownership, the Board shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien against such apartment ownership, which lien shall have the same force and effect and may be enforced in the same manner as provided in Article VI herein.

5. Consent of the Association: The Board shall not exercise any right provided in this Article VIII to purchase any apartment ownership or interest therein, without the prior written consent of all of the voting members of the Association except the members whose apartment or apartments are the subject of the right of the Board, which consent shall set forth a maximum price which the Board, or their duly authorized representatives, are authorized to bid and pay for said apartment or interest therein, and shall state the source of funds, or amount of assessment, to be used for such payment.

6. Release or Waiver of Option: Upon the written consent of two (2) Board members, any of the option or rights contained in this Article may be released or waived; and the apartment ownership or interest therein, which is subject to an option or right set forth in this Article, may be sold, conveyed, leased, given or devised free and clear of the provisions of this Article.

7. Proof of Termination of Option: A certificate executed and acknowledged by the acting secretary of the Board, stating that the provisions of this Article as hereinabove set forth have been met by an apartment owner, or duly waived by the Board, and that the rights of the Board hereunder have terminated, shall be conclusive upon the Board and the apartment owners in favor of all persons who rely thereon

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in good faith, and such certificate shall be furnished to any apartment owner who has in fact complied with the provisions of this Article or in respect to whom the provisions of this Article have been waived.

8. Financing of Purchase Under Option: Acquisition of apartment ownerships or any interest therein under the provisions of this Article shall be paid for from the replacement and contingencies reserve. If said fund is insufficient and if authorized by the provisions of Paragraph 5 of this Article VIII, the Board shall levy an assessment against each apartment owner in proportion to his ownership in the common areas and facilities, which assessment shall become a lien and be enforceable in the same manner as provided in Article VI.

The members of the Board, if authorized pursuant to provisions of Paragraph 5 of this Article VIII, may borrow money to finance the acquisition of any apartment ownership or interest therein authorized by this Article; provided, however, that no financing may be secured by encumbrance or hypothecation of any portion of the property other than the apartment ownership or interest therein to be acquired.

9. Title to Acquired Interests: Apartment ownership or interests therein acquired pursuant to the terms of this Article shall be held of record in the name of the Association, or such nominee as the Board shall designate, for the benefit of all of the apartment owners. Said apartment ownership or interest therein shall be sold or leased by the Board for the benefit of all the apartment owners. All proceeds of such sale or leasing shall be deposited in the replacement and contingencies reserve fund, and may thereafter be disbursed at such time and in such manner as the Board may determine.

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ARTICLE IX

DAMAGE OR DESTRUCTION AND
RESTORATION OF BUILDINGS

1. Sufficient Insurance: If the buildings are damaged or destroyed, and insurance proceeds, together with funds held in the replacement and contingency reserve, are sufficient to repair, restore and reconstruct, then such repair, restoration or reconstruction shall be undertaken and paid for from such funds, by the Board. Any excess insurance proceeds shall be placed in the replacement and contingency reserve.

2. Insufficient Insurance: If such insurance proceeds and reserve funds are insufficient to repair, restore or reconstruct the building, and if the damage to the building is less than 50% in the opinion of the Board, the damage or destruction shall be promptly repaired, restored, or reconstructed by the Board, using such insurance and reserve funds in payment thereof, and the board shall levy a special assessment equal to any balance due for such repair, restoration or reconstruction. Provided, however, if 50% or more of the building is destroyed, in the opinion of the Board, and if the apartment owners, by vote of two-thirds of the voting power of the Association, do not voluntarily within 100 days of the date of such damage, make provisions for repair, restoration or reconstruction, the Board shall record, with the Colfax County Clerk, a notice stating such facts, and upon such recording:

- a. The property (including the assets and liabilities of the association) shall be deemed withdrawn from the Apartment Ownership Act, and thereafter owned by the prior apartment owners as tenants in common;

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b. The undivided ownership interest in such property, of each tenant in common shall be that tenant's prior undivided ownership percentage of the common area and facilities, and any mortgagee's interest shall be deemed transferred to the mortgager's interest;

c. The property shall be subject to an action for partition, at the suit of any tenant in common, in which event the net proceeds of sale, together with the net proceeds of any insurance, and the net proceeds or deficit of the other assets and liabilities of the prior Association, shall be considered as one fund, divided among the tenants in common according to their ownership interest, subject to the rights of any mortgagee of the tenant's undivided interest.

3. Sale: Notwithstanding all other provisions hereof, the apartment owners may, by an affirmative vote of at least three-fourths of the voting power of the Association, at a meeting of the apartment owners duly called for such purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon all the apartment owners and it shall thereupon become the duty of every apartment owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.

4. Extent of Repairs: Repairs, restoration or reconstruction of the improvements as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each apartment and the common areas and facilities having the same vertical and horizontal boundaries as same existed prior to the damage.

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ARTICLE X

REMEDIES FOR BREACH OF COVENANTS,
RESTRICTIONS, RULES, REGULATIONS

1. Abatement and Enjoinment: Upon violation of any covenant, restriction, condition, rule or regulation adopted by the Board, or the breach of any covenant or provision contained in this Declaration by any apartment owner or occupant, the Board may:

a. Enter upon the land upon which, or as to which such violation or breach exists to summarily abate and remove, at the expense of the defaulting apartment owner, any structure, thing or condition that may exist thereon, contrary to the intent and meaning of the provisions hereof; and

b. Enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach.

2. Termination of Ownership: In addition to the foregoing remedies, if any apartment owner (either by his own conduct or by the conduct of any other occupant of his apartment) shall violate any covenant, restriction, condition, rule, regulation or provision of this Declaration and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur repeatedly after written demand has been delivered to such owner that such violation cease, then the Board may terminate such apartment owner's ownership interest in the apartment, upon giving ten days prior written notice thereof, to such Apartment Owner and to any mortgagee thereof. Such a termination notice shall be deemed an offer by the Association to buy, and an offer by such Apartment Owner to sell, his ownership interest in the apartment, for cash, at a price equal to the fair market value thereof, payable within

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20 days of the date such value is determined, to the Apartment Owner, and his mortgagee, if any. Such value shall be determined by appraisal, in the manner described in paragraph 2 of Article VIII herein.

ARTICLE XI

GENERAL PROVISIONS

The following general provisions shall govern the administration and management of the property:

1. Initial Board. Until the Board of Directors provided for in this Declaration is formed, the Developer shall exercise the powers, rights, duties and functions of the Board.
2. Notices to Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or deed of trust against any apartment ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the apartment owner whose apartment ownership is subject to such mortgage or deed of trust.
3. Notices to Board. Notices required to be given to said Board or the Association may be delivered to any member of the Board or officer of the Association either personally or by mail, addressed to such member or officer at his apartment.
4. Notices upon Death of Apartment Owner. Notices required to be given any devisee, executor, or trustee of a deceased apartment owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased apartment owner is being administered.
5. Covenants Run with Land. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all provisions of this Declaration, and all such provisions shall be deemed to be covenants running with the land, and shall inure to the benefit of such apartment owner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

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6. Waiver of Violation, Breach: No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.
7. Severability: The invalidity of any covenants, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.
8. Rule against Perpetuities: If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of John F. Kennedy, Late President of the United States.
9. Amendment of Declaration: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first-class residential condominium development. Except for an amendment which requires the unanimous consent of the Apartment Owners and their mortgagees, the Developer may, at any time within two years of the date of recording hereof, amend this Declaration by recording a Supplemental Declaration. Thereafter any amendment shall require the consent and approval of three-fourths of the voting power of the Apartment Owners.
10. Statutory Agent: The agent for service of process is CONRAD AMAVISCA, and his address is P.O. Box 8, Angel Fire, New Mexico 87718.
11. Subrogation Rights: No insurance carrier shall have a right of subrogation against the Association or any apartment owner because of any loss sustained or any payment made by it under a policy of insurance issued to or for the benefit of the Association and/or any apartment owner or apartment owners; and neither the Association nor any apartment owner, as an insured party, shall execute or deliver to such insurance carrier any instrument or paper purporting to subrogate such insurance carrier to any rights of

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recovery for such loss or payment which the Association or any Apartment Owner might have.

12. Term of Restrictions, Covenants: The covenants and restrictions contained in this Declaration are enforceable, as provided herein, for an original term of 30 years from the date of recording hereof; thereafter, such covenants and restrictions shall be automatically renewed and extended for successive continuous periods of ten years.

13. Captions: The captions of the Declaration, Articles, paragraphs, and subparagraphs are not necessarily descriptive, or intended or represented to be descriptive of all the provisions thereunder, and in no manner shall such captions be deemed or interpreted to limit the provisions of this Declaration.

IN WITNESS WHEREOF, we have set our hands and seals to the foregoing Declaration of Condominium Ownership and of Easements, restrictions and covenants for " BELLA VISTA ", a residential condominium enterprise, this 19th day of May , 1980.

BELLA VISTA COMMONS, INC.

By Leonides Guadarrama
President

ATTEST

[Signature]
Secretary

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.:

The foregoing instrument was executed and acknowledged before me this 19th day of May , 1980, by Leonides Guadarrama, President of Bella Vista Commons, Inc., a Delaware Corporation qualified for business in New Mexico, on behalf of the corporation.

My Commission Expires:
10-6-80

[Signature]
Notary Public
Shirley L. Keanig

SCHEDULE "A"

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<u>Group of Buildings and Apartment No.</u>	<u>Approx. Sq. Ft. Heated Living Area</u>	<u>Present Value</u>	<u>Percentage Interest</u>
<u>Group I</u>			
I-A1	1,161	76,300	.0361191981
I-A2	1,480	88,500	.0418944827
I-B1	1,161	76,300	.0361191981
I-B2	1,480	88,500	.0418944827
I-C1	1,161	76,300	.0361191981
I-C2	1,480	88,500	.0418944827
I-D1	1,161	76,300	.0361191981
I-D2	1,480	88,500	.0418944827
I-E1	1,161	76,300	.0361191981
I-E2	1,480	88,500	.0418944827
I-F1	1,161	76,300	.0361191981
I-F2	1,480	88,500	.0418944827
<u>Group II</u>			
II-A1	919	65,300	.0309119742
II-A2	1,238	77,500	.0366872589
II-A3	485	37,600	.0177992379
<u>Group III</u>			
III-A1	847	63,800	.0302018983
III-A2	1,144	76,350	.0361428673
III-A3	660	48,500	.0229591233
III-B1	847	63,800	.0302018983
III-B2	1,144	76,350	.0361428673
III-B3	660	48,500	.0229591233
III-C1	847	63,800	.0302018983
III-C2	1,144	76,350	.0361428673
III-C3	660	48,500	.0229591233
III-D1	847	63,800	.0302018983
III-D2	1,144	76,350	.0361428673
III-D3	660	48,500	.0229591233
III-E1	847	63,800	.0302018983
III-E2	1,144	76,350	.0361428673
III-E3	660	48,500	.0229591233