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*DECLARATION OF
TAYVIS ESTATES TOWNHOMES,
A PRIVATE GATED COMMUNITY*

Restrictions indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin are hereby deleted to the extent such restrictions violate 42 USC 3604(c)

11-10-08

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TAYVIS ESTATES TOWNHOMES

This declaration is made this 15th day of November, 2007, by TAYVIS DEVELOPMENT, LLC, a New Mexico limited liability company ("Declarant").

**ARTICLE I
SUBMISSION; DEFINED TERMS**

1.1 Submission of Property. Declarant, owner in fee simple of TAYVIS ESTATES, in the city of Las Cruces, Dona Ana County, New Mexico, as shown and designated on the plat thereof filed in the office of the county clerk of Dona Ana County on October 26, 2006, in book 22, pages 22 through 24 of plat records, does hereby submit the above described land to all of the covenants, conditions, restrictions, reservations, easements, liens for assessments and limitations on title, more fully described herein.

1.2 Defined Terms. The following terms, as used in this Declaration are defined as follows:

(a) **"Annual Assessment"** means the Assessment levied annually pursuant to Section 8.3.

(b) **"Articles" or "Articles of Incorporation"** means the articles of incorporation for the Association, which have been filed with the New Mexico Public Regulation Commission to create the Association, as such articles may be amended or restated from time to time.

(c) **"Assessments"** means the Annual, Special and Default Assessments levied pursuant to Article VIII.

(d) **"Association"** means Tayvis Estates Homeowners' Association, a New Mexico nonprofit corporation and any successor of that entity by whatever name, charged with the duties and obligations of administering the Condominium.

(e) **"Board of Directors" or "Board"** means the board of directors of the Association, which is the executive board designated in this Declaration to act on behalf of the Association.

(f) **"Bylaws"** means the bylaws of the Association, which establish the methods and procedures of its operation; as such bylaws may be amended or restated from time to time.

(g) **"Common Elements"** means all of the Property other than the Lots, which include the clubhouse, pool, walking trails, roads and parking access.

(h) **“Common Expense(s)”** means and includes the following: (1) expenses of administration, insurance, operation, and management, repair or replacement of the Common Elements except to the extent such repairs and replacements are the responsibilities of a lot Owner as delineated in Section 9.1; (2) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws; (3) sums lawfully assessed against the Lots by the Board of Directors; and (4) any additional expenses agreed upon as Common Expenses by the Members in accordance with the Bylaws.

(i) **“Documents”** means this Declaration, the Articles, the By-Laws, and any procedures, rules, regulations or policies adopted under such documents by the Association and the Board of Directors.

(j) **“Declarant”** means TAYVIS DEVELOPMENT LLC, a New Mexico limited liability company, or its successors or assigns.

(k) **“Declarant Control Period”** means the period during which Declarant may appoint and remove the Directors and officers of the Association as permitted. The Declarant Control Period will begin on the date this Declaration is first recorded in the office of the County Clerk of Doña Ana County, New Mexico, and will end no later than (1) 180 days after conveyance of 90% of the Lots, to persons other than Declarant, (2) two years after Declarant has ceased to offer Lots for sale in the ordinary course of business, or (3) the date on which Declarant voluntarily terminates the Declarant Control Period by recording a notice to that effect in the office of the County Clerk of Doña Ana County, New Mexico, whichever of the foregoing dates or events occurs first. After the termination of the Declarant Control Period, Declarant, if still a Lot Owner, will have all the rights and duties ordinarily given to Members under this Declaration.

(l) **“Default Assessment”** means the Assessments levied by the Association pursuant to Section 8.6.

(m) **“Default Rate”** means a rate per annum equal to the lesser of (1) five percentage points plus a varying rate per annum that is equal to the *Wall Street Journal* prime rate as quoted in the money rates section of the *Wall Street Journal* which is also the base rate on corporate loans at large Loted States money center commercial banks, from time to time as its prime commercial or similar reference interest rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (2) the maximum rate permitted by applicable law.

(n) **“Director”** means a member of the Board.

(o) **“Eligible Mortgage Holder”** means the holder of any First Mortgage who has notified the Association in writing of its name and address and status as a holder of a First Mortgage. Such notice will be deemed to include a request that the Eligible Mortgage Holder be

given the notices and other rights described in Article XV.

(p) **"First Mortgage"** Means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

(q) **"First Mortgagee"** means the holder, insurer, or guarantor of any First Mortgage.

(r) **"General Common Elements"** means the Common Elements, except for Limited Common Elements.

(s) **"Improvement"** shall mean and include any structures and appurtenances thereof of every type and kind, including, but not limited to, the following: buildings, storage and accessory buildings, garages, driveways, parking areas, courtyard walls, fences, stairs, decks, poles, signs, exterior air conditioning or heating units, utility meters, water softener fixtures or equipment, dog houses, satellite dishes, solar panels, and play equipment (*e.g.*, swings, slides, playhouses, treehouses, jungle gyms, and basketball backboards). "Improvement" shall also mean exterior additions, changes or alterations of any nature to the Lots, buildings or other existing improvements, including, without limitation, changes in color, changes or additions to driveway or walkway surfaces and landscaping modifications. "Improvement" shall not include trees, plants, shrubs, grass, or other plants, but shall include structures of any kind, type, or nature used in connection with landscaping such as trellises, planter boxes, and the like.

(t) **"Limited Common Elements"** means those parts of the Common Elements, designated in this Declaration, or on the Plat, for the exclusive use of one or more but fewer than all of the Lots, Notwithstanding the foregoing, with respect to Limited Common Elements, no reference thereto need be made in any instrument of conveyance, encumbrance, or other instrument.

(u) **"Member"** means any Lot Owner.

(v) **"Mortgage"** means any mortgage, deed of trust or other document which is recorded in the office of the County Clerk of Doña Ana County, New Mexico, and which encumbers any portion of the Property or interest therein as security for payment of a debt or obligation.

(w) **"Mortgagee"** means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

(x) **"Person"** (whether Or not in capitalized form) means a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or combination thereof.

(y) **“Plat”** means the plat of the TAYVIS ESTATES.

(z) **“Property”** is defined in Section 1.1.

(aa) **“Residence”** means the individual residences located on the 84 individual lots and Tracts A and B multi-family units as shown on the plat of TAYVIS ESTATES.

(ab) **“Special Assessment”** means an Assessment levied pursuant to Section 8.5 on an irregular basis.

(ac) **“Special Declarant Rights”** is defined as set forth in Article V.

(ad) **“Special Declarant Rights Period”** means the period ending 21 years after the date this Declaration is first recorded in the office of the County Clerk of Doña Ana County, New Mexico.

(ae) **“Lot”** means one of the 84 individual Lots, designated for separate ownership or occupancy, the boundaries of which are shown on the plat. Tract A will also be treated as one lot, one vote. Tract B will be treated as one lot, one vote. However both Tract A and B will be required to pay monthly fees and assessments based on the number of occupied units in each complex.

(af) **“Lot Owner”** means the owner of record (including Declarant, and including a contract seller, but excluding a contract purchaser), whether one or more persons, of fee simple title to any Lot, but does not mean or refer to any person who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgage, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

ARTICLE II LOT BOUNDARIES

2.1 Division. The Property consists of (a) 84 Residential Lots, and (b) the Common Elements, and (c) the Tracts A and B. The location of the Lots, their identifying numbers, and their dimensions are shown on the Plat.

2.2 Combination of Lots. The Owner of a Lot may acquire title to the adjacent Lot and combine the two Lots into one Lot, subject to the requirements of the Association and other applicable laws and regulations of the City of Las Cruces, New Mexico. Every agreement and recorded instrument for the combination of Lots will make adequate provision for the preservation of easements previously established with respect to the Lots. Further, the voting rights and liability for payment of Assessments related to such Lots will not be adjusted or reallocated.

2.3 Partition or Subdivision of Lots. A Lot may not be partitioned or subdivided.

ARTICLE III COMMON ELEMENTS

3.1 Allocation of Interests in Common Elements. The Lot Owner of each Residential Lot shall own an undivided interest in the Common Elements. This also includes the Lot Owner of Tracts A and B.

3.2 Reserved Common Elements. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in designated Common Elements to the Association or to any Lot Owners and to establish a reasonable charge to those Lot Owners for the use and maintenance thereof. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements.

3.3 Alteration of Common Elements by Declarant. Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the Common Elements, including, without limitation, any equipment, fixtures and appurtenances, when in Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

ARTICLE IV EASEMENTS

In addition to the easements created by the subdivision plat, the following easements are hereby granted:

4.1 Easement to Facilitate Sales. All Lots shall be subject to an easement in favor of Declarant. Declarant reserves the right to use any Common Elements and Lots owned or leased by Declarant as models, management offices, sales and leasing offices for this project or customer service offices. Declarant reserves the right to relocate the same from time to time within the development; upon relocation, the furnishings thereof maybe removed. Declarant further reserves the right to maintain on the Property advertising signs that comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of Declarant. Declarant shall have the right to restrict the use of certain Common Element parking spaces for sales purposes and to use those spaces for sales purposes. Further, Declarant shall have the right to erect temporary offices on certain Common Elements or Lots owned by Declarant for models, sales, management, customer service and similar purposes. This easement shall continue until Declarant has conveyed all Lots to Owners other than Declarant.

4.2 Easement for Access and Support.

(a) **Access.** Declarant reserves in favor of itself and the managing agent and/or any other person authorized by the Board of Directors the right of access to any Lot. In case of emergency, such entry shall be immediate whether or not the Lot Owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to perform warranty-related work (for the benefit of the Lot being entered, other Lots, or the common Elements) whether or not the Lot Owner consents or is present at the time.

4.3 Declarant's Right to Grant Easements. Declarant shall have the right, prior to the termination of the Declarant Control Period, to grant and reserve easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities.

4.4 Easement for Encroachments. The development, and all portions of it, are subject to easements hereby created for encroachments (so long as such encroachments exist) between Lots and the Common Elements as follows:

(a) In favor of all Lot Owners so that they shall have no legal liability when any part of the Common Elements encroaches upon a Lot;

(b) In favor of each Lot Owner of each Lot so that the Lot Owner shall have no legal liability when any part of his Lot encroaches upon the Common Elements or upon another Lot;

(c) In favor of all Lot Owners, the Association, and the Lot Owner of any encroaching Lot for the maintenance and repair of such encroachments.

Encroachments referred to this Section include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the buildings constructed on the Property, by error in the Plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction. Such encroachments shall not be considered to be encumbrances upon any part of the development.

4.5 Common Elements Easements.

(a) **General Common Elements.** Every Lot Owner, including residents of A and B and their family members, guests, tenants, and invitees of each Lot Owner shall have a perpetual right and easement of access over, across, and upon the General Common Elements for the purpose of getting to and from the Lot of such owner, the parking areas and the road ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass

with the transfer of title to such Lot; provided, however, that such right and easement shall be subject to the following:

(1) The covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration;

(2) The right of the Association to adopt, from time to time any and all rules and regulations concerning vehicular traffic and travel upon, in, under, and across the development; and

(3) The right of the Association to adopt, from time to time, any and all rules and regulations concerning the Common Elements as the Association may determine is necessary or prudent.

(b) **Limited Common Elements.** Subject to the provisions of this Declaration, every Lot Owner shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to his Lot, if any.

4.6 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements may be conveniently accessible only through the Lots. The owners of other Lots and the Association shall have the irrevocable right, to be exercised by the Association as the Lot Owner's agent, to have access to each Lot and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Lot. Subject to the provisions of Section 7.2, damage to any part of a Lot resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repair within another Lot at the instance of the Association or of Lot Owners shall be a Common Expense.

4.7 Public Easements. The Association shall have the right to dedicate, sell or otherwise transfer all or any part of the Common Elements to any public, governmental, or quasi-governmental agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Lot Owners. However, such dedication or transfer shall not be effective unless an instrument has been signed by Lot Owners who represent at least 80% of the total allocated votes in the Association. Notwithstanding the preceding sentence, the granting of easements for public utilities, for access by pedestrians or other uses related to the development, or for other public purposes not inconsistent with the intended use of the Common Elements shall not be deemed a transfer requiring such consent of the Lot Owners within the meaning of this Section.

4.8 Storm Water Retention Easement. The Association has an easement for the purpose of draining storm water onto the ponding area within Tract A, Onate Storage corrected

plat, filed on March 18, 2008, in book 22, pages 436 and 437 of plat records, which adjoins the development, and has the obligation to maintain, repair, clean and service the same at the Association's expense.

4.9 Walking Trail Easement. Every Lot Owner and the family members, guests, tenants, and invitees of each Lot Owner shall have a perpetual, non-exclusive easement over, across, and upon the trail and maintenance road for the purpose of recreational walking, jogging or running, which right and easement shall be appurtenant to and pass with the transfer of title to such Lot; provided, however, that such right and easement shall be subject to the following:

(a) The covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration; and

(b) The right of the Association to adopt, from time to time any and all rules and regulations concerning use of such trail as the Association may determine is necessary or prudent.

ARTICLE V SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

5.1 General Provisions. Until the expiration of the Declarant Control Period, Declarant will have the following Special Declarant Rights with respect to all of the Property:

(a) **Completion of Improvements.** The right to complete improvements indicated on the Plat.

(b) **Development Rights.** The right to exercise all "development rights," with respect to all of the Property, including, without limitation, the right or combination of rights hereby reserved by Declarant, as follows:

(1) The right to use easements through the Common Elements for making improvements within the development.

(2) The right to subdivide Lots or convert Lots into Common Elements.

(3) The right to create Lots, Common Elements or Limited Common Elements within the development.

(c) **Association Directors and Officers.** The right to appoint or remove any officer or director of the Association, as provided in this Declaration, during the Declarant Control Period.

(d) **Sales Activities.** The right to maintain sales and leasing offices, management offices, customer service offices, signs advertising the development and models.

5.2 Right to Lease or Sell Lots. Declarant shall own in fee simple each Lot to which legal title is not conveyed or otherwise transferred to another person. Declarant retains the right to enter into leases with any persons for the occupancy of any of the Lots owned by Declarant.

5.3 Order of Exercise of Development Rights. The Development Rights may be exercised with respect to different parcels of real estate at different times. No assurances are made by Declarant as to the portions of the real estate subject to the Development Rights where Declarant will exercise its Development Rights or the order in which those portions may be subjected to the exercise of each Development Right. The exercise of a Development Right as to one portion of the real estate subject to such right will not operate to require Declarant to exercise such Development Right with respect to any other portion of such real estate.

ARTICLE VI ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

6.1 Membership. Every Lot Owner, including Tract A and B's lot owner, but excluding Tract A and B residents, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. No Lot Owner, whether one or more persons, will have more than one membership per Lot owned, but all of the persons owning each Lot will be entitled to rights of membership and use and enjoyment appurtenant to such ownership.

6.2 Transfer of Membership. A Lot Owner shall not transfer, pledge, or alienate his membership in the Association in anyway, except upon the sale or encumbrance of his Lot and then only to the purchaser or Mortgagee of his Lot.

6.3 Classes of Membership. The Association shall have one (1) class of membership, which shall be composed of all Residential Lot Owners.

6.4 Voting Rights. Each Member, including Tract A and B owner, shall be entitled to vote on Association matters on the basis of the number of Residential Lots owned by such Member.

When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one person or alternative persons as the Lot Owners among themselves determine. If only one of the multiple owners of a Lot is present at a meeting in person or by proxy, such owner is entitled to cast the vote allocated to that Lot. If more than one of the multiple Lot Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the Lot Owners, and if a majority of the Lot Owners cannot agree, then the Lot Owners of such Lot will not be entitled to vote. There is majority agreement if any one of the multiple Lot Owners casts the vote allocated to his Lot without protest being made promptly to

the person presiding over the meeting by any of the other Lot Owners of that Lot.

Any Lot Owner of a Lot that is leased may assign his voting right to the tenant, provided that the tenant is appointed to vote on behalf of the Lot Owner by proxy and the proxy is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

6.5 Appointment of Officers and Directors by Declarant. Until the expiration of the Declarant Control Period or as provided in the By-laws for the Homeowner's Association, Declarant will retain the exclusive powers to appoint and remove Directors and officers of the Association.

Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove Directors and officers of the Association before the end of the Declarant Control Period by providing a notice to that effect to the Association and otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Declarant Control Period, Declarant may require throughout the balance of the Declarant Control Period (had it not been voluntarily terminated) that specified actions of the Association or the Board, as described in an instrument executed and recorded by Declarant in the office of the County Clerk of Dona Ana County, New Mexico, be approved by Declarant before those actions become effective.

After the Declarant Control Period, the Directors and the officers of the Association will be elected as provided in the Bylaws.

6.6 Notice of Membership. Any person, on becoming a Member, will furnish the Secretary of the Association with a photocopy or certified copy of the recorded instrument or such other evidence as may be specified by the Board under the Bylaws or the Association rules, vesting the person with the interest required to make him a Member. At the same time, the Member will provide the Association with the single name and address to which the Association will send any notices given pursuant to the Documents. The Member will state in such notice the voting interest in the Association to which the Member believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice, including any change of ownership, the Member will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Member.

6.7 Owners' and Association's Addresses for Notices. All Lot Owners of each Lot shall have one and the same registered mailing address to be used by the Association or other Lot Owners for notices, demands, and all other communications regarding Association matters. The Lot Owner or Lot Owners of a Lot shall furnish such registered address to the Secretary of the

Association within five days after transfer of title to the Lot to such Lot Owner or Lot Owners. Such registration shall be in written form and signed by all of the Lot Owners of the Lot or by such persons as are authorized by law to represent the interests of all Lot Owners of the Lot.

If no address is registered or if all of the Lot Owners cannot agree, then the address of the Lot shall be deemed their registered address until another registered address is furnished as required under this Section.

If the address of the Lot is the registered address of its owners, then any notice shall be deemed duly given if delivered to any person occupying the Lot or sent to the Lot by any other means specified for a particular notice in any of the Documents, or if the Lot is unoccupied, if the notice is held and available for the Lot Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the address of the Association or such other address as the Board may designate from time to time by a notice delivered to all Lot Owners in accordance with this Section.

Unless applicable provisions of this Declaration require otherwise, all notices given under this Declaration shall be sent by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective one business day following timely deposit with a courier service; or regular, registered or certified mail, postage prepaid, which shall be effective three days after deposit in the U.S. mail.

ARTICLE VII POWERS AND DUTIES OF ASSOCIATION

7.1 Association Management Duties. Subject to the rights and obligations of Declarant and other Lot Owners as set forth in this Declaration, the Association shall be responsible for the Administration and operation of the development and for the exclusive management, control, maintenance, repair, replacement and improvement of the General Common Elements (including facilities, furnishings, and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees of such management operation, maintenance and repair by the Association shall be part of the Assessments, and prior approval of the Lot Owners shall not be required in order for the Association to pay any such expenses, costs and fees. The Board of Directors will exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved to Declarant or the other Members by this Declaration, the other Documents, or other applicable law.

7.2 Owner's Negligence. In the event that the need for maintenance, repair or

replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Lot Owner, or by any member of a Lot Owner's family, or by a Lot Owner's guests, invitees, or tenants, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Lot Owner. If the Lot Owner fails to repay the expenses incurred by the Association within 30 days after notice to the Lot Owner of the amount owed, then the failure to so repay shall be a default by the Lot Owner under the provisions of this Section, and such expenses shall automatically become a Default Assessment enforceable in accordance with Article VIII.

7.3 Rules and Regulations.

(a) **Boards Power.** From time to time and subject to the provisions of the Documents, the Board of Directors may adopt, amend and repeal rules and regulations governing among other things and without limitation, the use and rental of the Lots and the use of the Common Elements. A copy of the rules in effect will be distributed to each Member, and any change in the rules will also be distributed within a reasonable time following the effective date of the change.

(b) **Enforcement.** The Board of Directors may provide for enforcement of the Association rules as set forth in the Bylaws. Without limiting the generality of the foregoing, the Board may suspend the voting rights of a Member after notice and hearing as provided in the Bylaws for an infraction of the rules. However, the Board of Directors shall have no liability for failing to enforce the Association rules set forth in the Bylaws.

7.4 Acquiring and Disposing of Personal Property. The Association may acquire, own, and hold for the use and benefit of all Lot Owners tangible and intangible personal property, and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Lot Owners in the same undivided proportion as their respective undivided interests in the Common Elements. Such interests shall not be transferable except with the transfer of a Lot. A conveyance of a Lot shall transfer ownership of the transferor's beneficial interest in such personal property without any reference thereto. Each Lot Owner may use such personal property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of other Lot Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Lot.

7.5 Cooperation with Others. The Association may contract or cooperate with the City of Las Cruces and the County of Doña Ana, or with other homeowners' associations or owners of nearby property as convenient or necessary to provide services and privileges, such as access to the Property, for the benefit of Lot Owners and their family members, guests, tenants and invitees. The costs associated with such efforts by the Association shall be a Common Expense.

7.6 Books and Records. The Association will make available for inspection by Lot Owners and First Mortgagees, upon request, during normal business hours or under other reasonable circumstances, current copies of the Documents, and the books, records, and financial statements of the Association prepared pursuant to the Bylaws, as well as any management agreement. The Association shall provide a copy of its financial statements for its preceding fiscal year, which shall be available within 120 days after the end of such fiscal year, to any Lot Owner or First Mortgagee who makes a written request for them. The Association may charge a reasonable fee for copying such materials. The Association shall have its financial statements audited by an independent certified public accountant if any Lot Owner or First Mortgagee requests it, provided that such Lot Owner or First Mortgagee bears the cost of the audit.

7.7 Reserve Account. The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 8.3 for maintenance, repair or replacement of the Common Elements that must be replaced on a periodic basis and for any other facilities made available to the Association that must be replaced on a periodic basis with contribution from the Association.

7.8 Working Capital Account. The Association will also administer a working capital account funded as provided in Section 8.4.

7.9 Implied Rights and Obligations. The Association will perform all of the duties and obligations imposed on it expressly by the Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Documents or reasonably necessary to satisfy any such duty or obligation. The Association may exercise any other right or privilege (a) given to it expressly by the Documents, (b) reasonably to be implied from the existence of another right or privilege given expressly by the Documents, or (c) reasonably necessary to effectuate any such right or privilege.

ARTICLE VIII ASSESSMENTS

8.1 Creation of Lien and Personal Obligation for Assessments. Declarant, by creating the Lots pursuant to this Declaration, hereby covenants, and each Lot Owner of any Lot, by accepting a deed for a Lot, whether or not it shall be so expressed in such deed or other instrument of transfer, is deemed to covenant to pay to the Association (a) Annual Assessments imposed by the Board of Directors as necessary to meet the Common Expenses of maintenance, operation, and management of the Common Elements, to fund the reserve account contemplated under Section 8.2 and to generally carry out the functions of the Association; (b) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (c) Default Assessments which may be assessed against a Lot for the Lot Owner's failure to perform an obligation under the Documents or because the Association has incurred an expense on behalf of the Lot Owner under the Documents.

All Assessments, together with fines, interest, costs, reasonable attorneys' (and legal assistants') fees and other charges allowed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made until paid.

Each such Assessment together with fines, interest, costs, and reasonable attorneys, (and legal assistants) fees and other charges allowed, shall also be the personal and individual obligation of the Lot Owner of such Lot as of the time the Assessment fails due, and two or more Lot Owners of a Lot shall be jointly and severally liable for such obligations. No Lot Owner may exempt himself from liability for any Assessments by abandonment or leasing of his Lot or by waiver of the use of enjoyment of the Common Elements. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment liens provided in this Declaration.

8.2 Purpose of Assessments. The Assessments shall be used exclusively to promote the recreation, health, safety and welfare of the Lot Owners and occupants of the development, and for the improvement and maintenance of the development and of the services and facilities located on the Property. Proper uses of the Assessments shall include, but are not limited to, the following:

- (a) Repairing, replacing, renovating and maintaining any of the Common Elements not made the responsibility of the Lot Owners by Section 7.2, Section 9.1, or other provisions of this Declaration;
- (b) Installing, maintaining, and repairing underground utilities upon, across, over, and under any part of the Property which are not conveyed to and accepted by utility companies;
- (c) Furnishing garbage, trash pickup, electricity, natural gas, water and sewer services to the Common Elements;
- (d) Obtaining and maintaining insurance in accordance with the provisions of Article XI;
- (e) Establishing and maintaining reserves for repairs, replacement, maintenance, taxes, capital improvements, and other purposes.
- (f) Repairing, replacing, renovating and maintaining any portion of the exterior of the improvements on Residential Lots that is made the responsibility of the Association by Section 9.1;
- (g) Repairing, replacing, renovating and maintaining the pool, clubhouse, walking trails, paving and roadways, entry gates and exterior fencing (that is not a part of a Lot Owner's backyard).

(h) Carrying out all other powers, rights, and duties of the Association specified in the Documents; and

(i) Generally, addressing any other expenses necessary to meet the primary purposes of the Association.

8.3 Annual Assessments.

(a) **Calculation of Annual Assessments.** The Board of Directors shall prepare a budget before the close of each fiscal year of the Association and submit the budget to the Association. Annual Assessments for Common Expenses shall be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance and operation of the Common Elements; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; front yard and common element landscaping, care of grounds, pool, clubhouse, walking trails, paving and roadways, entry gates and Common Element fences; common lighting within the Common Elements; routine renovations within the Common Elements; wages; common water and utility charges for the Common Elements; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs, and replacement of the Common Elements on a periodic basis, as contemplated under Section 8.2.

(b) **Apportionment of Annual Assessments.** Generally, each Lot Owner shall be responsible for that Lot Owner's share of the Common Expenses, which, except as specifically provided in this Declaration, shall be assessed only to the Residential Lots in proportion to the respective undivided interests in the Common Elements appurtenant to the Residential Lots, subject to the following provisions. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Lot or Lots to which that Limited Common Element is assigned, equally, or in any other proportion the Board of Directors reasonably determines. Any Common Expense or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against the Lots benefitted. If any Common Expense is caused by the misconduct of any Lot Owner, the Association may assess that expense exclusively against such Lot Owner's Lot. The total Annual Assessments of the Association shall be apportioned among the Lots as provided in this Section 8.3 and shall not be apportioned between General Common Elements and Limited Common Elements. Tract A and B fees are based on the number of dwelling units, once the complex is completed and occupied.

(c) **Collection.** Annual Assessments shall be collected in periodic installments as the Board may determine from time to time, but until the Board directs otherwise, they shall be payable monthly in advance on the first day of each calendar month. The Association shall have the right, but not the obligation, to make pro rata refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year, however specifically excluding here from any

amounts deposited in the reserve fund of the Association. Any such excess funds not refunded will be applied to the next installment(s) of Annual Assessments due.

(d) Date of Commencement of Assessments. The Annual Assessments shall commence as to all Lots no later than 90 days after the date of the first conveyance by Declarant of a Lot to a Lot Owner. No Lot shall be assessed for expenses until it has been built, a Certificate of Occupancy issued and a transfer from Declarant to a Lot Owner. The first Annual Assessment shall be prorated according to the number of months remaining in the calendar year.

8.4 Capitalization of the Association. Upon the first conveyance of record title to a Lot from Declarant, the Lot Owner shall contribute to the working capital and reserves of the Association an amount equal to three (3) monthly installments of the Annual Assessment at the rate in effect at the time of the sale. The Association shall maintain the working capital funds in segregated accounts to meet unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Such payments to this fund shall not be considered advance payments of Annual Assessments and except for refunds to Declarant, shall not be refundable. Declarant may not use any working capital funds to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits.

8.5 Special Assessments.

(a) Determination by Board. Subject to the budget procedures required by law, the Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement within the development or any facilities located in the development, including the necessary fixtures and personal property related to it, or to make up any shortfall in the current year's budget.

(b) Apportionment and Collection of Special Assessments. The Board will apportion Special Assessments among the Lots and collect payment according to the same guidelines as set forth for Annual Assessments in Section 8.3(b) and (d).

(c) Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Lot Owner at least 30 days prior to the due date.

(d) Member Approval. If any of the Special Assessments levied pursuant to this Section are to be used for the construction of new facilities (as opposed to repair and reconstruction of existing facilities), and if the total amount of the Special Assessments levied for such construction exceeds 10% of the gross annual budget for the Association for that year, then the use of Special Assessments for that construction will require the approval of Lot Owners who represent at least 67% of the total allocated votes in the Association. The use of Special Assessments pursuant to this Section for constructing any Common Elements shall not apply to the construction of any Common Elements to be completed by Declarant in development of the

Property.

8.6 Default Assessments. All monetary fines, penalties, interest or other charges or fees levied against a Lot Owner pursuant to the Documents, or any expense of the Association which is the obligation of a Lot Owner or which is incurred by the Association on behalf of the Lot Owner pursuant to the Documents, and any expense (including, without limitation, attorneys' fees) incurred by the Association as a result of the failure of a Lot Owner to abide by the Documents, constitutes a Default Assessment, enforceable as provided in this Declaration below.

8.7 General Remedies of Association for Nonpayment of Assessment. Any installment of an Annual Assessment or a Special Assessment which is not paid within the time period established from time to time by the Board shall be delinquent. If such an Assessment installment becomes delinquent, or if any Default Assessment is levied, the Association, in its sole discretion, may take any or all of the following actions:

(a) Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

(b) Charge interest from the date of delinquency at the Default Rate;

(c) Suspend the voting rights of the Lot Owner during any period of delinquency;

(d) Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

(e) Bring an action at law against any Lot Owner personally obligated to pay the delinquent Assessment charges;

(f) File a statement of lien with respect to the Lot and foreclose as set forth in more detail below;

(g) Suspend the right of the Lot Owner to use the Common Elements, other than roads and utilities, during any period of delinquency of more than sixty (60) days.

The remedies provided under this Declaration shall not be exclusive, and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

8.8 Assessment Liens. Any Assessment chargeable to a Lot (together with any interest, late charges, costs, expenses and reasonable attorneys' fees and legal assistants' fees) shall constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the Association may, but shall not be required to, prepare a written lien statement setting forth

the name of the Lot Owner, the legal description of the Lot, the name of the Association and the delinquent Assessment amounts then owing. Any such statement shall be duly signed and acknowledged by the President or a Vice President of the Association, and the Association shall serve the notice upon the Lot Owner by mail to the address of the Lot or to such other address as the Association may have in its files for such Lot Owner. At least 10 days after the Association mails the statement to the Lot Owner, the Association may record the same in the office of the County Clerk of Doña Ana County, New Mexico. The Association shall have the power to bid on a Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the Lot.

8.9 Successor's Liability for Assessment. Except as provided in the next sentence, each successor to the fee simple title of a Lot shall be liable for all Assessments (together with any interest, late charges, costs, expenses and reasonable attorneys' fees and legal assistants' fees) levied during the prior Lot Owner's ownership of the Lot, except to the extent that the unpaid amount thereof exceeds the sum of (a) the amount stated in the Status of Assessments given by or on behalf of the Association under Section 8.13 to such successor with respect to such Lot and (b) all unpaid Assessments (together with any interest, late charges, costs, expenses and reasonable attorneys' fees and legal assistants' fees) levied against the Lot after the date of such Status of Assessments. Notwithstanding the preceding sentence, any First Mortgagee who acquires title to a Lot pursuant to the remedies in the First Mortgage or through foreclosure of the First Mortgage (and all of its successors to the fee simple title to the Lot) shall not be liable for more than the sum of (a) six (6) months of the Lot's unpaid Annual Assessments accrued before acquisition of the title to the Lot by the First Mortgagee and (b) any fees or costs incurred by the Association in connection with the collection of such Assessments.

8.10 Waiver of Homestead Exemption; Subordination of the Lien. The lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by any federal law or the laws of the State of New Mexico, and to all other liens and encumbrances except the following:

(a) liens and encumbrances recorded before the date of the recording of this Declaration;

(b) Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by a New Mexico governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

(c) The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent, including any and all advances made by the First Mortgagee, even though some or all of such advances may have been made subsequent to the date of attachment of the Association's lien; provided, however, that such lien shall be inferior to the lien of the Assessments to the extent that such latter lien does not secure payment of more than the sum of (1) six (6) months of unpaid Annual Assessments and (2) any fees or costs incurred by the Association in connection with the collection of such

Assessments.

All other persons holding a lien or encumbrance that is not described above shall be deemed to consent that such lien or encumbrance shall be subordinate to the Association's future liens for Assessments, interest, late charges, costs, expenses and attorneys' and legal assistants' fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

8.11 Reallocation of Assessments Secured by Extinguished Lien. The sale or transfer of any Lot to enforce any of the liens to which the lien for Assessments is subordinate shall extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer to the extent provided in this Declaration. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board of Directors. However, no such sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.

8.12 Exempt Property. The following portions of the development shall be exempt from the Assessments, charges, and liens created under this Declaration:

(a) All properties to the extent of any easement or other interest therein dedicated and accepted by the City of Las Cruces or the County of Doña Ana and devoted to public use;

(b) All utility lines and easements;

(c) The Common Elements;

(d) Any Lot on which a residence has not been completed. Until a Certificate of Occupancy is issued for a Lot and that Lot has been transferred from Declarant to a Lot Owner, that Lot Owner shall not be charged with any Assessments or charges.

8.13 Statement of Status of Assessments. The Association shall furnish to a Lot Owner or his designee or to any Mortgagee a statement setting forth the amount of unpaid Assessments (together with any interest, late charges, costs, expenses and reasonable attorneys' fees and legal assistants' fees) then levied against the Lot in which the Lot Owner, designee or Mortgagee has an interest. The Association shall deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party within 10 business days after the registered agent of the Association receives the request by personal delivery or by certified mail, first class postage prepaid, return receipt requested or as otherwise required. The information contained in such statement, when signed by the Treasurer of the Association, shall be conclusive upon the Association, the Board, and every Lot Owner as to the person or persons to whom such statement is issued and who rely on it in good faith. The Board may establish a reasonable fee relating to such statement.

8.14 Protection of Associations' Lien. With the approval of the Board of Directors, the Association may protect its lien for Assessments against any Lot by submitting a bid at any sale held for delinquent taxes payable With respect to the Lot.

8.15 Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Lot Owner an Assessment notice will not be deemed a waiver; modification, or release of any Lot Owner from the obligation to pay Assessments. In such event, each Lot Owner will continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed re retroactively by the Association in accordance with any budget procedures as may be required.

ARTICLE IX MAINTENANCE RESPONSIBILITY

9.1 Responsibility of the Lot Owner. Except as may be provided in the purchase and sale agreement or other conveyancing documents executed by Declarant in connection with sales to initial purchasers of the Lots or except as provided in Section 9.2, each Lot Owner shall have the exclusive right and duty to maintain and repair all improvements on such Lot Owner's Lot. Each Lot Owner shall additionally maintain their roofs and all exterior surfaces (stucco, trim, doors, garage doors, windows, etc.), as well as all backyard landscaping on such owners' Lot. Such maintenance shall include, but not be limited to, the trimming of all shrubs, vines and bushes in a manner that maintains an attractive shape and prevents such plants from blocking a neighbors view or from being excessively high or brushing against a neighbor's residence. No exterior painting or re-stuccoing shall be done without the prior written approval of the Association, which shall not be unreasonably withheld, although color choices shall be limited to the STO stucco color chart included in the handbook given at closing. A copy of the chart will be kept at the Clubhouse Office. All fixtures, equipment and utilities installed and included in a Lot commencing at a point where the fixtures, equipment, and utilities enter the Lot shall be maintained and kept in repair by the Lot Owner of that Lot. The Limited Common Elements allocated exclusively to a Lot shall be maintained and kept in repair by the Lot Owner of that Lot, A Lot Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems, or impair any easement or hereditament. If any portion of the exterior of a Lot Owners residence or its accessory equipment, structures or appliances or the home site is damaged, the damage must be repaired, by the Lot Owner, within thirty (30) days. All concrete and other surfaces shall be kept clean and maintained free of oil and all other sticky or oily substances. The utility pedestals (water, gas and utility hookups) must be accessible at all times. No Lot Owner shall alter any Common Elements without the prior written consent of the Association. Each Lot Owner shall promptly notify the Association of any damage to any part the exterior of the improvements on such Lot Owner's Lot that is made the responsibility of the Association by Section 9.2.

9.2 Responsibility of the Association. The Association, without the requirement of approval of the Lot Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all the areas not required in this Declaration to be maintained and kept in good repair by a Lot Owner or by Declarant including:

(a) Front Yard Landscaping. The front yard landscaping of each Lot shall be maintained by the Association. The Association shall be allowed to use the Lot Owner's water to hand water common area plants and shrubs.

(b) Other Improvements. The Association shall also maintain and keep in good repair those things identified in 8.2(a)(b)(c)(f) and (g).

ARTICLE X USE RESTRICTIONS

10.1 Use of Lots. All Lots shall be used for dwelling purposes only, and not more than two individuals multiplied by the number of bedrooms in such Lot may reside within a Lot. Lot Owners may rent or lease such Lots to others for the purposes allowed under this Declaration and may use Residential Lots for home occupations which do not cause unreasonable disturbances to other Lot Owners and which are permitted by applicable zoning codes.

10.2 Conveyance of Lots. All Lots, whether or not the instrument of conveyance or assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, as the same may be amended from time to time.

10.3 Use of Common Elements. There shall be no obstruction of the Common Elements. Except as provided in this Declaration, nothing shall be kept or stored on any part of the Common Elements by any Lot Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Elements by any Lot Owner without the prior written approval of the Association. The Agricultural Lot Owner shall not have the right, as such, to use the clubhouse or the pool that are a part of the Common Elements.

10.4 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Residential Lot or in or on the Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the development or in an increase in the rate of the insurance on all or any part of the development over what the Association, but for such activity, would pay, without the prior written approval of the Association. Nothing shall be done or kept in any Lot or in or on the Common Elements which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body. No damage to or waste of the Common Elements shall

be committed by any Lot Owner, or by any member of the Lot Owner's family, or by any guest, invitee, or contract purchaser of any Lot Owner, and each Lot Owner shall indemnify and hold the Association and the other Lot Owners harmless against all loss resulting from any such damage or waste caused by him, the members of his family, or his guests, invitees, tenants or contract purchasers. Failure to so indemnify shall be a default by such Lot Owner under this Section, and such amount to be indemnified shall automatically become a Default Assessment determined and levied against such Lot. At its own initiative or upon the written request of any Lot Owner (and if the Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity as a Default Assessment as provided in Article VIII.

10.5 Plan Review. No Lot Owner (except the Declarant) shall commence or allow construction on such Lot Owner's Lot of any Improvement unless and until the Owner has first submitted a construction schedule, the plans and specifications, a plan review fee, and such plans and specifications and the proposed Improvement have been approved by the Board as indicated by the written endorsement of the President or a Vice President of the Association on such plans and specifications. Nor shall any Lot Owner remove, repair, replace, alter, or modify any existing Improvement unless and until written plans and specifications for same (and any applicable plan review fee) have been submitted to the Board and such plans and specifications and the proposed removal, repair, replacement, alteration, or modification have been approved by the Board as aforesaid. The foregoing provisions shall not be construed to require the submission of plans and specifications or approval thereof by the Board with respect to repair, replacement, alteration, or modification of the interior of a building, or with respect to the repair, replacement, alteration, or modification of an existing exterior Improvement when it is repair work and will simply restore the Improvement to the same condition the Improvement was in prior to the need for repair arising. No material changes or deviations in or from the approved plans and specifications may be made without the express written approval of the Board. Plans submitted to the Board shall be to scale and shall include, among other things, the location(s) and dimensions of existing and proposed Improvements on the Lot and architectural drawings including elevations.

10.6 Signs. No signs of any kind shall be displayed to the public view on or from any portion of a Lot except, (a) signs of Declarant or its affiliates or assigns, (b) signs on the Property on the date of this Declaration, (c) signs approved by the Board, and (d) signs required bylaw. All signs on the Property must comply with the City of Las Cruces, New Mexico Municipal Sign Code.

10.7 Animals and Pets. No animals of any kind shall be kept, raised or bred on any portion of the development, except not more than two dogs, or two cats, or two other interior confined household pets may be kept by a Lot Owner. Bulldogs, pit bulls and rottweilers are not allowed on any portion of the development. The rules and regulations may regulate, permit or prohibit the kind and number of such pets from time to time.

(a) **Containment.** Household pets, such as dogs and cats, must be contained in a Residential Lot. Such pets may not be permitted to run at large at any time. Pets are not allowed in any clubhouse and pool area of the development at any time. All pet excrement must be removed from a Lot each day.

(b) **Leashes.** Pedestrians within the development who are accompanied by pets permitted under this Declaration must have the pets under the pedestrians' direct control by use of a leash not to exceed 5 feet in length and must properly dispose of any excrement of the pets immediately.

(c) **Noise.** Owners of pets on the Property will be required to take all steps necessary to control excessive barking or other disturbances caused by their pets.

(d) **License and Inoculation Record.** Each pet must be licensed and inoculated in accordance with the law. A copy of the license and proof of required inoculations must be provided to the Association upon request of an officer of the Association.

10.8 Trash. No trash, ashes, building materials, firewood or other unsightly items should be thrown, dumped or stored on any land or area within the development, except as designated by the Association. There shall be no burning or other disposal of refuse out of doors. Each Lot Owner shall provide suitable receptacles for the temporary storage of refuse within the Lot.

10.9 Construction Rules and Regulations. All Lot Owners and contractors shall comply with the rules and regulations regulating construction activities. Such regulations may affect, without limitation, the following: trash and debris removal; restoration of damaged property; conduct and behavior of contractors, subcontractors and Lot Owners' representatives on the Property at any time; and fire protection.

10.10 Compliance with Laws. Subject to the rights of reasonable contest, each Lot Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the development. Further, no Residential Lot Owner shall dispose or allow any person under such Lot Owner's control or direction to release, discharge or emit from the development or dispose of any material on the Property that is designated as hazardous or toxic under any federal, state or local law, ordinance or regulation. No flammable, combustible, or explosive fluid, material, chemical or substance may be stored on a Residential Lot, except those customarily used for normal household purposes, and then only in quantities reasonably necessary for normal household purposes.

10.11 No Outside Clotheslines. No laundry or wash shall be dried or hung outside the residence on any Lot.

10.12 Antennae. No antennae or device that is used for the receipt of video programming services, including direct broadcast satellite (DBS), multipoint distribution service (MDS), and local television broadcast signals (TVBS), and no device used to receive or transmit fixed wireless signals (FWS) may be installed or maintained outside the residence on any Residential Lot unless such device is installed and maintained on the Lot Owner's roof and is not visible from the street or any neighboring property and in accordance with all rules and regulations, if any, concerning the same adopted by the Board, except to the extent that such rules and regulations do not comply with all applicable laws.

10.13 Outside Burning. There shall be no exterior fires, except barbecues. No Lot Owner shall permit any condition upon a Lot which creates a fire hazard or is in violation of fire prevention regulations.

10.14 Nuisance. No obnoxious or offensive activity shall be carried on within the Condominium, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the development or its occupants.

10.15 Porches and Patios. No bicycles or trash containers may be stored on the porches or patios of Residential Lots. Patio furniture and barbecue grills may be kept on porches or patios of Residential Lots if such items are in good condition.

10.16 Outdoor Furniture. Only outdoor patio furniture, not upholstered furniture, may be used on the patio or porch of a Residential Lot. Barbecues may be used only on the patio or porch of a Residential Lot.

10.17 Parking. No "on street" parking shall be allowed at any time. No vehicle other than a "passenger vehicle" (as defined below) may be parked in the development. The term "passenger vehicle" means a van, sports car, coupe, sedan, station wagon, pickup truck, sport utility, motorcycle, motor scooter, moped, and electric cart, but does not include a camper, bus, truck, commercial vehicle of any kind or description, boat, trailer, recreational vehicle, or dune buggy.

10.18 Leasing. A Lot Owner shall have the right to lease the Lot, subject to the condition that the Lot Owner shall be liable for any violation of the Documents committed by the Lot Owner's tenant, without prejudice to the Lot Owner's right to collect any sums paid by the Lot Owner on behalf to the tenant. Any lease of a Lot must be in writing and must be subject to the requirements of the Condominium Documents.

10.19 Enforcement. The Association, or the Board acting on behalf of the Association, may take such action as it deems advisable to enforce these covenants as provided in this Declaration, including, without limitation, suspending the right of any Lot Owner to use the

Common Elements, other than roads and utilities, during any period during which such Lot Owner is not in compliance with these covenants. In addition, the Association and the Board shall have a right of entry on any part of the development for the purposes of enforcing this Article, and any costs incurred by the Association or the Board in connection with such enforcement which remain unpaid 30 days after the Association has given notice of the cost to the Lot Owner shall be subject to interest at the Default Rate from the date of the advance by the Association or the Board through the date of payment in full by the Lot Owner, and shall be treated as a Default Assessment enforceable as provided in Article VIII.

10.20 Application to Declarant. The provisions of this Article shall not apply to Declarant in the exercise of any Special Declarant Right.

ARTICLE XI INSURANCE

11.1 Coverage. To the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in Sections 11.2, 11.3, 11.4, 11.5 and 11.6. If such insurance is not reasonably available and the Board of Directors determines that any insurance described herein will not be maintained, the Board of Directors shall cause notice of that fact to be hand-delivered or sent prepaid by Registered States mail to all Lot Owners and Eligible Mortgage Holders at their respective last known addresses.

11.2 Property Insurance. Property insurance shall be maintained covering: (a) the Common Elements, excluding land, excavations, footings, foundations, pipes, flues and drains and other items normally excluded from property policies, and (b) all personal property owned by the Association.

(a) **Amounts.** The amounts of such insurance shall be as follows:

(1) The Common Elements for an amount equal to 100% of their replacement cost at the time the insurance is purchased and at each renewal date.

(2) Personal property owned by the Association for an amount equal to its actual cash value.

(3) The maximum deductible permitted shall be the lesser of \$10,000 or 1% of the policy face amount.

The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing the replacement cost of the Common Elements and the actual cash value of the personal property; the cost of such appraisals shall be a Common Expense.

(b) **Risks Insured Against.** The insurance shall afford protection against “all risks” of direct physical loss commonly insured against.

(c) **Other Provisions.** Insurance policies required by this Section shall provide that:

(1) the insurer waives its rights to subrogation under the policy against any Lot Owner or member of his household;

(2) no act or omission by any Lot Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(3) if, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;

(4) loss covered by the policy shall be adjusted with the Association;

(5) insurance proceeds will be paid to any insurance trustee designated in the policy for that purpose, and in the absence of such designation to the Association, in either case to be held in trust for each Lot Owner and such Lot Owner's Mortgagee;

(6) the insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses;

(7) the name of the insured will be substantially as follows: “Tayvis Estates Homeowners' Association for the use and benefit of the individual owners.”

11.3 Flood Insurance. As long as any of the Common Elements are in a flood hazard area, as defined and determined by the National flood Insurance Act, the Association shall maintain flood insurance covering all of the Common Elements and all personal property owned by the Association that can be insured under a flood insurance policy. Provisions similar to those applicable to the property insurance that the Association is required to maintain pursuant to Section 11.2 shall apply, to the extent applicable and appropriate, in determining the type of flood insurance coverage the Association shall maintain and in making and prosecuting any claim with respect to such insurance and in administering any proceeds paid with respect to such insurance.

11.4 Liability Insurance. Liability insurance, including medical insurance, shall be

maintained in an amount determined by the Board of Directors, but in no event less than \$1,000,000, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Insurance policies carried pursuant to this Section shall provide that:

(a) each Lot Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;

(b) the insurer waives its right to subrogation under the policy against any Lot Owner or member of his household;

(c) no act or omission by any Lot Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(d) the insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

11.5 Fidelity Bonds. The Association shall maintain a fidelity bond for each person who either handles or is responsible for funds held or administered by the Association, whether or not such person receives compensation for his services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association at any time while the bond is in force, and in no event less than the sum of three months' assessments plus reserve funds. The bond shall include a provision that requires 30 days' written notice to the Association, to each Mortgagee and to each servicer that services a FNMA-owned or FHLMC-owned mortgage on a Lot before the bond can be canceled or substantially modified for any reason; however, if cancellation is for non-payment of premium, only 10 days' notice shall be required.

11.6 Workers' Compensation Insurance. The Board of Directors shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of New Mexico.

11.7 Directors' and Officers' Liability Insurance. The Board of Directors may obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the Directors and officers of the Association with such limits as the Board may, from time to time, determine.

11.8 Other Insurance. The Association may carry any other insurance which the Board of Directors considers appropriate to protect the Association or the Lot Owners.

11.9 Premiums. Insurance premiums for insurance that the Association maintains are a Common Expense.

11.10 Lot Owner Insurance. Each Residential Lot Owner shall keep in full force and effect a policy of fire and extended coverage insurance covering loss or damages to such Lot Owner's Residential Lot in the amount of the full replacement cost of the improvements to such Lot, excluding excavations, footings, foundations, pipes, flues and drains and other items normally excluded from property policies, at the time the insurance is purchased and at each renewal date. The insurance shall include an extended coverage endorsement of the kind required by an institutional lender to repair and restore the Lot. Insurance policies required by this Section shall;

(a) be issued by insurance companies licensed to do business in the state of New Mexico;

(b) name the Association as an additional insured as its interest may appear; any Mortgagee may also be added as an additional insured as its interest may appear; and

(c) provide that no expiration, cancellation or material change in the insurance shall be effective unless thirty (30) days' prior notice of such expiration, cancellation or material change shall have been given to the Association.

From time to time, on written request, each Residential Lot Owner shall cause to be issued to the Association appropriate certificates of insurance reasonably acceptable to the Association and evidencing compliance with the applicable provisions of this Section. If any Residential Lot Owner fails to give the required certificate within thirty (30) days after notice of demand for it, then the Association may obtain and pay for that insurance and assess the cost thereof to such Lot Owner as a Default Assessment.

ARTICLE XII DAMAGE OR DESTRUCTION

12.1 The Role of the Board of Directors. Except as provided in Section 12.6, in the event of damage to or destruction of all or part of the Common Elements or other property covered by insurance written in the name of the Association under Article XI, the Board of Directors shall arrange for and supervise the prompt repair and restoration of the damaged areas of the Common Elements.

12.2 Estimate of Damage or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Common Elements, unless such damage or destruction shall be minor, the Board of Directors shall obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Elements damaged or destroyed. "Repair and reconstruction" as used in this Article shall mean

restoring the damaged or destroyed part of the Common Elements to substantially the same condition in which they existed immediately prior to the damage or destruction, with each Common Element having substantially the same location as before.

12.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of that part of the Common Elements damaged or destroyed. As attorney-in-fact for the Lot Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Lot Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

12.4 Funds for Repair and Reconstruction. Subject to the provisions of Section 12.6, the proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair and reconstruction. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 8.5, levy, assess, and collect in advance from the Lot Owners a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. The cost of repair and reconstruction in excess of insurance proceeds and reserves is a Common Expense.

12.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. Such fund shall be applied by the Association as attorney-in-fact for such reconstruction, and the Common Elements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair and restoration of the Common Elements. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments, if there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Lot Owners in proportion to the contributions each Lot Owner made as Special Assessments, or if no Special Assessments were made, then in proportionate shares on the basis of the allocation to the Lot Owners of Common Expenses under Section 8.3(b), first to the Mortgagees and then to the Lot Owners, as their interests appear.

12.6 Decision Not to Rebuild. Any portion of the Common Elements that the Association is required to insure pursuant to Article XI, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

(b) Lot Owners representing at least 80% of votes in the Association, including, during the Special Declarant Rights Period, the vote of Declarant, vote not to repair and reconstruct the damaged or destroyed portion of the Common Elements; or

(c) Prior to the conveyance of a Lot to a person other than Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

If all of the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the development, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Limited Common Elements that are not rebuilt must be distributed to the Lot Owners of the Lots to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Lot Owners or lienholders, as their interests may appear, in proportion to the Common Element interests of all the Lots

12.7 Repairs. All repairs and reconstruction contemplated by this Article XII shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by the Association in accordance with the requirements of this Declaration and the other Documents.

12.8 Notice of Damage or Destruction to First Mortgage. In the event that any portion of the development encompassing more than one Lot is substantially damaged or destroyed by fire or other casualty, then written notice of the damage or destruction shall be given by the Association to each Lot Owner and First Mortgagee of the affected Lots within a reasonable time following the event of casualty damage.

ARTICLE XIII CONDEMNATION

13.1 Consequences of Condemnation. If, at any time or times during the continuance of the development pursuant to this Declaration, all or any part of the development is taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance of condemnation, then all compensation, damages, or other proceeds of condemnation, the sum of which is referred to as the "condemnation award" below, shall be payable to the Association, and the provisions of this Article XIII shall apply.

13.2 Partial Taking. Except as the Lot Owners may otherwise agree, in the event that a portion of the Common Area is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, each Lot Owner (and Mortgagee holding an interest in such Lot Owner's Lot) shall be entitled to a share of the condemnation award to be determined under the following provisions. The condemnation award shall be paid to the Association for the use and

benefit of the Lot Owners and the Mortgagees as their interests may appear. As soon as practical, the Association shall reasonably and in good faith allocate the condemnation award between compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Lot Owners, as follows:

(a) The total amount allocated to a taking of or injury to the Common Elements shall be apportioned among Lot Owners and their Mortgagees on the basis of each Lot Owner's undivided interest in the Common Elements, and any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Lot Owners of the Lots to which the Limited Common Element was allocated at the time of acquisition;

(b) The total amount allocated to severance damages shall be apportioned to the Lot Owners and Mortgagees of those Lots;

(c) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under the circumstances.

If an allocation of the condemnation award is already established in negotiation, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Lot Owners and their respective Mortgagees.

13.3 Reorganization. In the event a partial taking results in the taking of a Lot, the Lot Owners thereof shall automatically cease to be members of the Association and their ownership interests in the Common Elements shall terminate and vest in the Lot Owners of the remaining Lots. Thereafter, the Association shall reallocate the ownership, voting rights, and Assessment ratios determined in accordance with this Declaration, according to the same principles employed in this Declaration at its inception and the Board of Directors of the Association shall amend this Declaration accordingly.

13.4 Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Article XIII.

13.5 Notice of Condemnation. In the event that any portion of the development shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then timely written notice of such condemnation shall be given by the Association to each Lot Owner and First Mortgagee.

ARTICLE XIV MORTGAGEE PROTECTIONS

14.1 Introduction. This Article establishes certain standards and covenants which are

for the benefit of the holders, and guarantors of certain Mortgages. This Article is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

14.2 Percentage of Eligible Mortgage Holders. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgage Holders is required, it shall mean the approval or consent of Eligible Mortgage Holders who hold Mortgages encumbering Lots which in the aggregate, have allocated to them at least such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to Mortgages held by Eligible Mortgage Holders.

14.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgage Holder of the following:

(a) Any Condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Lot in which an interest is held by the Eligible Mortgage Holder.

(b) Any delinquency which remains uncured for 60 days in the payment of Assessments by a Lot Owner whose Lot is encumbered by a Mortgage held by such Eligible Mortgage Holder.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity insurance maintained by the Association.

(d) Any proposed action which would require the consent of Eligible Mortgage Holders as required in Section 15.4.

14.4 Consent Required. Subject to any right specifically reserved by Declarant under the provisions of this Declaration to amend it without the consent of any other person, no amendment of this Declaration of a material adverse nature to Mortgagees may be effective without the vote of Lot Owners who represent at least 67% of the total allocated votes in the Association (subject to Section 17.1) and the approval in Writing of at least 51% of the Eligible Mortgage Holders.

14.5 Notice of Objection. Unless an Eligible Mortgage Holder provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment outlined above within 60 days following the receipt of notice delivered by certified or registered mail, return receipt requested, of such proposed amendment, the Eligible Mortgage Holder shall be deemed conclusively to have approved the proposed amendment.

14.6 Mortgagees' Rights.

(a) **Payment of Taxes and Insurance.** First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against of the Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

(b) **Payment of Assessments.** Eligible Mortgage Holders shall be entitled to cure any delinquency of the Lot Owner of the Lot encumbered by the Eligible Mortgage Holder in the payment of Assessments of which the Eligible Mortgage Holder has received notice under Section 15.3. In that event, the Eligible Mortgage Holder shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

ARTICLE XV PARTY WALLS

15.1 **General Rules of Law to Apply.** Each wall built as a part of the original construction of the residence which shall serve and separate any two (2) adjoining Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

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

15.3 **Damage and Destruction.** If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner or Owners who have benefitted by the wall may restore it, and the Association shall reimburse said Owner(s) for the cost incurred, without prejudice, however, to the Association's right to seek reimbursement from or withhold payment to the Owners or others under any rule of law or provision in this Declaration regarding liability for negligent or willful acts or omissions.

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

ARTICLE XVI ENFORCEMENT OF COVENANTS

16.1 **Violations Deemed a Nuisance.** Every violation of this Declaration or any other

of the Condominium Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement or correction of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of these covenants will be available.

16.2 Compliance. Each Lot Owner or other occupant of any part of the development will comply with the provisions of the Documents as the same may be amended from time to time.

16.3 Failure to Comply. Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

16.4 Who May Enforce. Any action to enforce the Documents may be brought by Declarant, the Board in the name of the Association on behalf of the Lot Owners, or any aggrieved Lot Owner. Such an action may be brought against Declarant, the Board, the Association or any Lot Owner.

16.5 Remedies. In addition to the remedies set forth above in this Article, any violation of the Documents shall give to the Board or Declarant, on behalf of the Lot Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, maintain, repair, modify or replace, at the expense of the offending Lot Owner, any structure, thing or condition that may exist thereon contrary to the interest of the Lot Owners and meaning of the Documents. If the offense occurs in any easement, walkway, Common Elements or the like, the cure shall be at the expense of the Lot Owner or other person responsible for the offending condition.

16.6 Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

16.7 No Waiver. The failure of the Board of Directors, Declarant or any aggrieved Lot Owner to enforce the Documents will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Documents at any future time.

16.8 No Liability. No member of the Board of Directors, Declarant or any Lot Owner will be liable to any other Lot Owner for the failure to enforce any of the Documents at any time:

16.9 Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable

attorneys' fees (and legal assistants' fees) as maybe incurred, or if suit is brought, as may be determined by the court.

16.10 Resolution of Disputes. If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance or nonperformance, violation, or enforcement of the Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XVII AMENDMENT TO DOCUMENTS

17.1 Amendment. This Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property, upon the written consent of Lot Owners who represent at least 67% of the total allocated votes in the Association, and upon compliance with Article XIV, as appropriate. Amendments made pursuant to this Section will inure to the benefit of and be binding upon all Lot Owners, their tenants, guests, invitees and employees, and their respective heirs, successors, and assigns. A certificate of a licensed abstract or title company showing record ownership of the Property and a certificate of the Secretary of the Association documenting votes held and voting rights exercised on the basis of such ownership

17.2 Declarant's Approval. Notwithstanding the provisions of Section 16.1, (a) no termination, extension, modification, amendment or restatement of this Declaration shall be effective during the Declarant Control Period without the prior written consent of Declarant; and (b) no termination, extension, modification, amendment or restatement of this Declaration may be made during the Special Declarant Rights Period to impair any of the Special Declarant Rights or Declarant's other rights, as the declarant, under this Declaration or to impose any additional obligations on Declarant, in that capacity, without the prior written consent of Declarant.

ARTICLE XVIII MISCELLANEOUS PROVISIONS

18.1 No Obligations. Nothing contained in the Documents shall be deemed to impose upon Declarant or its successors or assigns any obligation of any nature to build, renovate or provide any improvements except to the extent required by law.

18.2 Association as Attorney-In-Fact. Each Lot Owner hereby irrevocably appoints the Association as the Lot Owner's true and lawful attorney-in-fact in such Lot Owner's name, place and stead for the purposes of dealing with damage or destruction as provided in Article XII, or partial taking as provided in Article XIII. In addition, the Association, or any insurance trustee or substitute insurance trustee designated by the Association, is hereby appointed as

attorney-in-fact under this Declaration for the purpose of purchasing and maintaining insurance under Article XI and to represent the Lot Owners in any condemnation proceeding under Article XIII including: the collection and appropriate disposition of the proceeds of such insurance or any condemnation award; the negotiation of losses and the execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose, The Association, or any insurance trustee, shall hold or otherwise properly dispose of any insurance proceeds in trust for the Lot Owners and their Mortgagees, as their interests may appear. Acceptance by a grantee of a deed or other instrument of conveyance from Declarant or any other Lot Owner conveying any portion of the development shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Lot Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

18.3 Severability. This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this Declaration found to be prohibited by laws or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

18.4 Construction. In interpreting words in this Declaration, unless the context will otherwise provide or require, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders. Unless otherwise indicated, all references to Articles and Sections refer to articles and sections of this Declaration, and all references to Exhibits are to exhibits attached hereto, each of which is made a part hereof for all purposes. The subdivisions of the various Sections of this Declaration are referred to as paragraphs and subparagraphs.

18.5 Headings. The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

18.6 Waiver. No failure on the part of the Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Board on behalf of the Association.

18.7 Limitation of Liability. Neither the Association nor any officer or member of the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Documents if the action or failure to act was made in good faith. The Association will, indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles and Bylaws.

18.8 Conflicts Between Documents. In case of conflict between this Declaration and

the Articles or the Bylaws, this Declaration will control. In case of conflict between the Articles and the Bylaws, the Articles will control.

18.9 Assignment. Subject to the requirements and limitations, Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the development in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such successor, all in a written instrument duly recorded in the records of the County Clerk of Doña Ana County, New Mexico.

TAYVIS ESTATES, LLC,
a New Mexico Limited Liability Company

By: *Hayward Brown*, managing member

STATE OF NEW MEXICO)
SS.
COUNTY OF DONA ANA)

This instrument was acknowledged before me this 10th day of November, 2008, by Hayward Brown and Lucy Brown, Man Members as managing member of Tayvis Estates, LLC, a New Mexico Limited Liability Company.

Carl L. Hunter
Notary Public

My Commission Expires



OFFICIAL SEAL
CARL L. HUNTER
NOTARY PUBLIC - STATE OF NEW MEXICO

my commission expires: 12.6.09

**BY-LAWS
OF
TAYVIS ESTATES HOMEOWNER'S ASSOCIATION**

**ARTICLE I
Members**

(Lot Owners)

Section 1. **ELIGIBILITY.** The Members of the Tayvis Estates Homeowner's Association, a New Mexico non-profit corporation, shall consist of the respective Lot Owners of the property known as Tayvis Estates Townhomes, (the "Association") and located in Las Cruces, New Mexico. These and other terms are used in these Bylaws and as they are defined in the Declarations filed for Tayvis Estates in the Office of the County Clerk of Dona Ana County, New Mexico. The word "member" or "members" as used in these Bylaws means and shall refer to "Lot Owner" or "Lot Owners", as the case may be, as defined in the Declarations.

Section 2. **SUCCESSION.** The membership of each Lot Owner shall terminate when said person, trust, corporation or partnership, as set forth in Article I, Section 1 above, ceases to be a Lot Owner, and upon the sale, transfer or other disposition of such person's or entity's ownership interest in the Property, said persons' or entity's membership in the Association shall automatically be transferred to the new Lot Owner succeeding to such ownership interest.

Section 3. **REGULAR MEETINGS.** The first annual meeting of Association members (the "First Meeting") may be held subject to the terms hereof, on any date, at the option of the First Board (as hereinafter defined), provided, however, that said First Meeting shall be held not more than sixty (60) days after Tayvis Development, LLC (Developer) has sold and delivered its deed for at least 90% of the Lots or three (3) years after the recording of the Declaration, whichever shall first occur. For purposes of this provision, 90% of the Lots shall mean Lots which correspond, in the aggregate, to 90% of the undivided ownership of the Common Elements appurtenant to the Lots. Subsequent to the First Meeting, there shall be a regular annual meeting of Lot Owners held in the month of April in each year. All such meetings of Lot Owners shall be held at the clubhouse of Tayvis Estates in Las Cruces, New Mexico, and at such time as specified in the written notice of such meeting which shall be delivered to all Lot Owners at least ten (10) days and not more than thirty (30) day prior to the date of such meeting.

Section 4. **SPECIAL MEETINGS.** Special meetings of the Lot Owners may be called by the President or by a majority of the directors of the Board, provided that said special meetings shall be called by delivering written notice to all Lot Owners not less than ten (10) days nor more than thirty (30) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

Section 5. **DELIVERY OF NOTICE OF MEETINGS.** Notice of a meeting may be delivered either personally or by mail to a Lot Owner at the address given to the Board by said Lot Owner for such purpose, or to the Lot Owner's Lot, if no address for such purpose has been

given to the Board. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States Mail addressed to the Lot Owner at his address as aforesaid, with postage prepaid thereon.

Section 6. VOTING. The aggregate number of votes for all Lot Owners shall be one hundred (100), and shall be divided among the respective Lot Owners in accordance with their respective percentage of ownership interest in the Common Elements, as set forth in Exhibit B of the Declaration, as said Exhibit B may be amended from time to time. If any Lot Owner consists of more than one person, the voting rights of such Lot Owner shall not be divided but shall be exercised as if the Lot Owner consisted of only one person, in accordance with the proxy or other designation made by the persons constituting such Lot Owner. The Trustee may exercise all voting rights with respect to the Lots owned by it from time to time.

Section 7. QUORUM. A quorum of Lot Owners for any meeting shall be constituted by Lot Owners, represented in person or by proxy, holding forty (40) of the votes entitled to be cast at such meeting, If a quorum is not present at any meeting of members, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 8. PROXIES. At any meeting of Lot Owners, a member of the Association entitled to vote may vote either in person or by proxy executed in writing by the member or by his duly authorized attorney-in-fact and in accordance with any rules and regulations. No proxy shall be valid after eleven months from the date of its execution.

ARTICLE II

Board of Directors

Section 1. GENERAL POWERS. The affairs of the Association shall be managed by its board of directors.

Section 2. NUMBER, ELECTION AND TERM OF OFFICE. The Board of Directors of the Association shall consist of three (3) members (hereinafter referred to as "directors"). The Lots shall be represented on the Board by directors chosen and subject to removal by the Lot Owners, except that the directors listed in the Articles of Incorporation of the Association (hereinafter called "members of the First Board") shall be appointed by the Developer and may only be removed by the Developer. Notwithstanding anything to the contrary in the Bylaws, the directors shall be classified with respect to the time for which they severally hold office into two classes, with each director in each class to hold office until his or successor is elected and qualified. Two of the members of the First Board shall hold a term expiring in 2009 and one of the members of the First Board shall hold a term expiring in 2010. At each annual meeting of shareholders beginning with the First Meeting, the successors of the class of directors whose term expires at such meeting shall be elected, by a vote of a plurality of the members present at such meeting, to hold office for a term expiring at the annual meeting of shareholders to be held in the second year following the year of their election.

Section 3. QUALIFICATION. Each director, except for members of the First Board,

shall be a Lot Owner or the spouse of a Lot Owner (or, if a Lot Owner is a corporation, partnership or trust, a director may be an officer, partner, or beneficiary of such Lot Owner). If a director shall cease to meet such qualifications, he shall thereupon cease to be a director and his place on the Board shall be deemed vacant.

Section 4. VACANCIES, REMOVAL. Any vacancy occurring in the Board may be filled only by a Lot Owner or any other person meeting the qualifications set forth in Section 3 above, except that a vacant position on the Board which was last filled by a member of the First Board shall be filled by a person appointed by the Developer. From and after the date of the First Meeting, any member of the board of directors may be removed from office by the affirmative vote of 66 2/3% of all the members.

Section 5. MEETINGS. A regular annual meeting of the Board shall be held without other notice than this By-law, immediately after, and at the same place as, the annual meeting of members. The Board may provide by regulations which the Board may, from time to time, adopt, the time and place for the holding of additional regular meetings of the Board without other notice than such regulation. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board, provided that each director is personally contacted and receives two (2) days notice. All meetings, whether regular or special, of the Board shall be open to all members, except for the portion of any meeting held (a) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such action is probable or imminent, (b) to consider information regarding appointment, employment or dismissal of an employee or (c) to discuss violations of rules and regulations of the Association or unpaid assessments owed to the Association, provided that the vote on any such matter shall be taken at a meeting or portion thereof open to any member. Any member may record the proceedings at meetings open to members, by tape, film or other means, subject to reasonable rules and regulations of the Board.

Section 6. COMPENSATION. Directors shall receive no compensation for their services unless expressly provided for in resolutions duly adopted by two-thirds (2/3) of all Lot Owners.

Section 7. QUORUM. Two (2) directors shall constitute a quorum.

Section 8. POWERS AND DUTIES. The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to formulate policies for the administration, management and operation of the Property and the Common Elements, including, without limitation, any Recreational Facilities;
- (d) to adopt rules and regulations, after written notice of the meeting called to adopt such rules and regulations is given to all Lot Owners, governing the administration, management, operation and use of the Property and the Common Elements, including, without limitation, any Recreational Facilities, and to amend such rules and regulations from time to time;

(e) to provide for the maintenance, repair and replacement of the Common Elements, including, without limitation, any Recreational Facilities, and payment therefor, and to approve payment vouchers or to delegate such approval to the officers of the Association;

(f) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, including, without limitation, any Recreational Facilities;

(g) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(h) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(i) to estimate the amount of the annual budget, to provide the manner of assessing and collecting from the Lot Owners their respective shares of such estimated expenses, as hereinafter provided, and to provide for reasonable reserves in accordance with the provisions of these Bylaws and the Act;

(j) to grant easements over certain areas of the Common Elements, including, without limitation, any Recreational Facilities;

(k) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Lot Owners (as said majority is defined in paragraph 1(1) of the Declaration), as expressed in a resolution duly adopted at any annual or special meeting of the Lot Owners;

(l) to enter into management agreements, but any management agreement entered into before control of the Property is Passed to the Association shall be terminable with or without cause and without payment of a fee upon not more than ninety (90) days notice, provided, however, that after control of the Property is passed to the Association, any management agreement shall have a term of not more than three (3) years and shall be terminable for cause upon thirty (30) days notice; and

(m) to exercise all other powers and duties of the board of managers or Lot Owners as a group referred to in the laws of New Mexico, and all powers and duties of a board of directors referred to in the Declaration or these By-Laws or the Business Corporation Act and Not- For-Profit Corporation Act of New Mexico. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise provided by law, the Declaration or these By-Laws.

Section 9. NOTICE. Notice of any special meeting of the Board shall be given at least two days previously thereto by written notice delivered personally or sent by mail to each director. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Any director may waive notice of any meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board need be specified in the notice or waiver of notice of such meeting, unless

specifically required by law or by these bylaws. Written notice of any meeting of the Board at which the adoption of the proposed annual budget or any increase or establishment of an assessment is to be considered shall be mailed or delivered to all members not less than ten (10) and not more than thirty (30) days prior to any such meeting. Written notice of other meetings of the Board shall be delivered or given to each member at least 48 hours prior thereto, subject to written waiver of such notice signed by the person or persons entitled thereto received by the Board prior to such meetings. Copies of notices of meetings of the Board shall be posted in the entranceways, elevators or other conspicuous place in the Building.

Section 10. NON-DELEGATION. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the directors or the officers of the Association any powers or duties which, by law, have been delegated to the Lot Owners.

ARTICLE III Officers

Section 1. DESIGNATION. At each annual meeting of the Board, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a President, who shall be a director and who shall preside over the meetings of the Board and of the Lot Owners, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Lot Owners, and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported;

(d) such additional officers as the Board shall see fit to elect.

Section 2. POWERS. The respective officers shall have the general powers usually vested by statute or practice in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. TERM OF OFFICE. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified.

Section 4. VACANCIES. Vacancies in any office shall be filled by the Board by a majority vote of the members thereof at a special meeting of said Board. Any officer so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by the Board at a special meeting thereof.

Section 5. COMPENSATION. The officers shall receive no compensation for their

services, unless expressly provided for in a resolution duly adopted by two-thirds (2/3) of all Lot Owners.

ARTICLE IV **Assessments**

Section 1. ANNUAL BUDGET. The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including salaries, wages, payroll taxes, legal and accounting fees, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, any expenses incurred in Connection with the operation of any Recreational Facilities and all other common expenses. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Recreational Facilities and other Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board and in accordance with the law. To the extent that the assessments and other cash income collected from the Lot Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The estimated annual budget for each fiscal year and any amendments or changes thereto shall be approved by the Board

Section 2. ASSESSMENTS. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Lot Owner shall pay, as his respective monthly assessment for the common expenses for such year, one-twelfth (1/12) of his proportionate share of the common expenses for such year, as shown by the annual budget. Such proportionate share for each Lot Owner (except as provided below for the Trustee) shall be in accordance with his respective ownership interest in the Common Elements, as set forth from time to time in Exhibit B of the Declaration. From and after the date the Declaration is recorded and until the deed to the first Lot is transferred and recorded, the Trustee shall pay, as said Trustees respective aggregate monthly assessment for the common expenses, the amount of the actual operating expenses required to be paid during the previous month in connection with the operation of the Property. From and after the date the deed of the first Lot is transferred and recorded, the Trustee, as the Lot Owner of any Lots or as the owner of a beneficial interest in any Lot, shall pay the amount of assessment applicable to each said Lot due and payable for each month until transfer of said Lot, as such assessment is established by the Board pursuant to the terms of the Declaration and these By-Laws. Actual operating expenses shall mean those ordinary expenses attributed to the immediate fiscal period and shall not include capital expenditures, prep-aid terms or inventory items to the extent attributable to subsequent fiscal periods.

Copies of said estimated annual budget and any amendments or changes thereto shall be furnished by the Board to each Lot Owner not less than thirty (30) days before the due date of the first monthly assessment based upon said annual budget or amended or changed annual budget. in the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Lot Owner shall continue to pay each month the amount of his respective monthly assessment as may be directed by the Board. No Lot Owner shall be relieved of his obligation to pay his

assessment by abandoning or not using his Lot or the Common Elements. The provisions of this Section 2 of Article IV, which affect the amount or manner of payment of the assessments payable hereunder by the Trustee or which affect the amount or manner of payment of the Trustee's proportionate share of the common expenses, shall not be changed, amended or modified without the prior written consent of the Trustee.

Section 3. PARTIAL YEAR OR MONTH. For the first fiscal year, the annual budget shall be as approved by the Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the monthly assessments for each Lot Owner shall be proportionate to the number of months and days in such period covered by such budget.

Section 4. ANNUAL REPORT. Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Lot Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

Section 5. SUPPLEMENTAL BUDGET. In the event that during the course of any year it shall appear to the Board that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget pursuant to the terms of the law covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Lot Owner, and thereupon a supplemental assessment shall be made to each Lot Owner for his proportionate share of such supplemental budget.

Section 6. LIEN. It shall be the duty of every Lot Owner to pay his proportionate share of the common expenses, as assessed in the manner herein provided.

If any Lot Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof together with the amount of late fees, if any, shall constitute a lien, on the interest of such Lot Owner in the Property, and upon the personal property of such Lot Owner in his Lot and located elsewhere on the Property, which lien may be perfected and foreclosed in the manner provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage held by a first mortgagee on the interest of such Lot Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date of the recording of a deed in lieu of foreclosure or a foreclosure sale. The provisions of this paragraph of this Section 6 applicable to the priority of liens held by first mortgagees shall not be amended, changed, modified or rescinded in any way without the prior written consent of all holders of first mortgage liens on Lots on the Property.

The Association or its successors and assigns, or the Board or its agents, shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due the costs of said suits and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the court. Furthermore, if any Lot Owner shall fail or refuse to pay when due his proportionate share of the common expenses -and such Lot Owner withholds possession of his Lot after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Lot. The Board or the

Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Forcible Entry and Detainer Act, the Declaration or these By-Laws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments, late fees and collection costs.

Section 7. RECORDS AND STATEMENT OF ACCOUNT. The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

Upon receipt often (10) days written notice to it or the Association from a Lot Owner or from the encumbrancer of a Lot., and upon payment of a reasonable fee, the Board shall furnish to said Lot Owner or encumbrancer a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from said Lot Owner.

Section 8. DISCHARGE OF LIENS. The Board of Directors may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Lot. When less than all the Lot Owners are responsible for the existence of any such lien, the Lot Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien. Any amounts due the Association hereunder shall constitute a lien on the interest of the Lot of the responsible Lot Owner, which lien may be perfected and foreclosed in the manner provided by law with respect to liens for failure to pay a share of the common expenses. Any such lien shall be junior and subordinate to the lien of the first mortgagee with respect to such Lot.

Section 9. HOLDING OF FUNDS. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Lot Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the sole benefit, use and account of all the Lot Owners in the percentages set forth from time to time in Exhibit B to the Declaration.

Section 10. CAPITAL CONTRIBUTIONS. Upon the closing of the first sale of each Lot by the Developer to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one-sixth (1/6) of the proportionate share of the common expenses for the current year attributable to the Lot. Said amount shall be held and used by the Association for its working capital needs.

ARTICLE V

Contracts, Checks, Deposits and Funds

Section 1. CONTRACTS. The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association

and such authority may be general or confined to specific instances.

Section 2. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the treasurer and Countersigned by the president of the Association.

Section 3. DEPOSITS. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

Section 4. GIFTS. The Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Association.

Section 5. INTERESTED DIRECTORS. No contract or other transaction between the Association and one or more of its directors or between the Association and any corporation, firm or association in which one or more of the directors of the Association are directors, or are financially interested, is void or voidable because such director or directors are present at the meeting of the Board, or the meeting of a committee thereof, which authorizes or approves the contract or transaction, or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

(a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such director or directors; or

(b) the contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

ARTICLE VI

Books and Records

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board and committees having any of the authority of the Board, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.

ARTICLE VII
Use and Occupancy Restrictions

Section 1. GENERAL. No obnoxious or offensive activity shall be carried on in any Lot or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Lot Owners or occupants or which disrupts any other Lot Owner's reasonable use and enjoyment of the Property. In addition to the use and occupancy restrictions set forth in the Declaration and any rules and regulations promulgated by the Board, which are incorporated herein by reference, each Lot Owner shall fully comply with the terms of this Article VII.

No Lot Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside a residence and or garage, or which may be visible from the outside of a residence and or garage (other than draperies, curtains or shades of a uniform light and neutral appearance subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his residence and or garage, or install outside his residence and or garage any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Association or Board. No owner of a Lot shall display, hang, store or use any sign outside a residence and or garage, in a hallway or elsewhere, except for one "For Sale" sign not exceeding 4-square feet in size, which may be visible from the outside of his residence and or garage, without the prior written permission of the Association or Board.

Section 2. ANIMALS. No animals shall be raised, bred or kept on any Lot or the Common Elements, except for dogs, cats, small birds, fish and household pets of a Lot Owner commonly kept as household pets, provided said pets are not kept or bred for any commercial purpose, and provided that said pets shall be kept in strict accordance with the registration and administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, and provided that said pets shall not, in the judgment of the Board, constitute a nuisance to others or cause damage to any of the Common Elements.

Section 3. TRASH. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

Section 4. STORAGE. Articles of personal property belonging to any Lot Owner, such as baby carriages, camping vehicles bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in any garage, corridor, hallway, lobby or other common area, except in storage area specifically designated by the Board for use by the respective Lot Owner.

ARTICLE VIII
Amendments

Until the date of the First Meeting, these By-Laws may be altered, amended or repealed and new by-laws may be adopted, by the affirmative vote of a majority of the directors in office. From and after the date of the First Meeting, these By-Laws, except this Article VIII and Article

X, may be altered, amended or repealed and new bylaws may be adopted from time to time by action or approval of two-thirds (2/3) of all of the members at a regular meeting or special meeting, except as otherwise indicated in and with respect to any other provision of these By-Laws. Such amendments shall be provided to all Lot Owners.

ARTICLE IX

Indemnification

Section 1. GENERAL. The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that he is or was a member of the Board of Directors, an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association, against expenses (including attorneys' fees and expenses), judgments, fines, and amounts paid in settlement actually and reasonably incurred by or imposed on him in connection with such action, suit or proceeding, provided said person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful.

The Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a member of the Board of Directors, an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association, against expenses (including attorneys' fees and expenses) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit provided said person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association.

Section 2. SUCCESS ON MERITS. To the extent that a member of the Board of Directors, an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and expenses) actually and reasonably incurred by him in connection therewith.

Section 3. DETERMINATION OF RIGHT TO INDEMNITY. Any indemnification under Sections 1 and 2 shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the member of the Board of Directors, the officer or the

member of such committee is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 or 2. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of those directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by a majority of the Lot Owners.

Section 4. ADVANCE PAYMENT. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the member of the Board of Directors, the officer or the member of such committee to be indemnified to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article IX.

Section 5. NON-EXCLUSIVITY. The indemnification provided by this Article IX shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification provided by this Article IX shall continue as to a person who has ceased to be a member of the Board of Directors, an officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors and administrators of such person.

**ARTICLE X
Construction**

Nothing hereinabove contained shall in any way be construed as altering, amending or modifying the Declaration. Said Declaration and these By-laws shall always be construed to further the harmonious, beneficial, cooperative and proper use and conduct of the Property. If there is any inconsistency or conflict between these By-laws and the aforesaid Declaration, the provisions of the Declaration shall control. All words and terms used herein which are also used in the Declaration shall have the same definition as set forth in the Declaration, which is recorded in the Office of the County of Dona Ana, New Mexico. The term "member" as used in these By-Laws, means "Lot Owner," as defined in said Declaration.

Hayward Blom
[Signature]
Rebecca Peterson

11/10/08
Date
11/10/08
Date
11/9/08
Date

DISCLOSURE STATEMENT TAYVIS ESTATES

THIS DOCUMENT IS A SUMMARY OF INFORMATION CONTAINED IN VARIOUS DOCUMENTS RELATED TO TAYVIS ESTATES AND OTHER SOURCES. THE INFORMATION IS INTENDED TO PROVIDE AN OVERVIEW OF CRITICAL ISSUES AND TO COMPLY WITH APPLICABLE NEW MEXICO LAW. PURCHASERS SHOULD NOT RELY SOLELY ON THE COMPLETENESS OF THE INFORMATION CONTAINED HEREIN. THE DECLARATION ARTICLES OF INCORPORATION, BYLAWS, RULES AND REGULATIONS, SALES CONTRACT, COMMITMENT TO ISSUE TITLE INSURANCE, TITLE EXCEPTION DOCUMENTS AND DEED SHOULD BE REVIEWED IN DETAIL BY THE PURCHASER AND/OR ITS COUNSEL.

1. NAME AND ADDRESS OF DEVELOPER:

Tayvis Development, LLC
P.O. Box 212
Dona Ana, New Mexico 88032

2. DEVELOPMENT NAME AND ADDRESS:

Tayvis Estates
3933 Tayvis
Las Cruces, New Mexico 88012

3. GENERAL DESCRIPTION OF DEVELOPMENT.

(a) **The Development.** Tayvis Estates is a private gated development and will be 84 individual lots, clubhouse, pool, walk path, parking and two (2) tracts designated by A & B multifamily use. The occupants will have the full use of the all the common areas of Tayvis Estates. Developer anticipates the construction of the amenities will be completed by August 2010.

(b) **Lots.** Individual owners will own the space designated as Lots by the plat of TAYVIS ESTATES. Tayvis will consist of 84 attached frame stucco homes one to three bedrooms with attached garages. Courtyard and rear porches maybe included the design. Color selections, landscape features are outlined in the Home Owners Association. Tract A will be considered one lot; Tract B will also be considered one lot. These will also be framed stucco, one to three bedroom. These Lots maybe multi story and have a flat or pitched roof.

(c) **Common Elements.** Additionally, each Lot Owner owns an undivided percentage interest, as a "tenant in common" with all other Lot Owners in all of the common elements in TAYVIS ESTATES. The Common Elements include the exterior walkways, the landscaped areas, the roadways, the streets and sidewalk, the clubhouse building, the pool, the perimeter of wall, fences and retention ponds and other elements as described in the Declaration. A Lot Owner's share of the ownership of the Common

Elements is appurtenant to the Lot which means that such share cannot be sold separately from the Lot. No Lot Owner owns all of a particular Common Element; rather, all Lot Owners own an undivided interest in all Common Elements. Each Lot Owner's share of ownership of the Common Elements is called a "**Common Element Interest**," and is expressed as a fraction or percentage as set forth in the Declaration. The ownership of a Common Element Interest gives the Lot owner the right to participate in the control of the Common Elements (subject to Developer's reserved right of control for a time as set forth in the Documents (defined below)). Ownership imposes upon the Lot Owner the obligation to pay a defined share of the expenses to operate and maintain all of the Common Elements. Each Lot Owner will have the right to use the Common Elements, excluding the Limited Common Elements (defined Below), subject to the restrictions in the Declaration and rules and regulations (the "**Rules**") adopted by the board of directors (the "**Board**") of the Association (defined below) regarding the use of the Common Elements.

(d) **Limited Common Elements.** "Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Lot Owner. Each Lot Owner is responsible for the routine maintenance of the Limited Common Element which has been designated for such Lot Owner's exclusive or common use. If the Lot Owner fails to maintain the Limited Common Element, the Association has the right to maintain the Limited Common Element and to charge the Lot Owner the costs of such maintenance.

(e) **Clubhouse.** The clubhouse will contain approximately 1,000 square feet. It will have a large area for meetings/entertainment, kitchen, and bathroom. Bathroom will be dual purpose and accessible from the outside lawn and pool area.

(f) **Pool Area.** Tayvis Estates will have a pool and patio connected to the clubhouse. This area will be open for use by all Lot Owners and occupants of Tracts A and B, subject to the rules.

(g) **No Fees for Use of Amenities.** Generally the Declaration does not provide for any fees to be paid for the use of amenities, and such amenities are generally available for use by all Lot Owners without payment of additional fees. The Association may charge reasonable fees for the particular use of some of the amenities, such as the use of the Clubhouse for cleanup costs.

(h) **Parking and Landscaping.** Tayvis Estates Homeowners Association is responsible for monthly maintenance.

4. **HOMEOWNERS ASSOCIATION.**

The development will be governed by **TAYVIS ESTATES HOMEOWNERS ASSOCIATION**, a New Mexico nonprofit corporation (the **Association**). The responsibilities and authority of the Association will be defined in the Declaration, the Articles of Incorporation of the Association (the "**Articles**," a draft of which is attached hereto as **Exhibit B**) and the Bylaws of the Association (the "**Bylaws**," a draft of which is

attached hereto as **Exhibit C**) (the Declaration, the Articles, the Bylaws, and the Rules are collectively referred to in the Disclosure Statement as the "**Development Documents**"), copies of each of which will be given to purchasers prior to closing.

5. ASSESSMENTS, BUDGET AND BALANCE SHEET.

(a) **Annual (Common Expense) Assessments.** The Association will be permitted to assess certain cost (the "Common Expenses") to the Lot Owners, as set forth in the Development Documents. The Lot Owner of a Lot will be required to pay the Common Expenses allocable to that Lot for each year (and "Annual Assessment"). Generally, the Common Expenses are allocated equally to each Residential Lot. The Association is not required to send monthly bills or request such payments. EACH LOT OWNER MUST MAKE EACH MONTHLY PAYMENT WHETHER OR NOT HE OR SHE RECEIVES A STATEMENT FOR THE SAME. On the initial purchase of each Lot, the monthly installment of the Annual Assessment to that Lot will be prorated through the end of the month in which the closing of such purchase occurs and the next month's installment will be collected at closing.

(b) **Other Assessments.** In a addition to the Annual Assessments, the Association may levy (1) special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement within the Development or any facilities located in the development, including the necessary fixtures and personal property related to it, or to make up any shortfall in the current year's budget, and (2) default assessments against particular Lot Owner for any expense of the Association which is the obligation of a Lot Owner or which is incurred by the Association on behalf of the Lot Owner pursuant to the Condominium Documents, and for any expense (including, without limitation, attorneys' fees) incurred by the Association as a result of the failure of a Lot Owner to abide by the Development Documents. Monthly assessments will only begin when a lot has been built and/or sold.

(c) **Working Capital Fund.** In addition to the regular monthly installment of the Annual Assessment paid for a Lot in the quarter escrow closes, each purchaser is required to make at close of escrow an initial capital contribution to the Association's "**Working Capital Fund**" as described in the Declaration. The initial capital contribution due at closing is equal to a quarterly installment of the Annual Assessment. THE INITIAL CAPITAL CONTRIBUTION TO THE WORKING CAPITAL FUND IS NOT AN ADVANCE PAYMENT ON A LOT OWNER'S QUARTERLY INSTALLMENT OF THE ANNUAL ASSESSMENT AND IS NOT REFUNDABLE. Developer shall have no obligations in favor or against the Working Capital Fund.

(d) **Initial Budget and Balance Sheet.** A copy of the projected budget for the Association for one year after the date of the first convenience to a purchaser is attached to this Disclosure Statement as **Exhibit D**. The Association will initially have no assets and no liabilities, and, consequently, the balance sheet of the Association would reflect the same. Therefore, no balance sheet is attached to this Disclosure Statement. The budget has been prepared by the Developer. The budget was prepared with the assumption that all new Lots will be occupied (because all Lots are required to pay assessments, regardless

of whether they are occupied), and with the assumption that no inflation will occur (because it is a one-year budget). The budget includes the following: (a) the amount included in the budget as a reserve for repairs and replacement; (b) the amount of any other reserves; (c.) the projected Annual Assessment by category of expenditures for the Association, and (d) the projected Annual assessment in monthly, quarterly and annual installments for each type of Lot. The Developer or Home Builder will not be obligated to contribute a monthly fee/annual on any Lot. Assessment or monthly fees will not begin until a Lot/home is sold.

(1) THE BUDGET FIGURES ARE, OF COURSE, ONLY ESTIMATES, AND DEVELOPER CANNOT BE CERTAIN THAT SUFFICIENT FUNDS HAVE BEEN BUDGETED TO COVER ALL COMMON EXPENSES THAT MAY BE INCURRED NOW OR IN THE FUTURE YEARS.

(2) Developer believes the figures in the budget represent the best estimates obtainable; because actual expenditures may differ from estimated expenditures, due to possible changes in the future income of the Association or other variable factors, such estimates are not intended or considered guarantees of any kind whatsoever.

(e) **Effect of Nonpayment of Assessments.** New Mexico law established that nonpayment of Association assessments becomes a priority lien on a Lot that does not need to be recorded to be perfected and is not extinguished by the transfer of ownership from a seller to a purchaser. The lien may be foreclosed by the Association against a defaulting Lot.

6. ENCUMBRANCES OF TITLE.

The Development is subject to the mortgage (the "**Mortgage**") granted by Developer to First Community Bank of Las Cruces, New Mexico dated May 05, 2008, instrument #0813146 of the mortgage records Dona Ana County, New Mexico. Developer anticipates that the holder of the Mortgage will release each Lot and its appurtenant interest in the Common Elements from the lien and operation of the Mortgage when the Lot is deeded by Developer to the first purchaser of the Lot. The plat of Tayvis Estates is recorded in the office of the County Clerk of Dona Ana County, New Mexico in book 22, pages 22-24. Utility easements and roadways are described in recorded plat. These encumbrances will be listed as exception of the title commitment issued to the prospective purchaser of a Lot from the Developer, pursuant to the sales contract. These encumbrances may affect the title, ownership and use of the Lot and the Common Elements, and should be reviewed carefully. Purchasers of Lots are advised to timely consult legal counsel with respects to all such matters, as there are strict time limits provided in the Sales Contract to raise objections to any such matters.

7. FINANCING.

A Lot purchaser may apply for financing from any lender or may pay all cash at settlement. Developer is not obligated to assist the purchasers of the Lots in obtaining

financing. However, Developer has arranged referral relationships for purchasers' permanent loan commitments through at least one bank. The bank will provide for a number of first mortgage loans secured by Lots in the development to qualified purchasers meeting standard credit requirements. The terms of all such financing will be available to purchasers from the lender. Developer reserves the right to use any credit information provided by a purchaser to any other lender solely for the purpose of obtaining financing for the purchaser's Lot. Financing is subject to the additional terms and conditions as stated in the lender's commitment letter to the purchaser and in the loan instruments.

8. WARRANTIES.

The limited warranty that will be provided by Developer to each person who purchases a Lot from Declarant is attached to this Disclosure Statement as **EXHIBIT E**. To the extent that any of the appliances or other property are subject to warranties from third parties, Developer will assign those warranties to the extent they are assignable. The purchasers of the Lots understand that Developer disclaims and purchaser waives the right to assert any and all implied and statutory warranties of any nature, express, statutory or implied, including but not limited to the warranties of habitability, freedom from structural defects, workmanlike construction, fitness for a particular purpose, and merchantability, including all incidental damages, consequential damages and exemplary damages.

9. NO JUDGEMENT OR SUITS.

There are no unsatisfied judgments or pending suits against the Association or material to the development of which Developer has actual knowledge.

10. DEPOSITS.

Any earnest money deposit made by the purchaser of a Lot in connection with the signing of a Sales Contract for the Lot will be held by the Southwest Abstract & Title Company, in a segregated escrow account in a financial institution of its choice in Las Cruces, New Mexico.

11. RESTRAINTS ON ALIENATION.

There is no restraint on alienation, other than the prohibition of the alienation of the association membership from the Lot owned. Lot owners may not transfer, alienate or pledge the association membership except in regard to its sale, encumbrance, or other transfer of the Lot itself.

12. INSURANCE.

(a) Each Lot owner is responsible for carrying insurance at their own expense, to cover liability, losses and damages to their Lot.

(b) The HOME OWNERS ASSOCIATION will maintain an insurance policy

on the common area including the clubhouse and pool area.

(c) If Tayvis Estates is located in a federally identified flood hazard area, the Lot owner will be carrying flood insurance at their own expense.

(d) **Workers' Compensation Insurance.**
Workers' compensation insurance will be provided for any Association employees.

(e) **Director's and Officer's Liability Insurance.**
Liability insurance for protection of directors and officers of the Association may be provided.

13. MUST BE BUILT.

TAYVIS Estates has arranged financing from First Community Bank of Las Cruces, NM, to finish improvements for Tayvis Estates, including clubhouse, pool, landscape, of common elements, pathways, gates and controllers, park and designated parking lots.

14. DEVELOPMENT RIGHTS

(a) Maximum number of Lots for Tayvis Estates single family attached Lots is 84. **Tract A** consists of 24 multi-family apartments, a total of 27,350 square feet. **Tract B** consists of 12 multi-family apartments totaling 13,525 square feet.

(b) Tayvis Estates will be residential use either multi family or single family residents.

(c) Tayvis Estates will be for residential use only,

(d) Tracts A & B of the plat will be reserved for Multi family or Single family use.

(e) The maximum number of apartments for Tracts A & B will be 36.

(f) All structures and colors will comply with the architectural theme of Tayvis Estates.

(g) Any improvements, landscape or fencing will be consistent with Tayvis Estates. The garages and parking may differ due to structural designs of multi family Lots.

(h) Location of building in Tract A & B will meet "set back" requirements of Tayvis Estates, PUD.

- (i) Lots of Tract A & B regarding size of apartments will be a minimum of 800 sq feet.
- (j) Restriction affecting use occupancy and alienation of apartments will be consistent with Tayvis Estates.
- (k) Tracts A & B may be used for the development of multifamily or single family purposes.

15. GENERAL INFORMATION

(a) Do not rely on information, data, or representation not referred to in this Disclosure Statement and not contained in the various exhibits and documents mentioned herein. No person has been authorized by Developer to make any representation which is not expressly contained in this Disclosure Statement. This Disclosure Statement may not be changed or modified orally.

(b) Developer reserves the right to change the terms of this Disclosure Statement to the extent and in the manner permitted by law.

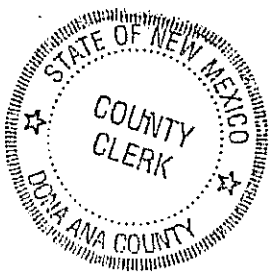
[END OF DISCLOSURE STATEMENT]

**MONTHLY & ANNUAL BUDGET FOR TAYVIS ESTATES
BASED ON 84 UNITS**

| <u>CLUBHOUSE</u> | <u>MONTHLY</u> | <u>ANNUAL</u> |
|---|-------------------|--------------------|
| Utility Bill, Gas, Water, Sewer | 250.00 | 3,000.00 |
| General Repair, Roof, Paint, Etc. Fund..... | 500.00 | 6,000.00 |
| Maid Service & General Cleanup | 200.00 | 2,400.00 |
| <u>POOL</u> | | |
| Monthly Cleaning Service and Chemicals..... | 400.00 | 4,800.00 |
| Repair and Upkeep Fund..... | 300.00 | 3,600.00 |
| <u>ROCKWALL</u> | | |
| Repair and Upkeep..... | 300.00 | 3,600.00 |
| <u>GATES & FENCE</u> | | |
| Repair and Upkeep..... | 300.00 | 3,600.00 |
| <u>LANDSCAPE</u> | | |
| Monthly Water Bill | 250.00 | 3,000.00 |
| Sprinkler, Plant Replacement..... | 150.00 | 1,800.00 |
| Monthly Service Contract: Homes, Clubhouse, Park & Rds... | 2,000.00 | 24,000.00 |
| <u>STREETS AND PATHWAYS</u> | | |
| Long Term Maintenance Fund for Overlay/General Repairs.. | 1,000.00 | 12,000.00 |
| e.g., \$120,000.00 cost over 10 years | | |
| <u>SIDEWALK, PARKING LOT AND VALLEY GUTTER</u> | | |
| Replacement & General Repairs \$36,000.00..... | 300.00 | 3,600.00 |
| Cost in 10 years | | |
| <u>GENERAL ADMINISTRATIVE FUND</u> | | |
| Insurance, bookkeeping, office, misc. expenses | 500.00 | 6,000.00 |
| <i>Total:.....</i> | <i>\$6,450.00</i> | <i>\$77,400.00</i> |

****Budget is based on actual price as of December, 2007. The budget must continue to be monitored and adjusted for price fluctuation due to cost of living expenses \$80.00 per unit.**

****Budget is based on fees with all dwellings completed and occupied.**



COUNTY OF DONA ANA)
 STATE OF NEW MEXICO) ss

DECLARATION OF CONDOMI
 PAGES: 59

I Hereby Certify That This Instrument Was Filed for
 Record On The 10TH Day Of November, 2008 at 04:15:45 PM
 And Was Duly Recorded as Instrument #0830684
 Of The Records Of Dona Ana County

Deputy *Jhucero* _____
 Witness My Hand And Seal Of Office
 Rita Torres
 County Clerk, Dona Ana, NM