

Declaration of
Covenants, Conditions
and Restrictions

Anderson Heights
Master Association, Inc.

MASTER DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF ANDERSON HEIGHTS

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- Exhibit A - Community
- Exhibit B - Common Area
- Exhibit C - Common Elements
- Exhibit D - Part of Annexable Area



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MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ANDERSON HEIGHTS

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ANDERSON HEIGHTS ("Master Declaration") is made and entered into by KB HOME NEW MEXICO INC., a New Mexico corporation, its parent, affiliates and subsidiaries ("Master Declarant").

WITNESSETH:

WHEREAS, the Master Declarant is the owner of the real property situated in the County of Bernalillo, State of New Mexico, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the Master Declarant desires to subject and place upon the property described on the attached Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions.

NOW, THEREFORE, Master Declarant hereby declares that a plat which includes the property described on the attached Exhibit A has been recorded and that all of the real property described on the attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE 1.
DEFINITIONS

Section 1.1. *Agencies.*

"Agencies" means the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development, including the Federal Housing Administration (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

Section 1.2. *Allocated Interests.*

"Allocated Interests" means the assessment liability and votes in the Master Association allocated to each Lot. The Allocated Interest for each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time.



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Section 1.3. *Annexable Area.*

"Annexable Area" means the property described on Exhibit D attached hereto and incorporated herein by this reference plus such additional real estate from such locations as the Master Declarant may elect in its sole discretion.

Section 1.4. *Architectural Review Committee or Committee.*

"Architectural Review Committee" or "Committee" means the committee appointed by the Master Declarant or by the Master Association to review and approve or disapprove plans for Improvements, as more fully provided in this Master Declaration.

Section 1.5. *Board of Directors or Board.*

"Board of Directors" or "Board" means the body, regardless of name, designated in this Master Declaration, the Articles of Incorporation and the Bylaws of the Master Association, to act on behalf of the Master Association.

Section 1.6. *Builder.*

"Builder" means any Person other than the Master Declarant who acquires (or has acquired prior to annexation to this Master Declaration) more than one Lot for the purpose of constructing a dwelling unit on each such Lot for sale to the public.

Section 1.7. *Common Area.*

"Common Area" means any property owned by the Master Association (which may include one or more platted lots), other than a Lot, Common Elements or publicly-dedicated property. The Common Area at the time of recordation of this Master Declaration is described on Exhibit B attached hereto and incorporated herein by this reference.

Section 1.8. *Common Elements.*

"Common Elements" means any property owned by a Subassociation (which may include one or more platted lots) other than a Lot, Common Area or publicly-dedicated property. The Common Elements at the time of recordation of this Master Declaration is described on Exhibit C attached hereto and incorporated herein by this reference.

Section 1.9. *Community.*

"Community" means the real estate and the Improvements thereon described on the attached Exhibit A, as supplemented and amended from time to time.

Section 1.10. *Development Rights.*

"Development Rights" means the following rights or combination of rights hereby reserved by the Master Declarant as provided in this Master Declaration:

- 1.10.1. add real estate to this Community;
- 1.10.2. create Lots and/or Common Area and/or Common Elements;
- 1.10.3. subdivide or replat any property; and
- 1.10.4. withdraw property from this Community.

The Master Declarant may exercise its Development Rights in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any Development Rights. The Master Declarant's right to exercise Development Rights shall terminate automatically as provided in Section 1.24 of this Master Declaration (Special Master Declarant Rights).

Section 1.11. *Improvements.*

"Improvements" means all structures now or hereafter located on a Lot, the Common Area or the Common Elements, improvements to any such structures, and any other improvements made to a Lot, the Common Area or the Common Elements, and any appurtenances thereto or components thereof of every type or kind, including all landscaping features. The foregoing include, without limitation, buildings, outbuildings (including storage sheds), painting or other finish materials on any visible structure, additions and/or expansions, garages, carports, driveways, swimming pools, tennis courts, stairs, walkways, patios/decks and patio/deck covers, awnings, hot tubs, jacuzzis and/or saunas, antennas, satellite dishes, exterior light fixtures, poles, basketball backboards and hoops, whether fixed or movable, play yards (including swing sets and jungle gyms), exterior tanks, solar collectors, fences (including dog runs), screening walls, retaining walls, sprinkler systems, fountains, ponds, hedges, windbreaks, gardens, trees, shrubs, flowers, vegetables, sod, and other plantings, rock, gravel, bark, mulch and any other landscaping components, signs, exterior decorations, mailboxes, and exterior air conditioning, cooling, heating and water softening equipment, if any. For purposes of Article 5 hereof (Architectural Review Committee), and only in such Article, the word "exterior" shall be inserted immediately preceding the two uses of the word "improvements" in the first sentence of this Section.

Section 1.12. *Initially Unoccupied Lots.*

"Initially Unoccupied Lots" means only those Lots which have not been conveyed to the initial Owner other than the Master Declarant or a Builder.

Section 1.13. *Lot.*

"Lot" means each platted lot that is now or hereafter included in the real property described on the attached Exhibit A, as the same may be subdivided or replatted from time to time (and "Lot" shall include all lots created as a result of such subdivision or replatting), as well as all other lots then or thereafter within any real property annexed to this Master Declaration, with the exception of the Common Area, the Common Elements and any publicly dedicated property.

Section 1.14. Lots that May Be Included.

HUNDRED FIFTY-SEVEN

"Lots that May Be Included" means ~~ONE THOUSAND THREE~~ (1,357) Lots, which shall be the maximum number of Lots that may be subject to this Master Declaration, including those Lots which may be included if all of the Annexable Area is annexed to this Master Declaration. However, the aforesaid number of Lots that May Be Included is not a representation or a guarantee as to the actual number of Lots that will ultimately be included in the Community.

Section 1.15. Master Association.

"Master Association" means Anderson Heights Master Association, Inc., its successors and assigns.

Section 1.16. Master Declarant.

"Master Declarant" means KB Home New Mexico Inc., a New Mexico corporation, its parent, affiliates and subsidiaries, and any other Person(s) to whom the Master Declarant, by recorded document, expressly assigns one or more of the Master Declarant's rights under this Master Declaration (which shall be the extent of the Master Declarant's rights to which such assignee succeeds)

Section 1.17. Master Declaration.

"Master Declaration" means this Master Declaration of Covenants, Conditions and Restrictions of Anderson Heights, including any supplements and amendments.

Section 1.18. Member.

"Member" means all Owners of a Lot collectively, their heirs, personal representatives, successors and assigns.

Section 1.19. Owner.

"Owner" means each fee simple title holder of a Lot, including without limitation, the Master Declarant, a Builder, or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation. There may be more than one Owner of a Lot.

Section 1.20. Person.

"Person" means a natural person, a corporation, a limited liability company, a partnership, an association, a trust, a joint venture, or any other entity recognized under the laws of the State of New Mexico, or any combination thereof.

Section 1.21. Security Interest.

"Security Interest" means an interest in real estate or personal property created by contract or conveyance, which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract,

lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Master Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Section 4.10 of this Master Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, pursuant to Section 6.2 of this Master Declaration (General Provisions of Insurance Policies), "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the County in which such property is located show the Administrator as having the record title to the Lot.

Section 1.22. *Security Interest Holder.*

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Section 4.10 of this Master Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Master Declaration (General Provisions of Insurance Policies), the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records in the County in which such property is located show the said Administrator as having the record title to the Lot), or any successor to the interest of any such Person under such Security Interest.

Section 1.23. *75% Control Period.*

"75% Control Period" means a length of time expiring twenty-five (25) years after initial recording of this Master Declaration in the County in which the property described on the attached Exhibit A is located or one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Lots that May Be Included to Owners other than a Master Declarant or Builder, whichever first occurs.

Section 1.24. *Special Master Declarant Rights.*

"Special Master Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Master Declarant, and which rights may be further described in this Master Declaration: to build and complete Improvements in the Community; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the Community and sale of Lots; to use easements through the Common Area and Common Elements; to make the Community subject to one or more other associations; to merge or consolidate with a Community of the same form of ownership; or to appoint or remove any director or officer of the Master Association during the 75% Control Period. All of the Special Master Declarant Rights may be exercised by the Master Declarant with respect to any portion of the property now or hereafter within the Community. Master Declarant may exercise any or all of these Special Master Declarant Rights at any time and from time to time. Such rights shall terminate automatically at such time as the Master Declarant or any Builder (as defined at Section 1.6, above) no longer own any portion of the property described on the attached Exhibits A and D.

Section 1.25. *Subassociation.*

"Subassociation" means any entity, association or organization, including without limitation, a New Mexico corporation or limited liability company, and its successors and assigns, organized and established or authorized pursuant to, or in connection with, one or more Supplemental Declarations, the membership of which is composed of the Owners of property that is subject to such Supplemental Declaration.

Section 1.26. *Supplemental Declaration.*

"Supplemental Declaration" means a written instrument containing covenants, conditions, restrictions, or equitable servitudes, and/or any other provisions, or any combination thereof, which may be recorded on any portion of the property described in the attached Exhibit A and/or any portion(s) of the Annexable Area. Each Supplemental Declaration shall be subject to this Master Declaration and each provision hereof.

**ARTICLE 2.
MEMBERSHIP AND VOTING RIGHTS**

Section 2.1. *Membership.*

The Master Association shall have one (1) class of membership. Membership in the Master Association shall be appurtenant to, and may not be separated from, ownership of a Lot. Each Lot shall have one (1) membership and there is only one (1) Member per Lot, even if multiple Owners own the Lot.

Section 2.2. *Voting Rights.*

Each Member shall be entitled to one (1) vote for each Lot owned, except that no votes allocated to a Lot owned by the Master Association may be cast. The maximum number of votes that may be cast in connection with any matter shall be equal to the total number of Lots then existing within the Master Association.

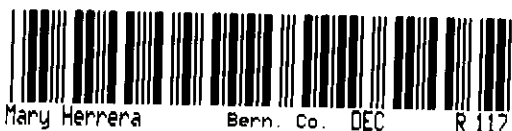
**ARTICLE 3.
MASTER ASSOCIATION**

Section 3.1. *Master Association.*

The Master Association has been or will be formed as a New Mexico non-profit corporation under the New Mexico Nonprofit Corporation Act. The Master Association shall have the duties, powers and rights set forth in this Master Declaration and in its Articles of Incorporation and Bylaws.

Section 3.2. *Board of Directors.*

The affairs of the Master Association shall be managed by a Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Master Association's Articles of Incorporation and Bylaws. Subject to Section 3.4 hereof (Bylaws), the Board of



Directors shall be elected by the Members. The Board of Directors may, by resolution, delegate portions of its authority to one or more committees, to officers of the Master Association or to agents or employees of the Master Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Master Association.

Section 3.3. *Master Association Powers.*

Subject to the rights, powers and authority reserved by and conferred upon the Master Declarant pursuant to this Master Declaration, the Master Association will serve as the governing body of Anderson Heights and shall have the powers and duties set forth in this Master Declaration, the Bylaws and by law. The Master Association may:

3.3.1. adopt and enforce the Bylaws, and make and enforce rules and regulations, consistent with the rights, duties, terms and provisions established by this Master Declaration and the Bylaws;

3.3.2. adopt and amend budgets for revenues, expenditures and reserves, and assess and collect any assessments and any other amounts due from Members or others to the Master Association;

3.3.3. hire and terminate managing agents and employees, agents and independent contractors;

3.3.4. after termination or surrender of the Master Declarant's right to appoint the Architectural Review Committee, appoint the members of the Architectural Review Committee;

3.3.5. exercise all of the enforcement powers set forth elsewhere in this Master Declaration;

3.3.6. make contracts and incur liabilities in accordance with the current Master Association budget;

3.3.7. borrow funds to cover Master Association expenditures and pledge the Master Association assets as security therefor;

3.3.8. regulate the use, maintenance, repair, replacement and modification of the Common Area;

3.3.9. regulate the maintenance, repair, replacement and modification of the City of Albuquerque Park ("Park") created pursuant to that Park Dedication, Real Estate Sale, Development and Maintenance Agreement dated February 16, 2004 ("Park Agreement") effecting the Community and Annexable Area;

3.3.10. cause additional improvements to be made as a part of the Common Area;

3.3.11. acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property (including, without limitation, one or more Lots);

3.3.12. grant easements, leases, licenses, and concessions on, under, across, through or over the Common Area;

3.3.13. impose and receive any payments, fees or charges for the use, rental or operation of the Common Area or for any services provided to Members;

3.3.14. impose charges for late payment of assessments, recover reasonable attorneys' fees and other legal costs for collection of assessments and other actions (regardless of whether or not suit was initiated), and levy reasonable fines for violations of this Master Declaration, the Bylaws or the rules and regulations;

3.3.15. impose reasonable charges for the preparation and recordation of amendments to this Master Declaration or statements of unpaid assessments;

3.3.16. provide for the indemnification of its officers and directors as provided in the Bylaws or the Articles and maintain directors' and officers' liability insurance;

3.3.17. assign its right to future income, including the right to receive assessments;

3.3.18. exercise any other powers expressly conferred by this Master Declaration, the Bylaws, or reasonably implied from or necessary to effectuate such powers;

3.3.19. except as prohibited by law, exercise all other powers that may be exercised in the State of New Mexico by a nonprofit corporation;

3.3.20. exercise all powers delegated to the Master Association by any Subassociation; and

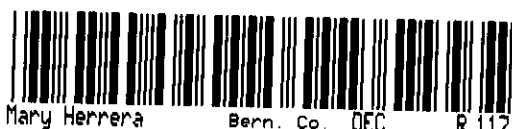
3.3.21. exercise any other powers necessary and proper for the governance and operation of the Master Association.

Section 3.4. *Bylaws.*

The Master Association may adopt Bylaws for the regulation and management of the Master Association, provided that the provisions of the Bylaws shall not be inconsistent with any provision of this Master Declaration. The Bylaws may include, without limitation, provisions regarding the voting rights of the Members, the appointment or election of the Board, and the appointment or election of officers of the Master Association.

Section 3.5. *Authority of Board of Directors.*

Action by or on behalf of the Master Association may be taken by the Board of Directors or any duly authorized committee, officer, agent or employee, without a vote of the Members, except as



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otherwise specifically provided in this Master Declaration, the Articles of Incorporation or Bylaws of the Master Association, or by law.

Section 3.6. *Authority of Master Declarant During 75% Control Period.*

Except as otherwise provided in this Article, during the 75% Control Period, the Master Declarant or Persons appointed by the Master Declarant may appoint all officers and directors and remove all officers and directors which have been appointed by the Master Declarant. The Master Declarant may voluntarily surrender the right to appoint and remove officers and directors before termination of the 75% Control Period; but, in that event, the Master Declarant may require, for the duration of the 75% Control Period, that specified actions of the Master Association or Board of Directors, as described in a recorded instrument executed by the Master Declarant, be approved by the Master Declarant before they become effective.

Section 3.7. *Termination of 75% Control Period.*

After termination of the 75% Control Period, the Members shall elect at least a majority of the Board of Directors who must be Owners other than the Master Declarant or designated representatives of Owners other than the Master Declarant. The Board of Directors shall elect the officers.

Section 3.8. *Master Association Books and Records.*

The Master Association shall make available to Owners, prospective purchasers, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of this Master Declaration, and the Articles of Incorporation, Bylaws, rules and regulations, books, records and financial statements of the Master Association, except that: the Board of Directors may at any time(s) determine that items are confidential and should not be made available – e.g., to protect the privacy or confidentiality of Owners, complainants, applicants or others; and the Persons accessing such documents shall pay all costs associated therewith. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

Section 3.9. *Rules and Regulations.*

Rules and regulations concerning and governing the Lots, Common Area, Common Elements, this Community and/or rights-of-way, may be adopted, amended, repealed and enforced from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations. The rules and regulations may state procedural requirements, interpretations and applications of the provisions of this Master Declaration, including without limitation, blanket requirements, blanket interpretations, and blanket applications. By way of example and not by way of limitation, such rules and regulations may state that "reasonable" as used in Section 10.3 of this Master Declaration (Household Pets), means a specified number of pets. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Master Declaration and the provisions hereof.

Section 3.10. *Enforcement.*

Enforcement by the Master Association under this Section 3.10 shall be in addition to, and not in substitution of, Section 13.3 (Enforcement), below.

3.10.1. After notice and an opportunity to be heard, the Master Association, acting through the Board or any authorized agent, may: (a) impose sanctions (including, without limitation, reasonable monetary fines) for violations of this Master Declaration, the Bylaws or the rules and regulations; (b) exercise self-help to cure any violations of this Master Declaration, the Bylaws or the rules and regulations that a Member fails or refuses to cure; and (c) suspend any services it provides to any Member who is more than 15 days delinquent in paying any assessment or other charge due to the Master Association. All of the remedies set forth in this Master Declaration and the Bylaws shall be cumulative of each other and any other remedies available at law or in equity. If the Master Association prevails in any action to enforce the provisions of this Master Declaration, the Bylaws or the rules and regulations, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs.

3.10.2. In no event shall the Master Association's failure to enforce any covenant, restriction or rule provided for in this Master Declaration, the Bylaws or the rules and regulations constitute a waiver of the Master Association's right to later enforce such provision or any other provision, covenant, restriction or rule.

Section 3.11. *Delegation to a Subassociation or other Person.*

Without limiting any of the Master Association's other rights of delegation, the Master Association may delegate, exclusively or non-exclusively, any powers, rights or obligations under this Master Declaration to one or more Subassociations or other Person(s), to the extent permitted by law.

Section 3.12. *Cooperation with any Subassociations, any Other Community Associations, and/or any Districts.*

The Master Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any Subassociation(s), any other community association(s), and/or any district(s), to share the costs and/or responsibility for any maintenance, repair, replacement, or other matters, to perform maintenance, repair or replacement for any Person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers, or others who may perform services for the Master Association, any Subassociation(s), any other community association(s) and/or any district(s), to collect assessments, other charges, or other amounts which may be due to any Subassociation(s), any other community association(s) and/or any district(s) and to permit any such entity to collect assessments, other charges or other amounts which may be due to the Master Association, or to otherwise cooperate with any Subassociation(s), any other community association(s) and/or any district(s) in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Master Association, any

Subassociation(s), any other community association(s) and/or any district(s), as the Board of Directors may determine in its discretion from time to time.

Section 3.13. *Management Agreements and Other Contracts.*

Any agreement for professional management of the Master Association's business or other contract providing for the services of the Master Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Master Association with a manager or managing agent prior to termination of the 75% Control Period shall be subject to review and approval by HUD or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests (and HUD or VA require such approval).

Section 3.14. *Merger.*

The Master Declarant hereby reserves the right to merge the Master Association with one or more other common interest communities without the approval of any Member or any other Person. This right shall terminate automatically as provided in Section 1.24 of this Master Declaration (Special Master Declarant Rights).

Section 3.15. *Occupants Bound.*

All provisions of this Master Declaration, the Bylaws and the rules and regulations shall also apply to all occupants of any Lot and to any tenant, agent, employee, customer, contractor, licensee, guest or invitee of any Owner or of such tenant or occupant. Every Owner shall cause all occupants of its Lot and any tenant, agent, employee, customer, contractor, licensee, guest or invitee to comply with this Master Declaration, the Bylaws and the rules and regulations of the Master Association.

Section 3.16. *Limitation of Liability.*

There shall be no personal liability, either direct or indirect, of any director or officer of the Master Association to the Master Association or its Members, for monetary damages for any breach(es) of duty as a director or officer; except that this provision shall not eliminate the liability of a director or officer, to the Master Association or its Members, for monetary damages for any breach, act, omission or transaction as to which the New Mexico Nonprofit Corporation Act (as in effect from time to time) expressly prohibits the elimination of liability. This provision is effective on the date of incorporation of the Master Association, and shall not eliminate or limit the liability of a director or officer to the Master Association or to its Members for monetary damages for any act or omission occurring prior to such date. However, this provision shall not limit the rights of directors or officers of the Master Association for indemnification or other assistance from the Master Association. Any repeal or modification of the foregoing provisions of this Article by the Members, or any repeal or modification of the provisions of the New Mexico Nonprofit Corporation Act which permits the limitation or elimination of liability of directors or officers, shall not adversely affect any elimination of liability, or any right or protection, for any breach, act, omission or transaction that occurred prior to the time of such repeal or modification.

Section 3.17. *Indemnification*

The Master Association shall indemnify its directors and officers as now or hereafter required by the New Mexico Nonprofit Corporation Act, and may indemnify its directors, officers, and employees as otherwise permitted by law or as the Board may deem appropriate from time to time.

**ARTICLE 4.
ASSESSMENTS**

Section 4.1. *Personal Obligation for Assessments.*

Each Owner of a Lot, including Master Declarant and each Builder, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Master Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Master Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Master Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Master Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Master Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each amount, together with interest, late charges, costs, and reasonable attorney's fees, shall be the personal obligation of the Person(s) who was the Owner of such Lot at the time when the amount became due. However, the personal obligation for delinquent amounts (including assessments) shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 4.2. *Purpose of Assessments.*

The assessments levied by the Master Association shall be used to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Master Association or which the Master Association may be empowered to pursue pursuant to this Master Declaration or the Articles of Incorporation or Bylaws of the Master Association, or by law. Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.

Section 4.3. *Initial Annual Assessment.*

The amount of the initial annual assessment against each Lot shall be in accordance with a budget adopted by the Board of Directors, and such amount shall be exclusive of any amounts due to any Subassociation, any district and/or any other Person or entity. However, the rate of assessments paid with respect to the Initially Unoccupied Lots shall be less than that paid with respect to the other Lots, as provided in the next Section. The annual assessments shall be due and payable in monthly installments, in advance, on the first day of each month, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the then Master Association calendar

year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

Section 4.4. *Rate of Annual and Special Assessments.*

4.4.1. Annual and special assessments shall be set by the Board of Directors (except as provided in Section 4.4.2 below), shall be sufficient to meet the expected needs of the Master Association and shall, except as hereinafter provided, be apportioned among the Lots in accordance with their Allocated Interests. Notwithstanding the foregoing, however, the amount of the annual assessments and special assessments against the Initially Unoccupied Lots shall be set at a lower rate than the rate of annual assessments and special assessments against other Lots, because the Initially Unoccupied Lots receive and benefit from fewer services funded by such assessments than the other Lots. The Initially Unoccupied Lots shall pay annual and special assessments at the rate of twenty-five percent (25%) of any annual assessment or special assessment charged to Lots other than the Initially Unoccupied Lots. The annual assessments shall include a reserve for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis and for the payment of insurance deductibles.

4.4.2. Prior to the expiration of each calendar year, the Board will approve and distribute to each Owner a proposed budget for the Association's operations during the next ensuing year. If such budget requires an annual assessment for the next ensuing year having an aggregate increase in the annual assessment of not more than twenty percent (20%) (exclusive of Utility Charges as provided below), the annual assessment for the next ensuing year as provided in such budget will take effect at the commencement of the next ensuing year without further notice to any Owner. If such budget proposes an annual assessment for the next ensuing year with an aggregate increase in the annual assessment then in effect of more than twenty percent (20%), the Board must call a membership meeting as stated herein for consideration of such proposed increase. In computing the applicable percentage of the new annual assessment for the above determination, any increase due to an increase in utility charges (including charges for wet and dry utilities), including but not limited to water, sewer, rubbish, gas, electricity, phone services, cable services, high speed data communication services, and satellite services (collectively the "Utility Charges"), shall not be included in such 20% limitation, but shall be automatically passed on as part of the assessment. Unless a majority of the total votes of the Members, cast in person or by proxy, at such meeting of the Members duly called and convened, veto such increase, then such annual assessment as approved by the Board will take effect at the commencement of the next ensuing calendar year without notice to any Owner. If the proposed assessment increase of more than 20% (exclusive of Utility Charges) is vetoed by the Members, as provided above, then the amount of the annual assessment then in effect shall continue until such time as an increase in the annual assessment not greater than 20% is approved by the Board or the Members do not veto an increase of more than 20% in the amount of the annual assessment as provided above. In the absence of any valid action by the Board or the Members to the contrary prior to the commencement of any calendar year, as provided above, the annual assessment then in effect will automatically continue for the ensuing calendar year increased only by any increase in Utility Charges.

4.4.3. The Master Declarant may in its discretion, but shall not be required to, cover certain costs of the Master Association by payment of any amount(s), which shall constitute an advance against future assessments due from the Master Declarant. However, on or before the termination of the 75% Control Period, any such advances which have not been credited against assessments due from the Master Declarant shall be assumed as obligations of the Master Association (or any Subassociation as may be appropriate) to be repaid to Master Declarant within a reasonable amount of time and without interest accruing thereon. Further, for the period of time that any such advances are not repaid to the Master Declarant, such advances shall continue to constitute advances against future assessments due from the Master Declarant to the Master Association until conveyance by the Master Declarant of all of the property described on the attached Exhibit D. If the Master Declarant elects in its discretion to pay any amounts as provided in this subparagraph, Master Declarant shall not, under any circumstances, be obligated to continue payment or funding of any amount(s) in the future. The word "assessments," as used in this subsection, includes interest, late charges, fines, costs, attorneys' fees, and all other amounts that are provided for in this Master Declaration.

4.4.4. After Master Association assessments commence, Master Declarant's obligations for assessments may be satisfied in the form of cash or by "in kind" contributions of materials or services (or any combination thereof) to the Master Association.

Section 4.5. *Date of Commencement of Annual Assessments.*

The annual assessments shall commence at such time as the Board of Directors may determine in its discretion.

Section 4.6. *Special Assessments.*

In addition to the annual assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of the votes of sixty-seven percent (67%) of a quorum of the Master Association's votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, repair or replacement of a capital Improvement upon any portion of real property for which the Master Association has repair and/or replacement obligations, including fixtures and personal property related thereto, or for repair or replacement of any damaged or destroyed Improvements located on said real property, or for the funding of any deficit incurred by the Master Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests set forth in this Master Declaration, except that the rate of special assessments against Initially Unoccupied Lots shall be set as provided in subsection 4.4.1 of this Master Declaration. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 4.7 hereof (Notice and Quorum for Any Special Assessments). Notwithstanding the foregoing, special assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.



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Section 4.7. *Notice and Quorum for Any Special Assessments.*

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6 (Special Assessments) hereof shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the Master Association votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the 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 4.8. *Assessments/Charges for Services to Separate Areas of Community.*

The Master Association may, at any time from time to time, provide services to any Subassociation or other area(s) (containing less than all of the Lots) in the Community. If such services are not funded by the Master Association's annual or special assessments, then such services shall be provided, if at all, pursuant to a written document that includes a statement and terms for payment of the costs, fees and expenses for such services. Services which may be provided by the Master Association pursuant to this Section may include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Subassociation or Owner(s); (b) the provision of any services or functions to such area or Subassociation, such as trash removal; (c) the enforcement of the provisions of any Supplemental Declaration or any other document or agreement for, on behalf of, and in the name of the Subassociation or applicable Owners; (d) the collection of assessments for, in the name of, and on behalf of any Subassociation; (e) the payment of taxes or other amounts for a Subassociation or Owners with funds provided by such Subassociation or Owners; (f) the procurement of insurance for a Subassociation or Owners; (g) the collection of charges for use of facilities; and (h) the appointment and supervision of a manager(s) for a Subassociation or other area.

Section 4.9. *Lien for Assessments; Enforcement; Priority.*

4.9.1. The Master Association shall have a lien against each Lot to secure payment of delinquent assessments. Amounts levied against any Lot or the Owner(s) thereof (including amounts for fines, fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Master Declaration) and any other amounts are enforceable as "assessments" under this Article. The amount of the lien shall include all those items set forth in this Section from the time as such items become due and unpaid. If an assessment is payable in installments, each unpaid installment is a lien from the time it becomes due, including the due date set by any valid Master Association acceleration of installment obligations.

4.9.2. The Board of Directors or managing agent of the Master Association is hereby authorized to act to assess and collect assessments and any other amounts due under this Master Declaration, by giving written notice of amounts levied against any Lot or the Owner(s) thereof, to the Owner(s) of any Lot. Such notice shall provide the time period



within which the Owner shall make payment to the Board of Directors or managing agent of the Master Association, and the address to which such payment shall be made or directed.

4.9.3. As to any Lot upon which an assessment has been levied, such assessment is deemed delinquent upon failure to timely make payment thereof. Thereupon, the Board of Directors or managing agent of the Master Association may prepare, and record in the county in which the applicable Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner(s) of the Lot, and a description of the Lot. The costs and expenses relative to any such lien filing or recording thereof shall be added to the assessments for the Lot against which it is filed and collected as part and parcel thereof.

4.9.4. Any delinquent assessment shall bear interest computed from the due date of such assessment at the rate of fifteen percent (15%) per annum or such other lawful rate set by the Board, as well as late charges in such amount as the Board may establish by resolution, costs and reasonable attorneys' fees.

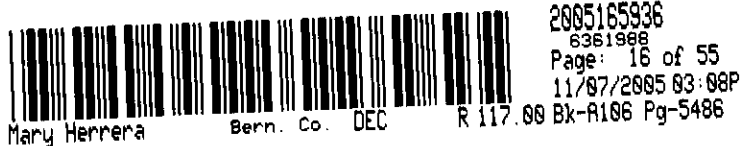
4.9.5. The Master Association's lien may be enforced in the same manner as provided for the foreclosure of mortgages under the laws of the State of New Mexico. In addition, the Master Association may bring an action at law against the Owner(s) personally obligated to pay the same. If a judgment or decree is obtained, including without limitation, in a foreclosure action, such judgment or decree shall include reasonable attorney's fees to be fixed by the court, together with the costs of the action and interest, and may include late charges as set forth herein.

4.9.6. No Owner may be exempt from liability for payment of assessments by waiver of the use or enjoyment of any of the Common Area or Common Elements, or by abandonment of the Lot against which the assessments are made, or because of dissatisfaction with the Master Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Master Declaration creates a lien, nor does this Article prohibit the Master Association from taking a deed in lieu of foreclosure.

Any lien arising from this Master Declaration shall be subordinate to the lien of any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering a Lot or unit that is recorded in the records of the office of the Clerk of Bernalillo County, New Mexico and that has priority of record over all other recorded liens except such liens, governmental or otherwise, that are superior by operation of state or federal law.

Section 4.10. *Certificate of Status of Assessments.*

The Master Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Master Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within a reasonable period after receipt of the request, and the information provided therein is binding on the Master Association, the Board of Directors, and every Owner. The Master Association shall have the right to charge a reasonable fee for the issuance of such certificates.



Section 4.11. *Surplus Funds.*

Any surplus funds of the Master Association remaining after payment of or provision for Master Association expenses, and any prepayment of or provision for reserves, shall be retained for use by the Master Association and need not be paid to the Owners or credited to them.

Section 4.12. *Working Capital Fund.*

At the time of any transfer of any Lot (by any circumstance whatsoever, including but not limited to purchase, devise, or foreclosure) the Master Association shall require the new Owner (other than the Master Declarant or a Builder) of any Lot, to make a non-refundable contribution to the Master Association in an amount equal to three (3) times the then current monthly installment of the annual assessment (regardless of whether or not annual assessments have commenced as provided in Section 4.5 hereof (Date of Commencement of Annual Assessments)). Said contribution shall be due from such new Owner and payable to the Master Association at the time of closing on the transfer, and shall be for the use and benefit of the Master Association, including, without limitation, to meet expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same become due and shall be in addition to any amounts due to any Subassociation, any district and/or any other Person or entity.

Section 4.13. *Other Charges.*

The Master Association may levy and assess charges, costs and fees for matters such as, but not limited to, the following, in such reasonable amounts(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement of charges that are made to the Master Association by its managing agent or other Person: copying of Master Association or other documents; return checks; telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Lot; notices and demand letters; and other charges incurred by the Master Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the assessments levied by the Master Association, but shall be subject to all of the Master Association's rights with respect to the collection and enforcement of assessments.

Section 4.14. *Assessments for Misconduct.*

If any Master Association expense is caused by or arises out of the misconduct of any Owner or such Owner's tenant, agent, guest or invitee, as determined by the Board of Directors, the Master Association may assess such Master Association expense (including, without limitation, any attorneys fees and expenses relative thereto) exclusively against such Owner and his or her Lot.

**ARTICLE 5.
ARCHITECTURAL REVIEW COMMITTEE**

Section 5.1. *Composition of Committee.*

The Architectural Review Committee shall consist of three (3) or more persons appointed by the Master Declarant until automatic termination of the Special Master Declarant Rights as provided

in Section 1.24 of this Master Declaration (Special Master Declarant Rights). Subsequent to such date, the Architectural Review Committee shall be appointed by the Board of Directors. Notwithstanding the foregoing, the Master Declarant may surrender its right to appoint the members of the Architectural Review Committee by a recorded instrument executed by Master Declarant. The power to "appoint" as provided herein, shall include without limitation the power to: (a) constitute the initial membership of the Architectural Review Committee; (b) appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; (c) remove any member of the Architectural Review Committee, with or without cause, at any time; and (d) appoint any successor(s). Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor. The persons who serve on the Committee are not required to be Members of the Master Association. The terms of office of all then-current members of the Committee who were appointed by the Master Declarant shall automatically terminate at such time as the Master Declarant's power to appoint members of the Committee expires or is surrendered.

Section 5.2. *Review and Approval by Committee; Requirement for Approval by Governmental Entities.*

5.2.1. Except as otherwise provided herein, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee

5.2.2. The Architectural Review Committee shall exercise its reasonable judgment to the end that all proposed Improvements conform to and harmonize with the existing surroundings and Improvements. The Committee is authorized to charge a reasonable fee for the review of plans and specifications. Payment of such charge shall be a part of, and a condition to, the submittal of plans and specifications for Committee approval. In addition, the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. All such amounts, if any, shall be levied in addition to the assessments against the Lot for which the request for approval was made, but shall be subject to the Master Association's lien for assessments and subject to all other rights of the Master Association for the collection of assessments, as more fully provided in this Master Declaration.

5.2.3. In addition to the required approvals by the Architectural Review Committee as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the City of Albuquerque, New Mexico, if

required, shall be a precondition to commencement of any construction or alteration of, addition to or change in any Improvement.

Section 5.3. *Design Guidelines and Standards.*

The Architectural Review Committee has the authority to, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce, design or architectural guidelines and standards to interpret and implement the provisions of this Article and the Master Declaration. Without limiting the generality of the foregoing, such guidelines and/or standards may contain provisions to clarify the criteria for approval of certain Improvements, (e.g. the design, material, size, location, etc.), may state the procedural requirements for submissions to the Committee, and may provide for blanket approvals, interpretations or restrictions on Improvements. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval, or may state that certain types of fences are considered pre-approved (as long as such fences are in an approved location and comply with the applicable guidelines and/or standards) and that no other type of fences will be approved by the Committee. The Committee shall have the authority to enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce separate guidelines and standards that govern the different types of dwelling units and/or Lots in the Community. Any guidelines, rules and regulations of the Committee shall be consistent, and not in conflict, with this Article and any other applicable provisions of this Master Declaration.

Section 5.4. *Procedures.*

The Architectural Review Committee shall decide each request for approval within sixty (60) days after the complete submission of all the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to decide any request within sixty (60) days after the complete submission of all the plans, specifications, materials and other information with respect thereto, then the request for approval shall be deemed to have been denied.

Section 5.5. *Vote and Appeal; Discretion of Committee.*

5.5.1. A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Architectural Review Committee decides a request for approval, then any Owner shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within ten (10) days after such decision by the Committee's representative.

5.5.2. As to any application submitted pursuant to this Article 5, the Architectural Review Committee, in its sole discretion, may, with respect to the design and architectural guidelines, standards or procedures then in effect, permit variances or exempt any Lot therefrom. Further, The Architectural Review Committee may delegate its authority under this Article 5 to any architectural review committee or similar body established by or pursuant to a Supplemental Declaration (but only with respect to any Lot subject thereto), or

agree that the design and architectural guidelines, standards or procedures then in effect are superseded by any similar guidelines adopted pursuant to a Supplemental Declaration (but only with respect to any Lot subject thereto).

Section 5.6. *Prosecution of Work After Approval.*

After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the terms and conditions of the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application therefor (or such longer time as may be granted in writing by the Committee in its discretion) or to complete the Improvement in complete conformance with terms and conditions of the approval, shall constitute noncompliance with the requirements for approval of Improvements by the Architectural Review Committee.

Section 5.7. *Notice of Completion.*

Upon completion of the Improvement, the applicant for approval of the same ("Applicant") shall give a written "Notice of Completion" to the Architectural Review Committee. Until the date of receipt of such a Notice of Completion, the Architectural Review Committee shall not be deemed to have notice of completion of the Improvement on which approval has been sought and granted as provided in this Article.

Section 5.8. *Inspection of Work.*

The Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article; provided, however, that the right of inspection shall terminate sixty (60) days after the Architectural Review Committee shall have received a Notice of Completion from the Applicant.

Section 5.9. *Notice of Noncompliance.*

If, as a result of inspections or otherwise, the Architectural Review Committee finds that any Improvement has been done without obtaining the approval of the Architectural Review Committee or was not done in substantial compliance with terms and conditions of the approval that was granted, or was not completed within one (1) year after the date of approval, subject to any extensions of time granted pursuant to Section 5.6 hereof (Prosecution of Work After Approval), the Architectural Review Committee shall notify the Applicant in writing of the noncompliance; which notice shall be given, in any event, within sixty (60) days after the Architectural Review Committee receives a Notice of Completion from the Applicant ("Notice of Noncompliance"). The notice shall specify the particulars of the noncompliance.

Section 5.10. *Correction of Noncompliance.*

If the Committee determines that a noncompliance exists, the Applicant shall remedy or remove (and return the subject property or structure to its original condition) the same within a

period of not more than thirty (30) days from the date of receipt by the Applicant of the ruling of the Committee. If the Applicant does not comply with the Committee ruling within such period, the Committee may, at its option, record a Notice of Noncompliance against the property on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Committee, upon demand, for all costs and expenses incurred with respect thereto. The right of the Committee to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Committee may have at law, in equity, or under this Master Declaration.

Section 5.11. *Variance.*

The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 10 of this Master Declaration (Restrictions), in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 5.12. *Waivers; No Precedent.*

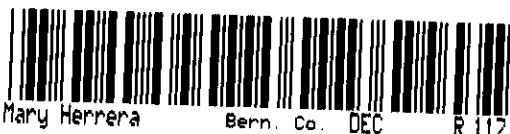
The approval or consent of the Architectural Review Committee, or any representative thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 5.13. *Records.*

The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon for such period of time as may be determined by the Board of Directors from time to time and, subject to Section 3.8 hereof (Master Association Books and Records), such records shall be available to Members for inspection at reasonable hours of the business day.

Section 5.14. *Exemption of Master Declarant and Certain Builders.*

Notwithstanding anything to the contrary contained in this Master Declaration, the Master Declarant shall be exempt from the provisions of this Article 5 of this Master Declaration (except for subsection 5.2.3). In addition, the Master Declarant may at any time, from time to time, designate one or more Builders to also be exempt from the provisions of this Article 5 if such Builder submits plans and specifications for construction of Improvements on a Lot to the Master Declarant for approval and constructs all Improvements in accordance with plans and specifications approved by the Master Declarant; provided, however, that the Master Declarant may, at any time in its discretion, withdraw such designation.



Section 5.15. *Liability.*

Neither the Architectural Review Committee, nor any members thereof, shall be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within their jurisdiction hereunder. In reviewing any matter, the Architectural Review Committee shall not be responsible for the safety, whether structural or otherwise, of any item(s) submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, and any approval of an Improvement by the Architectural Review Committee shall not be deemed an approval of any such matters. No Member or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval or disapproval granted, by the Architectural Review Committee.

**ARTICLE 6.
INSURANCE**

Section 6.1. *Insurance.*

The Master Association shall maintain insurance in connection with the Common Area. The Master Association shall maintain insurance as required by applicable law or applicable regulation, which insurance shall include, without limitation, property insurance, commercial general liability insurance and fidelity coverage. In addition, the Master Association may maintain insurance against such other risks as the Board of Directors may elect from time to time, including, but not limited to, personal liability insurance to protect directors and officers of the Master Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Master Association, worker's compensation insurance, and may maintain insurance on such other property and/or against such other risks as the Board of Directors may elect in its discretion from time to time.

Section 6.2. *General Provisions of Insurance Policies.*

All policies of insurance carried by the Master Association shall be carried in blanket policy form naming the Master Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Master Association. Additionally, each Owner and each Security Interest Holder shall be beneficiaries of the policy in a percentage equal to the Owner's Allocated Interest. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until after thirty (30) days prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Master Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Master Association shall also contain waivers of subrogation. Further, all policies of insurance carried by the Master Association shall also contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Master Association.



Section 6.3. *Deductibles.*

The Master Association may adopt and establish written non-discriminatory policies and procedures relating to the responsibility for deductibles. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Master Association, may be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, may be apportioned among the Persons sharing in a joint duty of repair and maintenance, may be partly or wholly borne by the Master Association, and/or may be shared by any such Person(s) and the Master Association, all at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Master Association may determine that a loss, either in the form of a deductible to be paid by the Master Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Master Association, any such loss, or any portion thereof, may be assessed to the Owner(s) in question and the Master Association may collect such amount(s) from said Owner(s) in the same manner as any assessment.

Section 6.4. *Payment of Insurance Proceeds.*

Any loss covered by an insurance policy described in Section 6.1 hereof (Insurance), must be adjusted with the Master Association, but the insurance proceeds for that loss may be payable to any insurance trustee designated for that purpose, or otherwise to the Master Association, and not to any Security Interest Holder. The insurance trustee or the Master Association shall hold any insurance proceeds in trust for the Master Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 7.1 of this Master Declaration (Damage or Destruction), the proceeds must be disbursed first for the repair or replacement of the damaged property; and the Master Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or replaced and any budget or reserve deficit has been funded, or unless the Community is terminated.

Section 6.5. *Master Association Insurance as Primary Coverage.*

If at the time of any loss under any policy which is in the name of the Master Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Master Association policy, such Master Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Master Association for the amount of any diminution of insurance proceeds to the Master Association as a result of policies of insurance of an Owner, and the Master Association may collect the amount from said Owner in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 6.6. *Acceptable Insurance Companies.*

Each insurance policy purchased by the Master Association must be written by an insurance carrier that is authorized by law to do business in the State of New Mexico. The Master Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon

action by the carrier's board of directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

Section 6.7. *Insurance to be Maintained by Owners.*

An insurance policy issued to the Master Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Owner's Lot and the Improvements thereon (unless a Subassociation, if any, with jurisdiction over such Lot elects in its discretion to carry such insurance), which provides replacement cost coverage, as well as on personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot.

**ARTICLE 7.
DAMAGE OR DESTRUCTION**

Section 7.1. *Damage or Destruction.*

7.1.1. Any portion of the Community for which casualty insurance is required to be carried by the Master Association under this Master Declaration which is damaged or destroyed must be repaired or replaced promptly by the Master Association unless:

7.1.1.1. the Community is terminated; or

7.1.1.2. repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

7.1.1.3. Members casting sixty-seven percent (67%) of the Master Association votes, including the vote for each Lot that has a dwelling unit that will not be rebuilt, vote not to rebuild; or

7.1.1.4. prior to conveyance of any Lot to a Person other than the Master Declarant, a Security Interest Holder of a Security Interest on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

7.1.2. The cost of repair or replacement that is covered by insurance carried by the Master Association, but which is in excess of insurance proceeds and reserves, is a Master Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the assessment liability of all the Lots. If the Members vote not to rebuild any Lot, that Lot's Allocated Interest is automatically reallocated upon the vote as if the Lot had been condemned and the Master Association promptly shall prepare, execute and record an amendment to the Master Declaration reflecting such reallocations.

Section 7.2. Lots.

Except as otherwise provided in this Section, any damage to or destruction of any structure located on a Lot shall be promptly repaired and replaced by the Owner(s) thereof. "Repaired and replaced," as used in this Section, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. If the Owner(s) of a Lot do not commence repair or replacement activities within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Architectural Review Committee then, in accordance with and subject to the provisions of Section 8.2 of this Master Declaration (Master Association's Right to Repair, Maintain and Replace), the Master Association may, in its reasonable discretion, enter upon the Lot for the purpose of completing such repair and replacement.

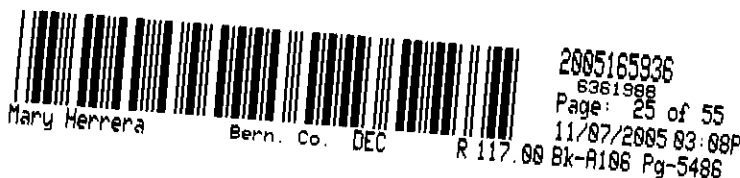
**ARTICLE 8.
MAINTENANCE**

Section 8.1. General.

8.1.1. Maintenance, repair and replacement of the Common Area and all Improvements located thereon, those portions of the publicly-dedicated rights of way adjacent to the perimeter of the Community, and any drainage structure or facilities, or other public Improvements required by the local governmental entity as a condition of development of the Community or any part thereof, shall be the responsibility of the Master Association (unless such Improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair and replacement or unless such maintenance, repair and replacement has been authorized by law to be performed by a public improvement district or other municipal or quasi-municipal entity). In addition, maintenance of the Park and all Improvements located within the property (except to the extent that such maintenance has been assigned or assumed by any Subassociation at the time that responsibility for same transfers from the Master Declarant to a home owners association in accordance with the provisions of the Park Agreement) may be or become the responsibility of the Master Association. Further, the Master Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation, any publicly dedicated property and Improvements located thereon. The costs, expenses, fees, and other amounts to be expended for the maintenance, repair and replacement that is provided for in this subsection shall, subject to Section 8.4 of this Master Declaration (Acts or Omissions), be collected by the Master Association as assessments and paid as Master Association expenses.

8.1.2. The maintenance, repair and replacement of each portion of the Common Elements shall be as provided in the Supplemental Declaration that includes such Common Elements.

8.1.3. The Owner of each Lot shall provide all maintenance, repair and replacement thereof and of the Improvements thereon (except to the extent, if any, that a Subassociation or other Person is assigned or responsible for any such duties).



Section 8.2. *Master Association's Right to Repair, Maintain and Replace.*

In the event any Owner(s) shall fail to perform his maintenance, repair and/or replacement obligations in a manner satisfactory to the Board of Directors, the Master Association may, if said failure continues for a thirty (30) day period after written notice to said Owner(s) by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. However, no such notice shall be required in emergency situations. The cost of such maintenance, repair and/or replacement shall be the personal obligation of the Owner(s) of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article 4 of this Master Declaration, including without limitation, interest, late charges, attorney's fees and lien rights.

Section 8.3. *Maintenance of and Non-Interference with Grade and Drainage; Some Irrigation Recommendations Around Foundations and Slabs.*

8.3.1. Each Owner shall maintain the grading on his Lot (including grading around the building foundation), and the Master Association shall maintain the grading on the Common Area, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage. Each Owner and the Master Association agree, for themselves and their, heirs, personal representatives, successors and assigns, that they will not in any way interfere with or obstruct the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Lot or the Common Area, then the party responsible for the maintenance of such real property shall submit a plan to the Architectural Review Committee for its review and approval in accordance with Article 5 of this Master Declaration, and any such change shall also be made in accordance with all laws, regulations and resolutions of any applicable governmental entities. For purposes of this Section, "established drainage" is defined as the drainage that exists at the time final grading by the Master Declarant is completed.

8.3.2. The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within five (5) feet of the foundation of the dwelling unit or any slab on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls and slabs.

Section 8.4. *Acts or Omissions.*

Notwithstanding anything to the contrary contained in this Master Declaration, in the event that the need for maintenance, repair or replacement of or within any property for which the Master Association has an obligation to maintain, repair or replace, any Lot, or any Improvements located thereon, is caused by the act or omission of any Owner, or by the act or omission of any member of such Owner's family or by a tenant, guest or invitee of such Owner, the cost of such repair, maintenance, replacement or expense to avoid such damage shall be the personal obligation of such

Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of New Mexico; and any costs, expenses and fees incurred by the Master Association for such maintenance, repair or replacement shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article 4 of this Master Declaration. A determination of the act or omission of any Owner, or any member of an Owner's family or a tenant, guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Master Association.

Section 8.5. *Soils Conditions*

Master Declarant, the Master Association and/or the Committee make no warranty or representation concerning the soil and/or the characteristics or structural stability of any property in the Community. Each Owner shall assess the sufficiency of the load-bearing capacity of his or her Lot and the effect of possible soil subsidence upon the structures placed thereon that are, in part, dependent upon the condition of the underlying soils, footings, foundation and structural design and plans used for construction on the Lot. In no event shall Master Declarant, the Master Association and/or the Committee be liable should any of the footings, foundation or structural design or plan of the structures placed on any property in the Community (including, but not limited to, structures erected by Owners) prove insufficient to prevent structural distress or damage to such structures that is caused by soil subsidence, settlement, collapse or expansion.

**ARTICLE 9.
EASEMENTS**

Section 9.1. *Other Easements.*

In addition to any other easements that may be granted or reserved, including without limitation those contained elsewhere in this Master Declaration, the following Sections describe easements to which the Community is or may be subject.

Section 9.2. *Right of Entry.*

Master Declarant reserves for the Master Association and any Subassociation an easement for the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons, or to inspect any Lot for the purpose of ensuring compliance with this Master Declaration, the Bylaws and the rules and regulations. Such right may be exercised by any member of the Board and the Master Association's officers, agents, employees and managers, the members of the Architectural Review Committee, and for emergency, security and safety purposes, all police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties. This right of entry shall include the right of the Master Association to enter upon any Lot to cure any condition which may increase the possibility of fire or other hazard in the event an Owner fails or refuses to cure such condition within a reasonable time after requested to do so by the Board, but shall not authorize entry into any residence without permission of the occupant, except by emergency personnel acting in their official capacities.

Section 9.3. *Access Easement.*

Master Declarant hereby reserves to itself and its successors, to the Master Association and to any Subassociation, and to any Builder, such easements upon, across, over, under and through the Community (including, without limitation, Common Area, Common Elements, and Lots) as may reasonably be necessary for exercise of any Special Master Declarant Right, performance of any of Master Declarant's or Master Association's rights or obligations hereunder, and the showing of any of such property to prospective purchasers. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on or to the Common Area or Common Elements, any other property, or any Lot, the party responsible for the damage or expense to avoid damage, or the Master Association if it is responsible, is liable for the cost of prompt repair. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Lot; except that no such notice shall be required in connection with any exterior, non-intrusive maintenance; and except that in emergency situations entry may be made at any time provided that the Owner(s) or occupant(s) thereof shall be warned of emergency entry as early as is reasonably possible. The interior of any dwelling unit located on a Lot shall not be subject to the easements provided for in this Section. In addition, and without limiting the easements reserved in this Section, the Master Declarant reserves for itself and the Master Association an easement over the Community (including, without limitation, Common Area, Common Elements, and Lots) for the purpose of Master Declarant's use and enjoyment of any water or water rights appurtenant to or associated with the property in the Community, which water or water rights include, without limitation, all adjudicated, non-adjudicated, decreed, non-decreed, tributary, non-tributary and not non-tributary water rights, as well as ditch rights and well permits owned by the Master Declarant or the Master Association.

Section 9.4. *Easement for Water Use and Flood Control.*

The Master Declarant hereby reserves to itself and its successors, assigns and designees, and grants to the Master Association and its successors, assigns and designees, a perpetual non-exclusive easement and right (but not the obligation) to enter upon any ponds, streams, drainage ditches, irrigation ditches, and wetlands located within the Community (including, without limitation, Common Area, Common Elements, and Lots) to: (a) provide water for the irrigation of any of the Common Area or the Common Elements; (b) alter drainage and water flow; (c) construct, maintain and repair any bulkhead, wall, dam or other structure retaining water; (d) develop, maintain, rehabilitate, restore, repair, or protect wetlands, ponds or waterways; and (e) remove trash and other debris therefrom. Such easement shall include an access easement upon, across, over, under and through the property in the Community, to the extent reasonably necessary to exercise rights granted under this Section, and in order to maintain and landscape the slopes and banks pertaining to such ponds, streams and wetlands. To the extent the exercise of such easement is anticipated to materially diminish the value of or unreasonably interfere with the use of any Lot, the consent of the Owner(s) of such Lot shall be required before such exercise. Nothing herein shall be construed to make Master Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, snowmelt, or other natural occurrences.

Section 9.5. *Utilities Easement.*

The Master Declarant hereby reserves to itself and its successors, assigns and designees (including, without limitation and if so designated, the Master Association and its successors, assigns and designees) a perpetual non-exclusive easement upon, across, over and under all of the Lots (but not under structures), the Common Area and Common Elements, to the extent reasonably necessary for the purposes of installation, monitoring, maintaining and operating, replacement, repair of all utilities, including, but not limited to, water, sewer, storm and surface water drainage, gas, telephone, electricity, computer cable, and television antennas or cable or satellite television systems, and other devices for sending or receiving data and/or other electronic signals, if any. By virtue of this blanket easement it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Area and Common Elements, and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Master Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Area and/or Common Elements without conflicting with the terms hereof; provided, however, that such right and authority in the Master Declarant shall automatically cease at such time as the Special Master Declarant Rights terminate as provided in Section 1.24 of this Master Declaration (Special Master Declarant Rights), at which time said reserved right shall vest in the Master Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) or encumbrances on the Common Area or Common Elements.

Section 9.6. *Easement for Encroachments.*

To the extent that any Improvement on a Lot, or on the Common Area or Common Elements, encroaches on any other Lot, Common Area or Common Elements, a valid easement for the encroachment exists.

Section 9.7. *Drainage Easement.*

Master Declarant hereby reserves, to itself and to the Master Association, easements for drainage or drainage facilities across the ten (10) rear and ten (10) side feet of each Lot; provided, however, that if the primary structure on a Lot is located upon any of the areas described in this sentence, then such easement shall be reduced in width to the width of the distance from the nearest Lot line to the exterior wall of such primary structure that is nearest to such Lot line. Except for the primary structures located on a Lot as provided in the preceding sentence; no Improvements shall be placed or permitted to remain on any Lot, nor shall any change in grading be permitted to exist, which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Master Declarant reserves to itself and to the Master Association the right to enter in and upon each five (5) foot rear and side yard drainage easements, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Master Declarant or the Master Association may deem necessary or desirable in their sole discretion from time to time; provided, however, that such right and authority in the Master Declaration shall automatically terminate at such time as the Special Master Declarant Rights terminate as provided in Section 1.24 of this Master Declaration (Special

Master Declarant Rights), at which time said reserved right shall vest solely in the Master Association.

Section 9.8. *Easement for Unannexed Property.*

The Master Declarant hereby reserves, for the use and benefit of the Annexable Area, a non-exclusive, perpetual easement and right-of-way for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Area and Common Elements, now or hereafter constructed, erected, installed or located in or on the Community, and on, over, across and under the Common Area and Common Elements for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Master Declarant generally intends to provide for pedestrian and vehicular access and for utilities services, to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Master Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Master Declaration; and expiration of the Master Declarant's right to withdraw such portion of the Annexable Area from this Master Declaration.

**ARTICLE 10.
RESTRICTIONS**

Section 10.1. *General Plan; Restrictions Imposed.*

It is the intention of the Master Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Community. This Community is subject to any documents and instruments of record (including without limitation recorded easements, licenses, and other matters of record), as well as all provisions of any plat and/or final development plan applicable to the Community or any portion thereof. In addition, the Master Declarant declares that the Community (including all of the Lots therein) shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Master Declaration. With respect to this Article 10 and any and all restrictions set forth herein, use of the term "Owner" shall also refer to and include any family member of an Owner, as well as their agents, guests, invitees, licensees, and tenants.

Section 10.2. *Residential Use; Professional or Home Occupation.*

Except as otherwise provided in this Master Declaration, Lots shall be for residential use only, including those uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied:

10.2.1. the business conducted is clearly secondary to the residential use of the home and is conducted entirely within the home;

10.2.2. the existence or operation of the business is not detectable from outside of the home by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

10.2.3. the business does not result in an undue volume of traffic or parking within the Community, which determination may be made by the Board of Directors in its sole discretion from time to time;

10.2.4. the business conforms to all zoning requirements and is lawful in nature; and

10.2.5. the business conforms to any rules and regulations that may be imposed by the Board of Directors from time to time.

Section 10.3. *Household Pets.*

No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Lot or their tenants may keep a reasonable number of dogs, cats or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of a Lot. The Master Association shall have, and is hereby given, the right and authority to: set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine in its sole discretion that any dog(s), cat(s) or other household pet(s) are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; determine that an Owner is in violation of the leash laws of the applicable jurisdiction or other applicable governmental laws, ordinances, or other provisions; or determine that an Owner is otherwise in violation of any provision of this Section or this Master Declaration. If the Master Association determines that any of the foregoing have been or are being violated, the Master Association may take such action(s) as it may deem appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Master Association as a result of such pets, and any such costs and damages shall be subject to all of the Master Association's rights with respect to the collection and enforcement of assessments as provided in Article 4 of this Master Declaration (Assessments).

Section 10.4. *Temporary Structures; Unsightly Conditions.*

Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage structure (except as otherwise provided in subsection 10.6.8 hereof) or outbuilding shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Master Declarant or a Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until



the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a street or from any other Lot.

Section 10.5. *Exterior Holiday Decorations.*

Lights or decorations may be erected on Lots in commemoration or celebration of publicly observed holidays provided that such lights or decorations do not unreasonably disturb the peaceful enjoyment of an adjacent Lot by illuminating bedrooms, creating noise or attracting sightseers. All lights and decorations must be removed within thirty (30) days after the holiday has ended. Christmas decorations or lights may not be displayed prior to November 15th of any year. For other holidays, decorations or lights may not be displayed more than thirty (30) days in advance of the holiday.

Section 10.6. *Miscellaneous Improvements.*

10.6.1. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent" or security sign(s) of not more than a total of five (5) square feet in the aggregate. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Master Declarant and/or any Builder (with the written consent of the Master Declarant) in connection with the sale or rental of the Lots, or otherwise in connection with development of or construction on the Lots, shall be permissible.

10.6.2. No clotheslines, drying yards, service yards, wood piles or storage areas shall be so located on any Lot as to be visible from a street, from the ground level of any other Lot or from the Common Area or Common Elements.

10.6.3. No type of refrigerating, cooling or heating apparatus shall be permitted on a roof or to protrude from a window; and no such apparatus shall be permitted elsewhere on a Lot except when appropriately screened and approved by the Architectural Review Committee, subject to any provisions of any guidelines or standards adopted by the Architectural Review Committee. Without limiting the foregoing, conventional air conditioning units located on the ground of a Lot are permissible when approved in accordance with the preceding sentence.

10.6.4. Except as may otherwise be permitted by the Architectural Review Committee, subject to any provisions of any guidelines or standards adopted by the Architectural Review Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a dwelling unit or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Master Declarant during its sales or construction upon the Lots; and provided further, however, that the requirements of this subsection shall not apply to those antennas (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended from time to time. As to antennas (including certain satellite dishes) which are specifically covered by the Telecommunications Act of

1996 and/or applicable regulations, as amended, the Master Association shall be empowered to adopt rules and regulations governing the types of antennas (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or applicable regulations, as amended, establishing reasonable, non-discriminatory restrictions or requirements relating to appearance, safety, location and maintenance.

10.6.5. No fences shall be permitted, except those fences approved in writing by the Architectural Review Committee (which shall include any fences deemed to be approved when constructed, erected, placed, located or installed in complete conformity with the provisions of any guidelines or standards adopted by the Architectural Review Committee) and except such fences as may be constructed, erected, placed, located or installed by the Master Declarant or a Builder in its development of the Community, or construction of Improvements in the Community.

10.6.6. No wind generators shall be constructed, installed, erected or maintained on any Lot.

10.6.7. No dog runs shall be permitted on Lots, except those dog runs approved in writing by the Architectural Review Committee (which shall include any dog runs deemed to be approved when constructed, erected, placed, located or installed in complete conformity with the provisions of any guidelines or standards adopted by the Architectural Review Committee).

10.6.8. Notwithstanding Section 10.4 (Temporary Structures; Unsightly Conditions) hereof, permanent storage sheds shall be permitted on Lots, but only with the prior approval of the Architectural Review Committee (which shall include any storage sheds deemed to be approved when constructed, erected, placed, located or installed in complete conformity with the provisions of any guidelines or standards adopted by the Architectural Review Committee).

Section 10.7. *Traffic and Parking; Vehicular Storage and Repairs.*

10.7.1. Owners shall observe and abide by any and all traffic and parking rules and regulations promulgated by the Master Association, any Subassociation, or any governmental entity having jurisdiction over such activity within the Community.

10.7.2. Vehicles shall be parked only in garages, driveways, areas specially designated for parking, or on a street. Parking on landscaped areas or front, side or rear yards (whether such yard is planted with grass, landscaped, xeriscaped or paved) is prohibited. Parking vehicles so as to block sidewalks and driveways, or on Common Area (other than that designated for parking) is prohibited. At the request and direction of the Master Association, vehicles parked in violation of any restrictions set forth in this Master Declaration or otherwise promulgated by the Master Association may be towed or otherwise removed at the sole risk and expense of the owner of such vehicle.

10.7.3. No house trailer, camping trailer, boat trailer, hauling trailer, jet ski, boat, or accessories thereto, truck (excluding pickup trucks that are 1 ton or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle (including, without limitation, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes), tractor, mobile home, recreational vehicle, boats and other watercraft or equipment, may be parked or stored on a Lot unless such parking or storage is entirely within the garage area of any Lot or will be suitably screened from view in accordance with the requirements, and prior written approval of, the Architectural Review Committee (subject to any provisions of any guidelines or standards adopted by the Architectural Review Committee). However, any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

10.7.4. Except as otherwise provided in this and the next sentence, no recreational vehicles, or disassembled or partially disassembled vehicles of any type, shall be parked, stored, maintained, or used on any Lot (unless such parking or storage will be within the fully enclosed garage of a Lot). However, recreational vehicles may be temporarily parked for a maximum of three (3) consecutive days in the driveway of a Lot. Recreation vehicles shall include, but not be limited to, motor homes, pick-up trucks with camper shells, trailers, motorcycles, motorbikes, snowmobiles, jet skis, all-terrain vehicles, and other apparatus intended for use on land, water, or in the air, and the trailers used for their transportation.

10.7.5. Except as provided above, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of seventy-two (72) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently registered and licensed; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

10.7.6. In the event the Master Association shall determine that a vehicle is parked or stored in violation of subsections 10.7.1, 10.7.2, 10.7.3, 10.7.4 or 10.7.5 hereof, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Master Association in its discretion from time to time, the Master Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

10.7.7. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within a completely enclosed

structure which screens the sight and sound of the activity, the streets and from adjoining property. The foregoing restriction shall not be deemed to prevent the washing and polishing of any motor vehicle, boat, trailer, motor cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing, on a Lot.

10.7.8. Owners shall indemnify and hold the Master Association and any Subassociation harmless with respect to any claim(s) for damage or loss resulting from any vehicle parked in violation of any traffic and parking rules and regulations, or abandoned within the Community; further, Owners waive any rights that they may have under any state or local laws or ordinances in such circumstances as against the Master Association or any Subassociation.

Section 10.8. *Nuisances.*

No nuisance shall be permitted which is visible within or otherwise affects the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of the Community or any portion thereof. As used herein, the term "nuisance" shall include each violation of this Master Declaration, the Articles of Incorporation, Bylaws, rules, regulations, standards and/or guidelines of the Master Association or the Architectural Review Committee, but shall not include any activities of Master Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Community.

No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no unlawful use shall be permitted or made of the Community or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or any portion thereof, shall be observed.

Section 10.9. *No Hazardous Activities; No Hazardous Materials or Chemicals.*

No activities shall be conducted on any Lot, or within Improvements constructed on any Lot, which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace, or except such campfires or picnic fires on property which may be designated for such use by the Master Association. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 10.10. *No Annoying Lights, Sounds or Odors.*

No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others. Further, no annoying light, sound or odor shall be permitted in any portion of the Community that may be seen, heard or smelled from any adjoining portion of the Community.

Section 10.11. *Restrictions on Trash and Materials.*

10.11.1. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind (hereinafter, generally referred to as "refuse") shall be kept stored, or allowed to accumulate on any Lot, nor shall deposit on, or accumulation of such items by deposit on, a street or driveway be permitted except as otherwise provided in this Master Declaration.

10.11.2. All refuse must be placed in a receptacle designated for refuse and recycling collection and (except on collection day(s)) must be stored in a garage or alternately, at the side or rear of any home constructed on a Lot. All equipment or receptacles for the storage or disposal of refuse shall be kept and maintained in a clean and sanitary condition, and shall not be unsightly.

10.11.3. Accumulation of refuse in a manner that is visible from any other portion of the Community is prohibited.

Section 10.12. *Lots to be Maintained.*

Subject to Section 10.4 hereof (Temporary Structures; Unsightly Conditions), each Lot shall at all times be kept in a clean and sightly condition by the occupants thereof.

Section 10.13. *Leases.*

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Lot, or any portion thereof, as long as all leases are in writing and provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to this Master Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Master Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease. The Master Association has authority to charge fines and additional fees, and to receive reimbursement of costs from the Owner of a Lot for failure of a tenant or lessee of the Lot to comply with any of such documents. Such fines, additional fees and reimbursements shall be the personal obligation of the Owner of the Lot, in the same manner as assessments under Section 4.1 of this Master Declaration (Personal Obligation for Assessments), shall be the basis for a lien of for enforcement action and, if unpaid, shall be subject to all of the terms and provisions applicable to assessments as provided in Article 4 of this Master Declaration (Assessments), including without limitation, interest, late charges, attorney's fees and lien rights.

Section 10.14. *Landscaping of Lots.*

Within one (1) year after initial conveyance of each Lot (on which a single-family detached home is located) by the Master Declarant or a Builder to an Owner other than the Master Declarant or a Builder, the Owner of each such Lot shall install landscaping (which shall include any landscaping deemed to be approved when constructed, erected, placed, located or installed in complete conformity with the provisions of any guidelines or standards adopted by the Architectural

Review Committee) on all unlandscaped portions of such Lot which are not covered by a dwelling unit, and such Owner shall be responsible for maintaining such landscaping in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping; provided, however, that any or all of the foregoing may be permitted or required, in a Supplemental Declaration. If any Owner of a Lot fails or refuses to install landscaping, as provided above, then the Master Association may, at the direction of the Board of Directors and after giving the notice provided for in Section 8.2 of this Master Declaration (Master Association's Right to Repair, Maintain and Replace), enter upon such Owner's Lot and install the landscaping required by any guidelines or standards adopted by the Architectural Review Committee. The costs and expenses incurred by the Master Association as a result of the Master Association installing such landscaping shall be the personal obligation of the Owner(s) of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article 4 of this Master Declaration, including without limitation, interest, late charges, attorney's fees and lien rights. Additionally, in the event any Owner fails or refuses to maintain the landscaping on such Owner's Lot, as provided above, then the Master Association may, at the direction of the Board of Directors and after once giving the notice provided for in Section 8.2 of this Master Declaration (Master Association's Right to Repair, Maintain and Replace), enter upon such Owner's Lot in order to perform such maintenance activities. The costs and expenses incurred by the Master Association as a result of the Master Association maintaining such landscaping shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article 4 of this Master Declaration (Assessments), including without limitation, interest, late charges, attorney's fees and lien rights.

**ARTICLE 11.
PROPERTY RIGHTS IN THE COMMON AREA**

Section 11.1. *Owners' Easements of Enjoyment.*

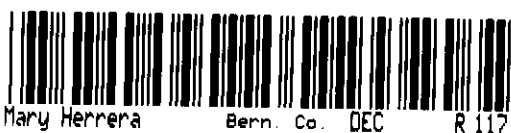
Subject to this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to such Owner's Lot and for use for all other purposes, in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 11.2. *Extent of Owners' Easements.*

Subject to the other provisions of this Article, the rights and easements of enjoyment created hereby are subject to the following: the Common Area may not be used in any manner which violates the statutes, rules, or regulations of any governmental authority with jurisdiction over the Common Area; and no Owner may place any structure on the Common Area. In addition, such rights and easements are subject to the following rights of the Master Association:

11.2.1. the right of the Master Association to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan; and

11.2.2. the right of the Master Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and



11.2.3. the right of the Master Association to promulgate and publish rules and regulations, and of the Architectural Review Committee to promulgate standards, guidelines, rules and regulations, with which each Member shall strictly comply, including, but not limited to, the right to regulate and/or restrict vehicular parking and Improvements; and

11.2.4. the right of the Master Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Master Declaration or the Master Association's Bylaws or rules and regulations; and

11.2.5. the right of the Master Association to dedicate or transfer all or any part of the Common Area owned by the Master Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. Notwithstanding the foregoing, the granting of permits, licenses and easements for utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection; and

11.2.6. the right of the Master Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Board of Directors may deem to be useful, beneficial or otherwise appropriate; and

11.2.7. the right of the Master Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

Section 11.3. *Use of Common Area by Master Declarant.*

An easement is hereby granted to the Master Declarant on, over and through the Common Area as may be reasonably necessary for the purpose of exercising or discharging any of Master Declarant's rights or obligations or exercising any Special Master Declarant Rights, and no Owner shall engage in any activity which will temporarily or permanently interfere with the Master Declarant's easements on, over and through the Common Area.

Section 11.4. *Delegation of Use.*

Any Owner may delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his Lot.

Section 11.5. *Payment of Taxes or Insurance by Security Interest Holders.*

Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may be or have become a lien against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Master Association.

Section 11.6. *Conveyance or Encumbrance of Common Area.*

Portions of the Common Area may be conveyed or subjected to a Security Interest by the Master Association only in accordance with the provisions of this Master Declaration.

Section 11.7. *Designation of Common Area.*

Master Declarant in recording this Master Declaration has designated certain areas of land as Common Area intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Master Declaration and other applicable documents. The Common Area now or hereafter owned by the Master Association are not dedicated hereby for use by the general public.

Section 11.8. *Duty to Accept Property and Facilities Transferred by Master Declarant.*

The Master Association shall accept title to any property, including Improvements thereon, as well as personal property, equipment, and easements, transferred to the Master Association by the Master Declarant, together with responsibility to perform all duties and functions of the Master Association which are set forth in this Master Declaration or otherwise assumed by the Master Association. As of the date of recording of this Master Declaration, interests which are planned to be transferred by the Master Declarant to the Master Association are planned to consist only of easements and/or fee simple title to Common Area to be located in the property described on the attached Exhibit A and/or the Annexable Area.

**ARTICLE 12.
ANNEXATION; WITHDRAWAL; REPLATTING**

Section 12.1. *Annexation; Withdrawal.*

Additional property may be annexed to this Master Declaration with the consent, at the time such annexation is to be effective, of Members casting sixty-seven percent (67%) of the Master Association votes and with the consent, at the time such annexation is to be effective, of the owner of the property to be annexed.

12.1.1. Notwithstanding the foregoing, the Master Declarant may annex to this Master Declaration the Annexable Area or any portion(s) thereof, until twenty-five (25) years after recording of this Master Declaration, without consent of any other Owners, Security Interest Holders, or any other Person; however, such annexation is subject to a determination by HUD or VA (if the Master Declarant desires to attempt to obtain HUD or VA approval of the property being annexed and if HUD or VA require such approval) that the annexation is in accord with the general plan approved by them and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Each annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the County Clerk of the County in which the annexed property is located, which document:

12.1.1.1. shall provide for annexation to this Master Declaration of the property described in such Annexation of Additional Land;

12.1.1.2. shall reallocate the Allocated Interests; and

12.1.1.3. may include such other provisions as the Master Declarant deems appropriate. Other provisions that may be included in an Annexation of Additional Land or Supplemental Declaration include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions, in addition to or different from those contained elsewhere in this Master Declaration, that apply or will apply to some or all of the property that is thereby being annexed to this Master Declaration. Any of such other provisions referenced in this subsection may be amended with the consent of the Owners of sixty-seven percent (67%) of the Lots to which such other provisions apply.

12.1.2. In addition to the rights contained above, and notwithstanding anything to the contrary contained in this Master Declaration, the Master Declarant may annex to this Master Declaration the Annexable Area or a portion(s) thereof until that date which is twenty-five (25) years after recording of this Master Declaration, by recording a deed by which property is conveyed by the Master Declarant. Each of such deeds shall be deemed to include the following provisions whether or not such provisions are expressly contained in such deed: the property described in such deed shall be annexed to this Master Declaration; and the Allocated Interest appurtenant to such Lot shall be that fraction determined in accordance with Section 1.2 of this Master Declaration. Each annexation which is accomplished by recording of a deed in accordance with this subsection should be deemed to be effective from the date of recording of such deed. However, a deed which does not convey property from the Master Declarant shall not be an annexing deed as provided in this subsection, nor shall a deed which otherwise complies with this subsection if the same states on its face that it is not an "annexing deed".

12.1.3. The Master Declarant hereby reserves the right, from time to time, to record one or more documents in order to clarify the effect of any annexation(s), including without limitation any matters contained in Article 12 of this Master Declaration. Each such document(s), if any such document(s) are recorded by the Master Declarant in its discretion, may state the legal description(s) of any property and may include such other provisions which the Master Declarant, in its discretion, may determined in order to clarify any matter having to do with annexation of such property to this Master Declaration.

12.1.4. Except as otherwise specifically stated in an Annexation of Additional Land or Supplement Declaration, as provided in Article 12 of this Master Declaration, all provisions of this Master Declaration, including (as to Lots), but not limited to, those provisions regarding obligations to pay assessments to the Master Association and any right to cast votes as Members, shall apply to the annexed property immediately upon the effective date of the Annexation of Additional Land or other document of annexation (which shall constitute the date of recording of the Annexation of Additional Land or other annexation document, unless otherwise stated therein), unless and to the extent any

provisions of this Master Declaration are, as to the annexed property or any portion thereof, changed or deleted by such Annexation of Additional Land.

12.1.5. All property which has been subjected to this Master Declaration may be withdrawn from this Master Declaration by Master Declarant as long as such property is owned by the Master Declarant. Each such withdrawal may be accomplished, if at all, by the execution and recordation of a Notice of Withdrawal which describes the property that is being withdrawn from this Master Declaration. Each such withdrawal shall be effective upon recording of the Notice of Withdrawal and, upon such recording, the property described therein shall no longer be subject to this Master Declaration. The Master Declarant's right to withdraw any property shall expire and terminate upon automatic termination of the Special Master Declarant Rights as provided in Section 1.24 of this Master Declaration.

Section 12.2. *Subdivision or Replatting of Lots.*

The Master Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Master Declarant and each such subdivision or replatting may change the number of Lots in the Community. Without limiting the generality of the foregoing, the Master Declarant reserves the right to move any Lot line(s) on Lot(s) owned by the Master Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed. The rights provided for in this Section shall terminate automatically upon termination of the Special Master Declarant Rights, as provided in Section 1.24 of this Master Declaration.

Section 12.3. *Master Declarant's and Builder's Use.*

Notwithstanding anything to the contrary contained in this Master Declaration, it shall be expressly permissible and proper for the Master Declarant, its employees, agents, and contractors, as well as any Builder (but only with the written consent of the Master Declarant), to perform such reasonable activities, and to maintain upon portions of the Lots and the Common Area such facilities as the Master Declarant deems appropriate, specifically including, without limiting the generality of the foregoing, maintaining signs, sales offices, management offices, model units and construction offices, in such numbers, of such sizes, and at such locations as the Master Declarant determines in its reasonable discretion from time to time. Nothing contained in this Master Declaration shall limit the rights of the Master Declarant to conduct all construction, sales, and marketing activities as the Master Declarant deems necessary or desirable and to use the easements provided in this Master Declaration for those and other purposes. Further, nothing contained in this Master Declaration shall limit the rights of the Master Declarant or require the Master Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property or to construct, alter, demolish or replace any Improvements; (b) to use any Improvements on any property as sales offices, management offices, model units and/or construction offices in connection with the development, construction or sale of any property; and/or (c) to require the Master Declarant to seek or obtain the approval of the Architectural Review Committee, the Board of Directors, or the Master Association for any activity.

**ARTICLE 13.
GENERAL PROVISIONS**

Section 13.1. *Duration, Revocation, Amendment and Termination of Master Declaration.*

13.1.1. Each and every provision of this Master Declaration shall run with and bind the land perpetually from the date of recording of this Master Declaration. Except as otherwise provided in this Master Declaration, this Master Declaration may be amended or terminated by the affirmative vote or agreement of Members holding at least sixty-seven percent (67%) of the Allocated Interests; provided, however, while Master Declarant owns any portion of the property described on the attached Exhibits A and D, no amendment or termination may be made except with the affirmative vote or agreement of Members holding ninety percent (90%) of the Master Association votes.

13.1.2. Notwithstanding anything to the contrary contained in this Master Declaration, this Master Declaration, the Articles of Incorporation and Bylaws of the Master Association, may be amended in whole or in part, at any time from time to time, by the Master Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirements, standards, or guidelines of any of the Agencies or of recognized secondary mortgage markets. Such right of amendment shall terminate automatically as provided in Section 1.24 of this Master Declaration (Special Master Declarant Rights).

13.1.3. Notwithstanding anything to the contrary contained in this Master Declaration, this Master Declaration, the Articles of Incorporation and Bylaws of the Master Association, may be amended in whole or in part, at any time from time to time, by the Master Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct clerical, typographical, or technical errors, or to clarify any of the provision(s) of any such documents. Such right of amendment shall terminate automatically as provided in Section 1.24 of this Master Declaration (Special Master Declarant Rights).

13.1.4. Except as to amendments which may be made by the Master Declarant, amendments to this Master Declaration may be prepared, executed, recorded, and certified by any officer of the Master Association designated for that purpose or, in the absence of designation, by the president of the Master Association. Such certification shall, in the case of an amendment requiring the approval of Owners, certify that the Master Association has received the requisite approvals. Amendments to this Master Declaration which may be made by the Master Declarant pursuant to this Master Declaration, may be signed by the Master Declarant and shall require no other signatory.

Section 13.2. *HUD or VA Approval.*

During the 75% Control Period, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more first Security Interests and HUD or VA require such approval: annexation of additional

property (if the Master Declarant desires to obtain HUD or VA approval of the property that is being annexed and HUD or VA require such approval); amendment of this Master Declaration, except as provided in Article 12 of this Master Declaration (Annexation; Withdrawal; Replatting), termination of this Community; or merger or consolidation of the Master Association, except as provided in Section 3.14 of this Master Declaration (Merger).

Section 13.3. *Enforcement.*

Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Master Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Master Association, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. The Master Association, any Subassociation and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings. For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of the Master Declaration, Articles of Incorporation, Bylaws or rules and regulations of the Master Association, the party prevailing on such claim shall be entitled to or awarded its reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim. However, failure by the Master Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.4. *Minor Violations of Setback Restrictions.*

If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Master Declaration. A "minor violation," for the purpose of this Section, is a violation of not more than four (4) feet beyond the required setback lines or Lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 13.5. *Liability for Failure of Master Association to Maintain an Action.*

No director or officer of the Master Association shall be liable to any Person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (a) the director or officer was acting within the scope of such director or officer's duties; (b) the director or officer was not acting in bad faith; and (c) the act or omission was not willful, wanton or grossly negligent.

Section 13.6. *Limitation on Liability.*

The Master Association, the Board of Directors, the Architectural Review Committee, the Master Declarant, any Builder, and the officers, directors, members, partners, agents and employees of the same, shall not be liable to any Person for any action or for any failure to act unless the action

or failure to act was not in good faith and was done or withheld with malice. The release and waiver set forth in Section 13.14 of this Master Declaration (Waiver), below, shall apply to this Section.

Section 13.7. *No Representations, Guaranties or Warranties.*

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Master Declarant, the Master Association, the Board of Directors, the Architectural Review Committee, any Builder, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing. The release and waiver set forth in Section 13.14 of this Master Declaration (Waiver) below, shall apply to this Section.

Section 13.8. *Disclaimer Regarding Safety.*

MASTER DECLARANT, THE BUILDERS, THE MASTER ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT MASTER DECLARANT, THE BUILDERS, THE MASTER ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE MASTER ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH IN SECTION 13.14, BELOW, SHALL APPLY TO THIS SECTION.

Section 13.9. *Notice of Sale or Transfer of Title.*

Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other non-proprietary information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, accruing until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Section 13.10. *Registration of Mailing Address.*

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the Master Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a

Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Master Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Master Association during the 75% Control Period shall be sent by registered or certified mail, postage prepaid, to CR HOME NM, 6330 RIVERSIDE PLAZA DRIVE SUITE 200 ABB, NM 87120, unless such address is changed by the Master Association during the 75% Control Period; subsequent to expiration of the 75% Control Period, the Master Association shall notify the Owners of a different address for notices.

Section 13.11. *Transfer of Special Master Declarant Rights.*

A Special Master Declarant Right created or reserved under this Master Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Community is located.

Section 13.12. *Eminent Domain.*

The taking by eminent domain of a Lot(s) or Common Area(s), Common Element(s), or any portion thereof, shall be done in accordance with applicable law.

Section 13.13. *No Partition.*

Except as permitted in this Master Declaration, there shall be no judicial partition of the Common Area. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Master Declaration.

Section 13.14. *Waiver.*

By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Master Declarant, the Master Association, the Board of Directors, the Architectural Review Committee, each Builder, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Master Declaration, including without limitation, those contained in Sections 13.5 (Liability for Failure of Master Association to Maintain an Action), 13.6 (Limitation on Liability), 13.7 (No Representations, Guaranties or Warranties) and 13.8 (Disclaimer Regarding Safety), above.

Section 13.15. *Headings.*

The Article, Section and subsection headings in this Master Declaration are inserted for convenience of reference only, do not constitute a part of this Master Declaration, and in no way define, describe or limit the scope or intent of this Master Declaration or any of the provisions hereof.

Section 13.16. Gender.

Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

Section 13.17. Run with Land; Binding Upon Successors.

The benefits, burdens and all other provisions contained in this Master Declaration shall be covenants running with and binding upon this Community and all real property and Improvements which are now or hereafter become a part thereof. The benefits, burdens and all other provisions contained in this Master Declaration shall be binding upon, and inure to the benefit of the Master Declarant, the Master Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

Section 13.18. Severability.

All provisions of this Master Declaration, the Articles of Incorporation and Bylaws of the Master Association, are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 13.19. Conflict of Provisions.

In case of any conflict between this Master Declaration and any Supplemental Declaration, Articles of Incorporation or Bylaws of any Subassociation, this Master Declaration shall control. In case of any conflict between this Master Declaration and the Articles of Incorporation or Bylaws of the Master Association, this Master Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Master Association, the Articles of Incorporation shall control.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal this 1st day of NOVEMBER, 2005.

MASTER DECLARANT:

KB HOME NEW MEXICO INC., a New Mexico corporation

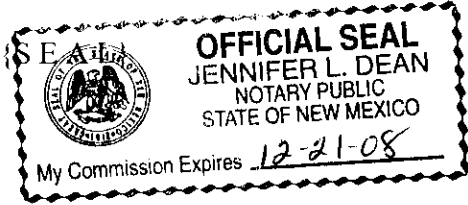
By: [Signature]
Title: DIRECTOR-LAND

STATE OF New Mexico)
)
COUNTY OF Bernalillo)

ss.

The foregoing instrument was acknowledged before me this 1 day of November, 2005, by Robert H. Coleman as Director of land of KB HOME NEW MEXICO INC., a New Mexico corporation.

Witness my hand and official seal.



Notary Public Jennifer L. Dean
My Commission Expires: 12-21-08

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EXHIBIT A
TO
MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ANDERSON HEIGHTS

(Community)

Parcels 2-A, 2-B, 2-C, & 2-D of the plat of LANDS OF RIO BRAVO PARTNERS, Albuquerque, Bernalillo County, New Mexico, within Section 5, Township 9 North, Range 2 East N.M.P.M., Bernalillo County, 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 17, 1996 in Plat Book 96C, folio 160.

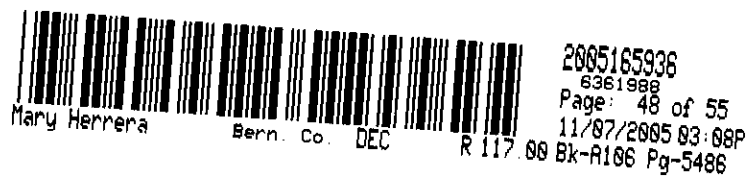


EXHIBIT B
TO
MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ANDERSON HEIGHTS

(Common Area)



Mary Herrera

Bern. Co. DEC

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EXHIBIT C
TO
MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ANDERSON HEIGHTS

(Common Elements)

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EXHIBIT D
TO
MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ANDERSON HEIGHTS

(Part of Annexable Area)


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