

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made on the date hereinafter set forth by Victor Salazar and Lupe Salazar, his wife, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Bernalillo, State of New Mexico, which is more particularly described as:

Unit I, THE SHORES, as the same is shown on that certain plat filed with the office of the County Clerk of Bernalillo County, New Mexico on the 9<sup>th</sup> day of August, 1972.

AND WHEREAS, Declarant will convey the said properties subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth:

NOW, THEREFORE, Declarant hereby declares that all of the properties described above in Unit I, THE SHORES, shall be held, sold and conveyed subject to the following easements, reservations, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

Section 1. "Association" shall mean and refer to THE SHORES OF ALBUQUERQUE HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by action of Declarant or by annexation.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Unit I, THE SHORES, except Lots 1 through 31, inclusive, and Lots 34 through 98, inclusive.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Victor Salazar and Lupe Salazar, his wife, their successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 8. "Class I Lot" shall mean and refer to any Lot upon which there is a residence or single family unit, upon which construction has been completed as evidenced by an FHA or VA Notice of Final Inspection, or Certificate of Final Inspection, or Certificate of Occupancy by the appropriate municipal authority.

Section 9. "Class II Lot" shall mean and refer to any vacant lot or lots upon which a residence or single family unit has not been completed.

## ARTICLE II.

### ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. The Association may, at any time, annex additional residential Properties and Common Areas to the Properties described in ARTICLE X, and shall add to its membership under the provision of ARTICLE III, provided that annexation of additional Properties hereof shall require the assent of two-thirds of each Class of the vote of the entire membership of the Association.

Section 2. If, within ten (10) years of the date of incorporation of this Association, the Declarant should develop additional lands within the area located in Bernalillo County, New Mexico, and described in Section 4 of this Article, such additional lands may be annexed to said properties without the assent of the Class A members.

Section 3. Annexation of Additional Property. With respect to the annexation of additional property within ten (10) years of the date of incorporation of the Association, such annexed property shall be considered as though it were included in the original and initial filing of the Articles, By-Laws and Declaration of Covenants, Conditions and Restrictions for the purposes of voting.

Section 4. Description of Property Under General Plan.

A certain tract of land situate in the NW 1/4 of Section 16, T 10 N, R 4 E, N.M.P.M., Bernalillo County, New Mexico, within the City of Albuquerque, New Mexico, and being more particularly described as follows:

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BEGINNING at the southwest corner, said corner being the northwest corner of Lot 21 in Block 52 of Blocks 5-A, 8-B, 51-A, 52, 53, and 54 of Dale J. Bellamah's PRINCESS JEANNE PARK, an addition to the City of Albuquerque, New Mexico, as the same is shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico, on April 1, 1957, and from said beginning point running thence,

N 02°15'00"E, 802.57 feet to the northwest corner; thence, S 87°44'34"E, 641.93 feet to the northeast corner, a point on west right of way line of Morris Street N.E.; thence, S 02°15'02"W, 802.03 feet along said west right of way to the southeast corner; thence, N 87°47'26"W, 641.92 feet along the north boundary of Blocks 52 and 52-A of Dale J. Bellamah's PRINCESS JEAN PARK to the point and place of beginning. Tract contains 11.823 acres, more or less.

### ARTICLE III.

#### MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

### ARTICLE IV.

#### VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required by membership by Article III. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) On January 1, 1983.

#### ARTICLE V.

##### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of members;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;
- (d) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded, agreeing to such dedications or transfer.
- (f) the right of the individual owners to the exclusive use of the parking spaces as provided in this Article.

Section 2. Delegation of Use. Any member may delegate in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot. The Common Area shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Common Area.

Section 4. Patio and Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the exclusive use of two automobile parking spaces, which shall be appurtenant to said Lot, together with the right of ingress and egress in and upon said parking areas. Further, prior to any liquidation or dissolution of the Association, the Association shall convey to the Owner of each Lot, the land consisting of the parking spaces then being used by such Lot Owner under the terms of this Section 4.

#### ARTICLE VI.

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the property. They shall include, but are not limited to, funds for the actual cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area, the maintenance and repair of roads and underground utilities, which are part of the Common Area, the maintenance of asphalt paving, curbs, gutters and drainage swalls on the streets located in the Common Area, lighting and walkways, fees incurred in the management and operation of the Common Area and facilities, the maintenance of the exteriors of the Lots or Townhouses as may from time to time be authorized by the Board of Directors, and other facilities and activities including, but not limited to, mowing grass, caring for the grounds, sprinkler system, landscaping, swimming pool, recreational buildings and equipment, roofs and exterior walls of the Townhouses, tennis courts,

putting greens, garbage pickup and water service furnished to Townhouses by the Association, and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Board of Directors of the Association, in their opinion, shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes, and other charges as specified herein. That portion of the assessment which is designated for water service shall be maintained in a separate account and shall be disbursed only in payment for water and maintenance of the water distribution system.

Section 3. Basis and Maximum of Monthly Assessments.

Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum monthly assessment shall not exceed Fifty and no/hundreds Dollars (\$50.00) per month. (To determine maximum annual assessment, multiply monthly assessment by twelve.)

The extent of the expenditures for the purposes specified in Section 2 of this Article VI shall be determined by Declarant subject to the provisions of Article VI, Section 5 of the Declaration.

- (a) From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased or decreased above or below that established by the Consumer Price Index formula by a vote of the members for the next succeeding year, PROVIDED THAT, any such change shall have the assent of two-thirds (2/3rds) of each Class of the votes of the entire membership of the Association, who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.
- (c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Method of Computation When Using the Consumer Price Index. The Consumer Price Index establishing the United States City Average numerical rating for the month of October, 1972, at Albuquerque, New Mexico. This will be the base rating. To determine the percentage to be applied to the maximum annual assessment for each subsequent year, divide this base rating into the numerical rating established by the Consumer Price Index for the month of

July preceding the proposed assessment year. This adjustment percentage, if in excess of 100 percentum, is multiplied by the original maximum annual assessment to obtain the maximum assessment for the subsequent year.

Section 5. Special Assessment for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy special assessment against Class I lots in any assessment year applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, PROVIDED THAT any such assessment shall have the assent of two-thirds (2/3rds) of each class of the votes of the entire membership of the Association, who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Class I lots and Class II lots, although the assessments on all Class II lots may be fixed at not less than five percent (5%) of the assessment on all Class I lots.

Section 7. Quorum for any Action Authorized Under Section 3 and 5. At the first meeting called, as provided in Sections 3 and 5 hereof, the presence at the meeting of members of or proxies entitled to cast sixty percent (60%) of all the votes of each class of the entire membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in THE SHORES OF ALBUQUERQUE HOMEOWNERS ASSOCIATION, INC., or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property; and such Owner hereby expressly grants to the Association a power to execute and record an appropriate claim of lien in such a form as the Association may prescribe. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot owners. The Association, acting on behalf of the Lot owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and

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to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding non-payment of such defaulting owner's portion of the premium. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage and to the lien of any second mortgage given to secure payment of the purchase price, now or hereafter placed on any lot. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot, which is the subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof, which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to the Declaration shall be exempt from the assessments created therein. (a) All properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of New Mexico. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreements may be cancelled by an affirmative vote of sixty percent (60%) of the votes of each class of the members of the Association. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings, including all townhouses, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual townhouses, shall be common expense. All such insurance coverage,



including insurance on individual townhouses obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhouse Owners. Insurance on individual townhouses obtained by such townhouse Owners may be written in the name of the individual Owners. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses so covered and a debt owed by the Owners, and shall be collectible by any lawful procedure permitted by the laws of the State of New Mexico. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such Owner's lot and townhouse and shall continue to be such lien until fully paid. This lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In addition to the aforesaid insurance required to be carried by the Owners and/or the Association, any Owner may, if he wishes, at his own expense, insure his own townhouse unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal government agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged townhouses in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such townhouses to make up any deficiency, except that the special assessment shall be levied against all townhouse owners, as established by Article VI, Section 1, above, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a townhouse unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and Owners in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such townhouses.

Such payments shall be made to all such Owners and their mortgagees in proportion to their percentage interests. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual Owner, said Owners shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged

or destroyed portions of the exterior of the townhouse in a good workmanlike manner in conformance with the original plans and specifications of said townhouse. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse area within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such townhouse in a good and workmanlike manner in conformance with the original plans and specifications of the townhouses. The Owner shall then repay the Association in the amount actually expended for such repairs and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of insurance premiums; and subject to foreclosures as above provided.

Notwithstanding the foregoing provisions of this Section 12, it is further provided that the requirement for the maintenance of insurance on a townhouse shall not apply to any townhouse acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration. In the event the Veteran's Administration has an interest in a townhouse whether as insurer, guarantor, owner, mortgagee or installment contract seller, the above provisions of this Section 12 with respect to insurance on individual townhouses shall not apply to any such townhouse. The insurance requirements for any townhouse in which the Veteran's Administration has an interest shall be as the Veteran's Administration, from time to time, requires or permits, provided that in the event of damage or destruction by fire or other casualty to any such townhouse, the Veteran's Administration shall within a reasonable time rebuild or cause to be rebuilt such damaged or destroyed portion of the exterior of the townhouse in a good workmanlike manner in conformance with the original plans and specifications of such townhouse.

ARTICLE VII.

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a townhouse upon the Property and placed between two separate living units intended for use and occupancy as a residence by a single family shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

#### ARTICLE VIII.

##### ARCHITECTURAL CONTROL

No building or fence shall be erected, placed or altered on any lot (residential or non-residential) on the property until the building plans, specifications and plot plan showing the nature, kind, shape, height, materials and location of such building have been submitted to and approved in writing as to quality of workmanship and materials, and conformity and harmony of external design with existing structures in the subdivision, and as to location of the building with respect to existing buildings, topography and finished ground elevation, by a committee composed of Richard A. Wall, Victor Salazar and Sol Dichter, or by a representative designated by a majority of the members of said committee. In the event of the death or resignation of any member of said committee, the remaining member or members shall have full authority to approve or disapprove such design and location.

If (1) the said committee or its designated representative fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or (2) no plans and specifications have been submitted to it and no suit relating to or arising out of the making of alterations or changes has been commenced prior to thirty (30) days after the completion thereof, such approval will not be required, and this Article will be deemed to have been fully complied with.

Neither the members of such committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to the covenant. The powers and duties of said committee members shall cease upon the termination of the developmental period, or upon the prior death of all three of said members. Thereafter the committee approval described in this covenant shall be obtained from the Architectural Control Committee of the Association.

All plans, specifications and plot plans, which must be submitted for approval hereunder shall be submitted to said committee at the following address:

THE SHORES OF ALBUQUERQUE HOMEOWNERS ASSOCIATION, INC.  
 Architectural Control Committee  
 320 Simms Building  
 Albuquerque, New Mexico 87101

or to such other address as may hereafter be given in writing to the owners or contract purchasers involved by the developer or by said committee.

ARTICLE IX.

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to the assessment hereunder, as follows: Paint, repair, replace and care for roofs, gutters, downspouts, exteriors building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces or patios, maintenance of which shall be the obligation of the Owner.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, and not covered or paid for by insurance on such Lot, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

In the event the Association fails to properly maintain, repair or replace the paving, curb, gutter, drainage swails, water or sewer lines, within the common property as is reasonably necessary, according to professional engineering standards, and such failure to maintain, repair or replace is found to exist at a public hearing before the City Commission of Albuquerque upon thirty (30) days published notice prior thereto, then and in such event, the Clerk of the District Court shall have the authority to and by this instrument is appointed as Attorney in Fact for the Association to convey by Deed to the City of Albuquerque, at its option, all or any portion of the streets, curbs, gutters, drain swails, water or sewer lines within the common property. Each Lot owner, upon acceptance of a deed does hereby consent to such assessment as may be necessary to bring such street, curb, gutter, drain swails, sewer or water lines to a good state of repair according to professional engineering standards, and such Lot owner agrees to pay his pro-rata share of the cost thereof through the taxing and collecting authority of the Bernalillo County Assessor and Treasurer.

Upon the City of Albuquerque acquiring title to the street, curb, gutter, drain swails, sewer or water lines after the same have been put in a good state of repair and paid for by the individual Lot owner, thereafter the maintenance cost of such facilities shall be paid through the general taxation procedures provided for maintenance of streets, curb, gutter, drain swails, sewer or water lines as in other residential areas of the City.

ARTICLE X.

USE RESTRICTIONS

Section 1. Except for land designated as Common Area and Lots 32 and 33 in Unit I, THE SHORES, as shown on the recorded Plat of Unit I, THE SHORES, all of the lands contained in Unit I, THE SHORES, Bernalillo County, New Mexico

shall be used for residential purposes only. All buildings or structures erected upon said property shall be of new construction and no buildings or structures shall be moved from other locations onto said property and no subsequent building or structures other than townhouse apartment buildings, being single family townhouses joined together by a common exterior, roof and foundation, shall be constructed. No structures of a temporary character, trailer, basements, tent, shack, garage, barn or other outbuilding shall be used on any portion of said Property at any time as a residence either temporarily or permanently. Primary structure dwelling height shall not exceed twenty-six (26) feet.

Section 2. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said townhouses to maintain during the period of construction and sale of said townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of said townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office. It is expressly understood and agreed that Declarant, or the Builder of said townhouses, shall have the right to use the clubhouse, Common Property and related recreational facilities for sales and business office purposes, at a nominal rental of \$1.00 per year and for a term not to exceed five (5) years.

Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 5. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said property, PROVIDED, HOWEVER, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sale period, and of THE SHORES OF ALBUQUERQUE HOMEOWNERS ASSOCIATION, INC. a non-profit corporation incorporated or to be incorporated under the laws of the State of New Mexico, its successors, and assigns in furtherance of its powers and purposes as hereinafter set forth.

Section 6. All clotheslines, basketball backboards, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

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Section 7. Except in the individual patio areas appurtenant to the townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings, located thereon or as approved by the Association's Board of Directors or their designated representative. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines and the patio areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots in Unit I, THE SHORES, and is necessary for the protection of said Owners.

Section 8. Maintenance, upkeep and repairs of any patio shall be the sole responsibility of the individual Owner of the Lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exteriors and roofs of the townhouses, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative.

Section 9. All utilities, fixtures and equipment installed within a townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other townhouses or their Owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 11. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 12. Commercial Enterprises. No manufacturing or commercial enterprises shall be conducted or maintained upon, in front of, or in connection with any Lot or Lots, nor shall said Lot or Lots in any way be used for other than strictly residential purposes.

Section 13. Unsightly Objects. Refuse piles or other unsightly objects or materials shall not be allowed to be placed or to remain upon the premises or easements. The Architectural Control Committee shall have the right to enter upon said lands and remove such refuse piles or other unsightly objects or materials at the expense of the Owner (and such entry shall not be deemed a trespass) upon due notice to Lot Owner and failure of Owner to comply.

Section 14. Commercial Vehicles. No commercial type vehicles, trucks and/or "campers" shall be stored or parked on any lot except in a closed garage, nor parked on any residential street or alley except while engaged in transport

to or from a residence. For the purposes of this covenant, a 3/4 ton or smaller vehicle, commonly known as a pick-up truck, shall not be deemed to be a commercial vehicle or truck. Such vehicle, or any other commercial vehicle or truck, when equipped as a "camper", shall not be exempt from the restrictions heretofore mentioned in this section.

Section 15. Free-standing Mailboxes. No free-standing mailbox shall be erected unless approved by the Architectural Control Committee.

Section 16. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. No oil drilling, water drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derricks or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted upon any Lot.

Section 17. Garbage and Refuse Disposal. No Lot or easement shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be disposed of in a sanitary manner. All containers or other equipment for the storage or disposal of garbage and trash shall be kept in a clean, sanitary condition. The burning of trash in outside incinerators, barbeque pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the subdivision. Garbage cans are to be kept in the attached garage at all times, and shall not be allowed to be on Common Areas except at time of pick-up. The refuse removal system shall be based on R-1 codes and individual dwelling unit responsibility rather than multi-unit collection.

Section 18. Removal of Trees. The removal of trees, shrubs, and other improvements from the common property shall be prohibited.

Section 19. Unused Automobiles or Vehicles of Any Kind. All unused automobiles or vehicles of any kind, except as herein above provided, shall not be stored or parked on any Lot, except in a closed garage. Unused vehicles shall not be parked on any residential street or alley. "Unused vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of one (1) week or longer. A written notice describing the "unused vehicle" shall be personally served upon the owner, and if such vehicle has not been moved within seventy-two (72) hours thereafter, the Association shall have the right to remove the same and the expense thereof shall be charged against the Owner, and if such Owner be a member of the Association, the same shall be added to his monthly assessment as herein provided.

Section 20. Repainting and maintenance of townhouse, garage, fence or other structure shall be in accordance with the scheme established for the entire area by the Architectural Control Committee.

Section 21. Garage doors are to be kept closed at all times, except when in immediate use for ingress and egress of automobiles, equipment and the like.

ARTICLE XI.

EASEMENTS

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Section 1. Each townhouse and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townhouses is partially or totally destroyed, and then rebuilt, the owners of the townhouses so affected agree that minor encroachments of parts of the adjacent townhouse units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over and under all of the Common Area for ingress, egress, installation, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area and any townhouse to perform the duties of maintenance and repair of the townhouses or Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article XI in no way affect any other recorded easement on said premises.

Section 3. Underground Electric Service.

A. Underground single phase electric service shall be available to residential townhouses on the aforesaid Lots and to the recreation building to be constructed on the Common Area, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have a two (2) foot wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the townhouse structure.

B. For so long as such underground service is maintained, the electric service to each townhouse and the recreation building shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle



alternating current.

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C. Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements of the Owner located on the land covered by said easements.

ARTICLE XII.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment made must be properly recorded in the Deed Records of Bernalillo County, New Mexico.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 31<sup>st</sup> day of August, 1972.

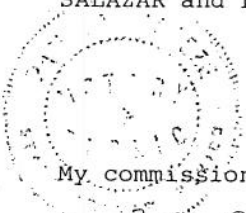
*Victor Salazar*  
VICTOR SALAZAR

*Lupe Salazar*  
LUPE SALAZAR

STATE OF NEW MEXICO )  
                                  ) SS.  
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of August, 1972, by VICTOR SALAZAR and LUPE SALAZAR, his wife.

*Samuel P. Reese*  
Notary Public



My commission expires:

9-26-73

State of New Mexico  
County of Bernalillo  
This instrument was filed for record on

*Misc*  
AUG 9 1972 272  
A/C. Clerk / J. W. Recorded in Vol. ...  
of records of said County Folio. 301-318

*[Signature]* Clerk & Recorder  
..... Deputy Clerk

71-85413

AMENDED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made on the date hereinafter set forth by Victor Salazar and Lupe Salazar, his wife, hereinafter referred to as "Declarant", is executed to amend those certain Declaration of Covenants, Conditions and Restrictions filed of record on the 9th day of August, 1972, in Book Misc. 272, Pages 301 through 318, inclusive, of the records of the Clerk and Recorder of the County of Bernalillo, State of New Mexico, said Declarations governing Unit 1, The Shores, as the same is shown on that certain plat filed with the office of the County Clerk of Bernalillo County, New Mexico, on the 9th day of August, 1972.

To the extent, and only to the extent, that these Amended Declaration of Covenants, Conditions and Restrictions may vary from the terms of the Declaration of Covenants, Conditions and Restrictions filed of record on the 9th day of August, 1972, these Amended Declarations shall supersede and be deemed an amendment thereto.

Section 1: The holder of any mortgage of record shall be given written notification from the Association of Owners of any default by the mortgagor of such unit in the performance of such mortgagor's obligations under the Declaration of Covenants, Conditions and Restrictions, Articles and Bylaws of the Association, which is not cured within thirty (30) days.

Section 2: Unless all holders of first mortgage liens on individual units have given their prior written approval, the Association of Owners of the condominium, except to the extent permitted herein below, shall not:

- (1) change the pro rata interest or obligations of any unit for purposes of levying assessments and charges and determining shares of the common elements and proceeds of the project;
- (2) partition or subdivide any unit or the common elements of the project; nor by act or omission seek to abandon the planned unit development status of the project except as provided by statute in case of substantial loss to the units and common elements of the project.

Section 3: The proposal or plan described in ARTICLE II, "Annexation of Additional Properties", of the Declaration of Covenants filed of record on 9 August, 1972, pursuant to which the project is subject to additions or expansions, shall comply with the following limitations:

- (1) Unit owners shall have a minimum percentage undivided interest in the common elements as represented by their membership in the Association of 1/200th of the common elements, and a maximum interest subject to diminution to no less than such minimum of 1/25th of the common elements;

State of New Mexico } SS  
 County of Bernalillo }  
 This instrument was filed for record on,  
 9:16 MAR 26 1973 Filed  
 At 10 o'clock P.M. Recorded in Vol. 204  
 of records of said County Folio 716-717  
 \_\_\_\_\_ Clerk & Recorder  
 \_\_\_\_\_ Deputy Clerk

(2) The conditions on which any change and such percentage of undivided interest as represented by membership in the Association in the common elements that may take place are fully described in the Declaration, together with a description of the real property which may become a part of the project;

(3) No change in the percentage of undivided interest as herein defined may be effected more than seven (7) years after the date of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 14th day of February, 1973.

*Victor Salazar*  
VICTOR SALAZAR

*Lupe Salazar*  
LUPE SALAZAR

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO ) ss:

The foregoing instrument was acknowledged before me this 14th day of February, 1973, by Victor Salazar and Lupe Salazar, his wife.

*Samuel L. Lopez*  
Notary Public

My commission expires:  
9-26-73

FIRST NATIONAL BANK IN ALBUQUERQUE  
(Mortgagee)

By: *James R. O'Connor*  
(Title) Assistant Vice President

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO ) ss:

The foregoing instrument was acknowledged before me this 15th day of February, 1973, by James R. O'Connor, (Title of Officer) Assistant Vice President, of (Name of Corporation Acknowledging) The First National Bank in Albuquerque, a (State of Incorporation) New Mexico corporation, on behalf of said corporation.

*Betty B. Henderson*  
Notary Public

My commission expires:  
December 7, 1976

85 0417A

Original

0 382

SECOND AMENDMENT TO DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Amendment amends that certain Declaration of Covenants, Conditions and Restrictions which affects the following described property:

Unit One (1), THE SHORES, as the same is shown and designated on that certain plat filed with the Office of the County Clerk of Bernalillo County, New Mexico, on the 9th day of August, 1972.

The Declaration of Covenants, Conditions and Restrictions was filed August 9, 1972, in Book Misc. 272, at Pages 301-318, Records of the County Clerk, Bernalillo County, New Mexico, and was subsequently amended by a document dated February 14, 1973, filed March 26, 1973, in Book Misc. 304, at Pages 716-717, Records of the County Clerk, Bernalillo County, New Mexico.

The Amended Declaration of Covenants, Conditions and Restrictions is amended as follows:

1. Section 1 of the Amended Declaration of Covenants, Conditions and Restrictions is hereby deleted therefrom and the following paragraph substituted therefor:

If the holder of any mortgage of record wishes to be given written notification from the Association of Owners of any default by the mortgagor of any mortgaged unit in the performance of the mortgagor's obligations pursuant to the Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation and Bylaws of the Association, which default has been of a duration in excess of thirty (30) days, such mortgage holder shall advise the Association of its wish to receive such notification and shall provide the Association with the appropriate mortgage information and the address to which such notice or notices shall be sent.

The Declaration of Covenants, Conditions and Restrictions is amended as follows:

2. Article I, Section 6, is hereby amended to read as follows:

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

3. Article VI, Section 2, shall be amended by the deletion therefrom of the last sentence in that section.

4. Article VI, Section 3(a), shall be amended to read as follows:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in

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*[Signature]*

conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

5. Article VI, Section 8, shall be amended by changing the rate of interest at which the assessment shall bear interest from the date of delinquency, from ten percent (10%) per annum to that rate established by the Board at its first meeting after January 1 of each year to be charged during that year; however, the rate so established shall not exceed the prime rate of interest charged by Albuquerque National Bank on January 1 of that year.

6. Article VI, Section 12, shall be deleted in its entirety and the following substituted therefor:

12. Insurance: The Association shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided hereinabove and as more specifically detailed in subparagraph (i) hereof, and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other planned unit developments similar in construction, design and use which insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of New Mexico and holding a rating of "AA" or better by Best's Insurance Reports;

(b) Exclusive authority to adjust losses under policies hereafter in force in the Project shall be vested in the Association or its authorized representatives;

(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their mortgagees;

(d) Each Owner may obtain additional insurance at his own expense; provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, in behalf of all of the Owners, may realize under any insurance policy which the Association may have in force on the Project at any particular time;

(e) Each Owner shall be required to notify the Association of all improvements made by the Owner of his unit, the value of which is in excess of One Thousand Dollars (\$1,000.00);

(f) Any Owner who obtains individual insurance policies covering any portion of the Project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance.

(g) The Association shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, the Manager, the Owners and their respective servants and agents;

- (2) That the master policy on the Project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;
- (3) That the master policy on the Project cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Association or Manager without a prior demand in writing that the Association or Manager cure the defect;
- (4) That any "no other insurance" clause in the master policy exclude individual Owners' policies from consideration;
- (h) The annual insurance review which the Association shall arrange to have made by a competent insurer or appraiser shall include an appraisal of the improvements in the Project by a representative of the insurance carrier writing the master policy.
- (i) The insurance required to be secured by the Association shall be substantially as follows:
- A. The hazards insured against shall include:
1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, vandalism and malicious mischief, windstorm and water damage;
  2. Such other risks as are customarily covered in similar projects in the area.
- B. A comprehensive policy of public liability insurance covering all of the common areas and commercial spaces, if any, in the project, with a Severability of Interest Endorsement or equivalent coverage which would preclude the company from denying the claim of a unit owner because of the negligent acts of the Owners Association or another unit owner, with limits of not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence, including protection against water damage liability, liability for nonowned and hired automobile, liability for property of others and, if applicable: elevator collision, garage-keeper's liability, host liquor liability, and such other risks as are customarily covered in similar projects.
- C. 1. The insurance obtained may not be brought into contribution with insurance purchased by the Unit Owners or their mortgagees.
2. Coverage may not be cancelled without at least 30 days' prior written notice to any and all insureds including mortgagees or their servicers.
3. All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, the owner of any unit and/or their respective agents, employees or tenants, and of any defenses based on co-insurance or on invalidity arising from the acts of the insured.
- D. All policies of property insurance must provide that, despite any provisions, giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Association may be a party, or any requirement of law.
- (j) If any policy of insurance secured by the Association contains a "deductible" provision, any such deduction from payment by an insurer to





THIRD AMENDMENT TO DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Amendment amends that certain Declaration of Covenants, Conditions and Restrictions which affects the following described property:

Unit one (1), THE SHORES, as the same is shown and designated on that certain plat filed with the Office of the County Clerk of Bernalillo County, New Mexico, on the 9th day of August, 1972.

The Declaration of Covenants, Conditions and Restrictions was filed August 9, 1972 in Book Misc 272, at Pages 301-318, Records of the County Clerk, Bernalillo County, New Mexico, and was subsequently amended by a document dated February 14, 1973, filed March 26, 1973, in Book Misc. 304, at Pages 716-717, Records of the County Clerk, Bernalillo County, New Mexico, and was subsequently amended by a document filed December 17, 1985, Book Misc. 302A, at Pages 382-583, Records of the County Clerk, Bernalillo County, New Mexico.

The Declaration of Covenants, Conditions and Restrictions is amended as follows:

1. The Title for Article VI, Section 5 shall be amended to read as follows:

Other Assessments.

2. Article VI, Section 5 shall be amended to read as follows:

In addition to the annual assessment authorized above, the Association may levy other assessments against Class I Lots in any assessment year for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, repair or replacement upon the Common Area or Lots or Improvements thereon or any of the Association's duties under Article IX, including the necessary fixtures and personal property related thereto, PROVIDED THAT any such assessment shall have the assent of two-thirds (2/3rds) of each class of the votes of the entire membership of the Association, who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
FILED FOR RECORD

1985 MAY 17 PM 1:36

95-12-391-  
JUDY D. WOODRUFF  
CO. CLERK & RECORDER  
*Jedillo*

