

**DECLARATION OF PROTECTIVE
COVENANTS AND BUILDING RESTRICTIONS
FOR COUNTRY CLUB SQUARE**

1st THIS DECLARATION of Protective Covenants and Building Restrictions is made this day of November 2003, by FRANCISCO MELENDEZ (hereinafter the "Declarant") and HOMES BY DAWN DAVIDE, INC. (hereinafter "Davide")

WITNESSETH

WHEREAS, the Declarant is the Owner of the following described real property located in Sandoval County, New Mexico:

Lots 1 thru 6 and 8 thru 15

COUNTRY CLUB SQUARE
CITY OF RIO RANCHO
STATE OF NEW MEXICO

A SUBDIVISION IN SANDOVAL COUNTY, NEW MEXICO, AS SHOWN AND DESIGNATED ON THE PLAT THEREOF ENTITLED "PLAT FOR COUNTRY CLUB SQUARE BEING A REPLAT OF TRACT PH-1 WITHIN OAKMOUNT PORTION OF PANORAMA HEIGHTS, CITY OF RIO RANCHO, TOWN OF ALAMEDA GRANT, SANDOVAL COUNTY, NEW MEXICO" FILED IN THE OFFICE OF THE COUNTY CLERK OF SANDOVAL COUNTY, NEW MEXICO (hereinafter the "Subdivision");
and

WHEREAS, Davide is the owner of Lot 8 within the Subdivision;

WHEREAS, Declarant and Davide desire to create and establish certain Protective Covenants and Building Restrictions to help maintain the authenticity, integrity and beauty of the Subdivision for the mutual benefit and enjoyment of purchasers and residents of Lots within the Subdivision; and

WHEREAS, Declarant and Davide have deemed it desirable to create a non-profit corporation (the "Association") for the specific purposes of benefiting the Subdivision, the Owners and the Residents by, without limitation,: (1) acquiring, constructing, operating, managing and maintaining designated Association Land, if any; (2) enforcing and administering the Declaration on behalf of all Owners; and (3) establishing, levying, collecting and disbursing annual assessments and other charges imposed hereunder; and

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WHEREAS, Declarant is preparing the necessary documents for the incorporation and organization of the Association and may, without obligation, seek approval of any governmental agencies or financial institutions whose approval Declarant deems necessary or desirable; and

WHEREAS, until such time as the Association is incorporated, Declarant desires to and hereby reserves to itself, to its successors and assigns, the right to exercise the powers and duties granted in this Declaration to the Association; and

WHEREAS, in order to enable the Association to accomplish the purposes outlined above, **the Subdivision is hereby subjected to this Declaration.** After recordation of this Declaration, Declarant and Davide hereby make all conveyances of property within the Subdivision, whether or not so provided therein, subject to the Covenants herein set forth.

NOW, THEREFORE, BE IT RESOLVED that the Declarant and Davide do hereby declare the creation and existence of Protective Covenants and Building Restrictions for the Subdivision, that all real property within the Subdivision shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, limitations, conditions and agreements hereinafter set forth. Said Covenants shall be considered as included in any agreements for deed, deeds of conveyance or mortgages, whether written therein or referred to by reference to the book and page where this instrument is recorded in the public records of Sandoval County, New Mexico.

ARTICLE I **DEFINITIONS**

The following words when used in this Declaration or any Supplemental Declaration shall have the following meanings:

A. **“Annual Assessment”** shall mean the charge levied and assessed each year against each Lot.

B. **“Articles”** shall mean the Articles of Incorporation of the Association as the same may be amended from time to time.

C. **“Assessable Property”** shall mean the entire Property, except such part or parts thereof as may from time to time constitute or be deemed Exempt Property.

D. **“Assessment Lien”** shall mean the lien created and imposed by Article III.

E. **“Association”** shall mean the nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers, and duties set forth in this Declaration. Prior to the incorporation of the Association, Declarant may seek approval from any governmental agencies or financial institutions whose approval Declarant deems necessary or desirable. Declarant, which hereby reserves the exclusive right to cause such Association to be incorporated, intends to name the Association “Renaissance Property Owner’s Association, Inc.”, if this name is available for use when the Association is incorporated.

F. **"Association Land"** shall mean such part or parts of the Subdivision, together with the buildings, structures and improvements thereon, if any, as may be owned at any time hereafter by the Association, for as long as the Association is the Owner thereof. Association Land is owned by the Association for the common use and enjoyment of the Owners and is also known as "Common Area". Association Land shall include the private access easements and drainage easements shown on the plat of the subdivision.

G. **"Board"** shall mean the Board of Directors of the Association.

H. **"Bylaws"** shall mean the Bylaws of the Association as the same may be amended from time to time.

I. **"Committee"** shall mean the Architectural Control Committee created pursuant to Article X hereinbelow.

J. **"Covenants"** shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and assessments set forth herein.

K. **"Declarant"** shall mean Francisco Melendez and his successors and assigns.

L. **"Declaration"** shall mean this Document.

M. **"Deed"** shall mean a Deed or other instrument conveying the fee simple title to real property within the Subdivision.

N. **"Dwelling Unit"** shall mean each residential unit on a Lot for permanent, residential use, and all projections and extensions thereof. In the case of a building that is divided into condominiums, each condominium unit shall be a Dwelling Unit.

O. **"Exempt Property"** shall mean the following portions of the Subdivision:

(1) All land and permanent improvements owned by or dedicated to and accepted by the United States, the State of New Mexico, Sandoval County, or any political subdivision thereof, for as long as any such entity or political subdivision is the Owner thereof or for so long as said dedication remains effective;

(2) All land and permanent improvements (except such as is devoted to dwelling use) owned by a charitable or nonprofit organization exempted (at the time of the assessment by the Association) from payment of real property taxes by the laws of the State of New Mexico, for as long as such entity is the Owner thereof;

(3) All Association Land, for as long as the Association is the Owner thereof;
and

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(4) All Units within the Subdivision shall be exempt until subjected to the force and effect of this Declaration in accordance with Article XIV.

P. **"Front Lot Line"** shall mean the boundary line of a building site which abuts upon any street, public or private.

Q. **"Front Yard"** shall mean the space extending from the concrete curb of the paved street to the front of the Building on any Lot. A corner Lot will have a Front Yard on two streets.

R. **"Improvements"** shall mean and include parking areas, loading areas, fences, walls, poles, signs, landscaping and any other structure or facility of any kind or type.

S. **"Lot"** shall mean and refer to any plot of land shown on the Plat of the Subdivision, other than any parcel, tract, easement and Exempt Property as herein defined.

T. **"Member"** shall mean all Owners.

U. **"Owner"** shall mean the record holder of legal title to the fee simple interest in any Lot, including contract sellers, but excluding others who hold such title merely as security. In the case of Lots the fee simple title to which is vested in a trustee pursuant to New Mexico law, legal title shall be deemed to be in the Trustee.

V. **"Permanent Improvements"** shall mean all buildings and structures and other improvements, which, at the time of the annual assessment are taxable by the State of New Mexico or a political subdivision thereof as real property.

W. **"Resident"** shall mean:

(1) Each buyer under a contract of sale of any Lot or Dwelling Unit within the Subdivision and each tenant under a lease, written or oral, of any Lot or Dwelling Unit within the Subdivision; and

(2) Members of the immediate family of each Owner and of each buyer and of each tenant actually living on any Lot within the Subdivision.

X. **"Side Lot Line"** means any property line of a building site which is not a Front or Rear Lot Line.

Y. **"Side Yard"** means the space between a Side Lot Line and a Dwelling Unit.

Z. **"Special Assessment"** shall mean any assessment levied and assessed pursuant to Article III, Section 5.

AA. **"Voting Owners"** shall mean those Owners who, pursuant to Article VIII, have voting rights. In the case that any residential unit is divided into condominiums, each lot shall

have one vote and the condominium owners shall be governed by individual declarations of condominiums to determine how the one vote shall be made.

ARTICLE II
DECLARATION BINDING ON
PROPERTY, OWNERS AND ASSOCIATION

Section 1. From and after the date this Declaration is recorded each Lot within any Unit subjected to this Declaration shall be bound hereby. The Declaration and covenants contained herein shall run with, be for the benefit of, bind, and burden all Lots so subjected.

Section 2. From and after the date this Declaration is recorded, the Covenants shall be binding upon and inure to the benefit of each Owner, his/her heirs, executors, administrators, trustees, personal representatives, successors and assigns, whether or not so provided or mentioned in the Deed. Each Owner expressly agrees to pay, and to be personally liable for, the assessments provided for hereunder, and to be bound by all of the Covenants set forth herein. Each Owner shall be and remain personally liable, regardless of whether he/she has transferred title to his/her Lot, for the amount of unpaid assessments (together with interest thereon, costs of collection and attorney's fees, if any) which became due while he/she was Owner. No Owner shall be relieved of personal liability for such assessments by non-use of Association Land or by transfer or abandonment of his/her Lot.

Section 3. Upon issuance of a Certificate of Incorporation by the New Mexico Corporation Commission, the Association will be bound by the Declaration.

ARTICLE III
ANNUAL ASSESSMENTS

Section 1. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor is deemed to covenant and agree to pay to the Association: (1) Annual Assessments; and (2) Special Assessments for Capital Improvements. The assessments shall be a charge on the land and shall be a continuing lien on the Property against which such assessment is made. The assessment shall be a personal obligation of the person who is the Owner of the Lot assessed at the time when the assessment became due. Mortgagees of Lots and improvements thereon are not required to collect assessments. The assessments are subordinate only to the primary mortgage on any Lot. Failure to pay assessments does not constitute a default under an insured mortgage.

Section 2. The Annual Assessment for the 2003 Annual Assessment Period shall be as follows:

- a. Each Lot deeded by the Declarant to a third party - \$100.00.
- b. Declarant shall pay an amount equivalent to a percentage of the Annual Assessment levied against each Lot deeded by the Declarant as follows:

1) Ten percent (10%) for all undeveloped Lots. This assessment for the 2003 Annual Assessment Period is \$20.00.

2) Fifty percent (50%) for all Lots upon which a Dwelling Unit has been constructed but which no Dwelling Unit is occupied for residential purposes. This assessment for the 2003 Annual Assessment Period is \$100.00.

Section 3. The Annual Assessment shall be prorated and may be paid in periodic installments. All assessments shall be paid to the name of Country Club Square Property Owners' Association, Inc., c/o Lastrapes, Spangler & Pacheco at 333 Rio Rancho Drive, Rio Rancho, New Mexico 87124 or at such other address designated by the Board.

Section 4. The Annual Assessment may be increased up to ten percent (10%) each year by the Board. Any increase in the Annual Assessment in excess of ten percent (10%) shall require a two-thirds (2/3) vote of all Members who are voting in person or by proxy at a meeting duly called for this purpose. Notwithstanding any increase, the Declarant shall pay its assessments in accordance with the percentages set forth hereinabove.

Section 5. The Board may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Association Land, including fixtures and personal property related thereto, with two-thirds (2/3) vote of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 and 5 of this Article shall be sent to all Voting Owners not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes shall constitute a quorum.

Section 7. The Annual Assessments provided for herein shall commence upon conveyance of the first Lot by Declarant. The Annual Assessment shall be uniform among all Owners, subject to the percentage provision for Declarant contained hereinabove. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment Period. The Annual Assessment Period shall commence on January 1 and end December 31 of each year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board. The Association shall, upon written demand, and for a reasonable charge, furnish a certificate signed by an officer setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate is binding upon the Association.

Section 8. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or may

foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for assessments by non-use of the common area, abandonment or conveyance of his/her Lot. A failure to pay assessments shall not constitute a default under a mortgage. An Owner who is not current on all assessments shall have no voting rights in the Association until all assessments are paid current.

Section 9. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot shall not affect the Assessment Lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but not for assessments accruing thereafter.

ARTICLE IV
EXEMPTIONS: OWNERS' AGREEMENT

Section 1. Exempt Property shall be exempted from the assessment of the Annual and Special Assessments; provided, however, that in the event any change of ownership of Exempt Property results in all or any part thereof becoming assessable in any year, the Lot shall be subject to the applicable, prorated Assessment and the Assessment Lien.

Section 2. Each Owner, for himself/herself, his/her heirs, executors, administrators, trustees, personal representatives, successors and assigns, covenants and agrees: (a) to pay to the Association when due the Annual and Special Assessments; (b) that he/she acquires said Lot subject to the Annual and Special Assessments and Assessment Lien; and (c) that by accepting a Deed, the Owner shall remain personally liable for any and all unpaid Annual and Special Assessments assessed while he/she is or was Owner.

ARTICLE V
ENFORCEMENT OF DECLARATION BY ASSOCIATION

Section 1. In addition to each Owner's right to enforce the provisions of the Declaration, the Association, through the Board, as the agent and representative of the Owners, shall have the right to enforce the provisions of this Declaration.

Section 2. If the Owner of any Lot fails to pay any assessment when due, the Association may proceed on either of the following remedies:

a. Bring an action at law and recover judgment against the Owner personally obligated to pay the Assessment; and/or

b. Foreclose the Assessment Lien against the Lot in accordance with New Mexico law relating to foreclosure of realty mortgages.

Section 3. In any action taken by the Board to enforce this Declaration or to collect unpaid Assessments, the Owner against whom enforcement or collection is sought shall be personally liable for costs and attorney's fees incurred by the Association.

ARTICLE VI
USE OF FUNDS BY ASSOCIATION

Section 1. The Association shall apply all Assessments collected and received by it for the common good and benefit of all Residents and Owners, including, without limitation, maintenance of any Association Land and improvements thereon including access and drainage easements, recreation, enforcement of the provisions of this Declaration, and operating costs of the Association.

Section 2. The Association shall not be obligated to spend in any year all sums received by it and may carry forward as surplus any balances remaining.

ARTICLE VII
ASSOCIATION RIGHTS AND POWERS

Section 1. In addition to the rights and powers set forth in the Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws; provided that such Articles and Bylaws are not inconsistent with the Declaration. After incorporation of the Association, copies of the Articles and Bylaws shall be available for inspection at the designated office of the Association.

Section 2. The Association, as the agent and representative of the Owners, shall have the right, but not the obligation, to enforce the Declaration and Covenants contained therein in any action at law or equity.

Section 3. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including the Declarant, its subsidiaries, and affiliated companies for the performance of the Association's duties.

Section 4. The Association shall obtain and maintain at all times a policy insuring the Association, Members and Board, their agents and employees, and the Owners against all liability to the public or to the Owners for a limit of liability of not less than One Million Dollars (\$1,000,000.00) combined single limit covering all claims for personal injury liability and property damage liability arising out of one occurrence, such limit to be reviewed at least annually by the Board and increased at its discretion.

ARTICLE VIII
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity who is a record Owner of any Lot subjected to this Declaration shall automatically be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member. Membership and voting rights shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. When more than one person holds an ownership interest in the same Lot, all such persons shall be Members, but shall only be entitled

to one vote collectively. A Member shall have no voting rights in the event such Member is in default of the payment of an assessment.

Section 2. The Articles of the Association will provide that the Board, which shall have the exclusive right to determine and transact the affairs of the Association, will initially consist of one (1) director, each of whom and each of whose replacement shall be an employee, representative or designee of Declarant, and who shall be elected and subject to removal only by the Declarant. Upon sale of Two (2) Dwelling Units, the Owners shall be entitled to add one director to the Board. Upon sale of an additional Four (4) Dwelling Units, the Owners shall be entitled to add an additional director to the Board. Thereafter the Board shall consist of Three (3) members.

ARTICLE IX
EASEMENTS AND RIGHTS OF ENJOYMENT
IN ASSOCIATION LAND

Section 1. Subject to the limitations contained in this Declaration, every Owner shall have the right and/or easement of enjoyment in and to all Association Land, if any, and such easement shall be appurtenant to and shall pass with title to every Lot upon transfer. All Residents shall have a nontransferable privilege to use and enjoy all Association Land, if any, for as long as they remain Residents. The use of easements within the Association Land by Residents shall be limited to the specific purpose for which the easement was granted as identified in the plat or other document creating such easement.

Section 2. All rights granted and conferred by Section 1 of this Article shall be subject to the exclusive right of the Association to adopt reasonable rules and regulations pertaining to the use of Association Land and to charge Owners and Residents for use thereof. In establishing or adjusting the amounts of such fees from time to time, the Board, in its absolute discretion, may establish reasonable classifications as or among Owners, Residents and other persons. Such fees must be uniform within each such class but need not be uniform from class to class.

Section 3. The Association shall have the right to suspend the aforesaid rights of enjoyment of any Owner (and the privilege of each Resident or other person claiming through such owner) for (i) any period during which the Annual and Special Assessments or Maintenance Charges assessed to such Owner under Article III hereof remains delinquent and unpaid, or (ii) any reasonable period up to but not in excess of 90 days in connection with the enforcement of any of the Association's rules or regulations relating to Association Land.

Section 4. If ingress and egress to any residence is through the Association Land, any conveyance or encumbrance of the Association Land shall be subject to a Lot Owner's easement of access.

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ARTICLE X
ARCHITECTURAL CONTROL COMMITTEE

Section 1. There is hereby created an Architectural Control Committee (the "Committee") to carry out the functions assigned to it in this Declaration. The member(s) of the Committee shall be designated from time to time by the Declarant. No committee member shall be entitled to compensation for services performed pursuant to this covenant at any time. The names of members of the Committee may be obtained from the Declarant at the office of the agent for Declarant, Lastrapes, Spangler, & Pacheco at 333 Rio Rancho Drive, Rio Rancho, New Mexico 87124.

Section 2. Prior to the commencement of new construction on any Lot, or the alteration, modification or addition to the exterior of an existing Dwelling Unit, or the construction of any other structure on any Lot, or the alteration, addition or modification to the existing front yard landscaping, the plans or proposed changes shall be submitted to and approved by the Committee. Any decision by the Committee, either approving or disapproving any plans submitted, shall be made in writing. In the event the Committee fails to take any action within thirty (30) days of its receipt of any plans, Committee approval shall be deemed granted. Committee approval shall not be construed as professional expertise and no warranty or liability for construction according to such approved plans shall be placed on the Committee or Declarant. Notwithstanding the foregoing, the Committee may employ professional expertise for such review, such as consultant architects, planners, engineers or surveyors and the cost for such review shall be borne entirely by the Owner submitting the plans.

Section 3. For good cause shown, a majority of the Committee may waive any provision of any Article provided such waiver is in keeping with the intent of the requirements recited herein and that such waiver does not create any threat to the safety, orderliness, appearance, drainage, utilities or general nature of the Subdivision. To be effective, such waiver must be given in writing and a true copy thereof filed for public record with the Sandoval County Clerk.

Section 4. The Committee and/or its designated representative, is authorized to access any Lot to determine the feasibility of any requested modification, alteration or addition and/or the compliance with approved modifications, alterations or additions.

ARTICLE XI
MAINTENANCE OF LAND BY ASSOCIATION

Section 1. The Association, or its duly delegated representative(s), shall maintain and otherwise manage the drainage easements on each Lot, the reciprocal access easement, the property line wall and wrought iron fence, and any other Association Land and improvements thereon. The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance of Association Land including the drainage and access easements of each Lot, to reflect a high pride of ownership. Each Owner shall maintain any of such Owner's landscaping located in the drainage easement.

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Section 2. In the event that the need for maintenance or repair of Association Land including the drainage and access easements is caused through the willful or negligent act of any Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Owner's Lot is subject and shall be secured by the Assessment Lien.

Section 3. In the event any portion of the Property, other than Association Land, is so maintained as to present a public or private nuisance or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Property which are substantially affected thereby or related thereto, the Board may by Resolution make a finding to this effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within thirty (30) days, the Board will cause such action to be taken at said Owner's cost. If at the expiration of said 30-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner's Lot is subject and shall be secured by the Assessment Lien. Property owned by charitable or nonprofit organizations shall not be exempt from such assessment, irrespective of whether such organization is exempt from payment of real property taxes by the laws of the State of New Mexico. In the event, however, that such organization is a Subsidiary Association having assessment powers, then and in that event the cost of such corrective action shall be prorated among the Owners who are subject to assessment by such Subsidiary Association and, as prorated, shall be added to and become a part of the assessment to which such Owners' Lots are subject hereunder and shall be secured by the Assessment Lien.

ARTICLE XII
TRANSFER OF ASSOCIATION LAND
AND CHANGES IN USE

Section 1. The Association and/or Board shall transfer all or a portion of the Association Land including any interest in any easement only in accordance with the Articles of Incorporation of the Association.

Section 2. Upon adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Association Land is no longer in the best interests of the Owners and Residents, the Association shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use (i) shall be for the benefit of the Owners and Residents, and (ii) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Association Land.

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ARTICLE XIII
TERM; AMENDMENTS; TERMINATION

Section 1. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Voting Owners casting seventy-five percent (75%) of the total votes authorized at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. If the necessary votes are obtained, the Board shall cause to be recorded with the County Records of Sandoval County, New Mexico, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2. This Declaration may be modified, amended or terminated by sixty percent (60%) vote of all Members who are voting in person or by proxy at a meeting duly called for this purpose. No such modification, amendment or termination shall be effective until a proper written instrument has been executed, acknowledged and recorded in the office of the Clerk of Sandoval County, New Mexico.

Section 3. Anything in this Declaration to the contrary notwithstanding, Declarant's three representatives or designees on the Board of Directors of the Association shall have the right, subject to approval of Declarant, at any time while they are members of the Board, to resign from the Board, whereupon Declarant may elect their replacements or permit their positions to be filled by such persons as the Voting Owners may elect at an election held in the manner provided for electing directors specified in the Articles of the Association. In the event Declarant declines or fails to elect replacements within ninety (90) days, then at any time thereafter the Voting Owners casting seventy-five percent (75%) of the votes cast at a duly called election, shall have the right to elect replacements.

ARTICLE XIV
USE OF THE LAND

Section 1. No trailer, mobile home, manufactured home, tent, shack, garage, barn or other outbuilding or any temporary structure erected on any Lot shall be used at any time as a residence, either temporarily or permanently. No structure on any Lot shall exceed two (2) stories. Private garage space for a minimum of one (1) vehicle shall be provided for each residence.

Section 2. No Lot shall be further subdivided except that it is acceptable to divide a residence into condominiums.

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Section 3. No dwelling containing less than Seven Hundred (700) square feet of heated living area, exclusive of screened or open porches, garages, carports, accessory buildings or other covered areas, shall be permitted on any Lot.

Section 4. Use and occupancy of Lots shall be subject to zoning, building, health, sewage disposal and sanitation regulations of the City of Rio Rancho, New Mexico and/or all government agencies having jurisdiction (if any), or by the Declarant.

Section 5. No manufacturing, commercial or business operation (except professionals in businesses engaged in recognized non-manufacturing and non-commercial professions) is allowed on any Lot. Any permissible professional business occurring on any Lot must be approved by the appropriate municipal entity. No Lot shall be used in whole or in part for the storage of any property or object that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any activity be carried on, or substance kept on any Lot that will emit foul or obnoxious odors, or that will cause unreasonable noise or which may be or become a nuisance to the neighborhood.

Section 6. Exteriors of all Dwelling Units shall be finished in accordance with the plans within nine (9) months from commencement of construction. All other additions, alterations, modifications to the front yard landscaping or the exterior of an existing Dwelling Unit, or the construction of any other structure on a Lot shall be completed in accordance with the plans approved by the Committee within three (3) months from commencement of construction.

Section 7. No animals, livestock or poultry of any kind shall be raised, bred, kept or maintained in any dwelling or on any Lot, except that dogs, cats, or other domesticated household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided they do not disturb other Owners or become a nuisance in any way. Such pets shall be kept within suitable shelter and fencing for proper care. No pets shall be allowed to roam free.

Section 8. No radio, television or similar tower shall be erected on any Lot or be attached to any building, except that a radio or television antenna may be attached to any dwelling provided it does not project more than ten (10) feet above the roof of the Building as originally erected and is connected to the roof only by a single tubular support.

Section 9. No alteration, modification or addition to the front yard drainage ponds is allowed without the prior approval of the Committee.

Section 10. Outside laundry poles and lines are prohibited except that one portable laundry dryer, not more than seven (7) feet high, may be used in the rear yard of each Lot on days other than Sundays and legal holidays.

Section 11. Mobile homes, recreational vehicles, boats and trailers are not permitted on any Lot. Travel trailers or recreational vehicles belonging to bona-fide guests may not remain

on any Lot for longer than twenty-four (24) hours for any one visit, and must be parked on a designated parking stall.

Section 12. No sign or advertisement of any kind other than name plates or professional signs not exceeding one (1) square foot in surface area shall be erected or maintained on the Lot without written approval of the Committee, except for signs erected by Declarant , which may remain during the construction of dwelling units and "For Sale", "For Rent" or "For Lease" signs of the customary size.

Section 13. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and eight (8) feet above the gutter line of the street shall be placed or permitted to remain on any corner Lot within the triangular areas at the street corner, which area is bounded by the street property lines of the corner Lot and a line connecting points twenty-five (25) feet distant from the intersection of the property lines. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 14. No swimming pool shall be constructed on any residential Lot without prior written approval by the City of Rio Rancho.

Section 15. Rubbish and garbage must be kept in suitable containers and removed from Lots in accordance with sanitation regulations. No rubbish or garbage may be burned or dumped on Lots within the Unit or within the Subdivision, except in such places as may be specifically designated and approved for such purposes by the county or municipal authorities. No open fires shall be permitted.

Section 16. Notwithstanding anything herein to the contrary, in the event any zoning designation or other government authorization affecting the use of any Lot conflicts with this Declaration, then such zoning designation or other government authorization shall control; provided, however, that to the extent possible, this Declaration shall be interpreted so that they do not conflict therewith.

Section 17. No fence, wall or other barrier shall be erected that would prohibit pedestrian access from the south side of the Property to the north side of the Property without the prior written approval of the Committee and the Rio Rancho Department of Public Safety.

Section 18. All residents shall comply with all traffic signs in the private access easement. Vehicles shall not be parked within the private access easement. Vehicles parked within the private access easement may be towed by the Association at the owner of the vehicle's expense.

ARTICLE XV

SETBACK REQUIREMENTS

Section 1. All Buildings erected on any Lot shall be situate only within that portion of said Lot not restricted from use by easements or rights-of-way.

Section 2. Owners shall comply with all setbacks specified by the City of Rio Rancho.

Section 3. A four (4) inch tolerance by reason of mechanical variance of construction is allowed for the minimum distance requirements.

Section 4. Roof overhangs, fireplaces, decorative walls and the like shall not be considered part of the permanent structure for measurement purposes in determining conformance to these setback requirements. However, in the event of roof overhang, the overhang may extend no more than twenty-four (24) inches into any five (5) foot sideline setback area.

Section 5. All waivers from the above recited minimums must be in writing and a true copy thereof filed for public record with the County Clerk of Sandoval County, New Mexico.

ARTICLE XVI **EASEMENTS**

Section 1. The reciprocal access easement designated on the plat shall be utilized for ingress to and egress from the Subdivision. Parking is not allowed at any time within the easement. Easements and rights-of-way designated on the plat are hereby reserved unto Declarant, its successors and assigns in addition to the Owners. Such easements may be assigned to the County of Sandoval, City of Rio Rancho and all public and private utility companies, for the construction, installation and maintenance of any and all utilities, such as power cable, cable television, gas lines, drains, sewers, roads, water supply lines, telephone and telegraph lines or the like that are necessary or desirable for public health and welfare. Lines, wires, and other devices for the transmission of electric current or power, telephone, telegraph or cable television shall be placed underground.

Section 2. All easements shall be kept free from alteration and permanent structures. Owners shall provide access to all easements to maintenance personnel, without trespass, for the upkeep of such utilities or drainage facilities which may be constructed within said easements.

Section 3. Right of access across any Lot is hereby reserved unto the Declarant for general improvements of other properties, but such right of access shall terminate upon commencement of construction of a Building on such Lot.

Section 4. Sale of any Lot by Declarant shall include all rights in and to the street, road or highway fronting the same, subject, however, to the rights of all others to use the same public or private thoroughfares. The Declarant reserves the right to dedicate to the public all streets, roads and highways abutting the property affected hereby without the consent of any Owner.

ARTICLE XVII
OIL GAS AND MINERAL RIGHTS

All previously reserved oil, gas, and mineral rights in, to and under the entire Subdivision are reserved to Declarant, its heirs, successors and assigns.

ARTICLE XVIII
REPLATTING

The Declarant reserves the right to change any streets or roads or to file a replat of the plat hereinabove described, provided such change or replat shall conform to the regulations of the City of Rio Rancho, the County of Sandoval and the State of New Mexico, and provided that no such changes or replat shall interfere with ingress and egress of any or change the size and location of any Lot not owned by the Declarant.

ARTICLE XIX
ENFORCEMENT OF DECLARATION BY OWNERS

Any Owner may enforce this Declaration on his/her own behalf and at his/her own expense. The Association shall be under no obligation to enforce this Declaration.

ARTICLE XX
MISCELLANEOUS

Section 1. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

Section 2. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not effect the validity or enforceability of any of the other provisions hereof.

Section 3. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (i) those which would be used in determining the validity of the challenged interest, plus (ii) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 4. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 5. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

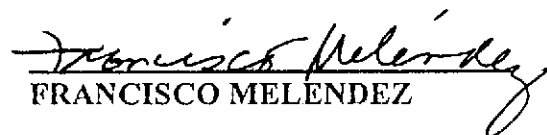
Section 6. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Clerk of Sandoval County, New Mexico, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the community can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

Section 7. Deeds to and instruments affecting any Lot or any part of the Property may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such references is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his/her heirs, executors, administrators, successors and assigns.

Section 8. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

Section 9. All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only, and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context hereof.

IN WITNESS WHEREOF, Declarant and Davide has hereunto caused its name to be signed the day and year first above written.


FRANCISCO MELENDEZ

HOMES BY DAWN DAVIDE, INC.
By: 
Its: President

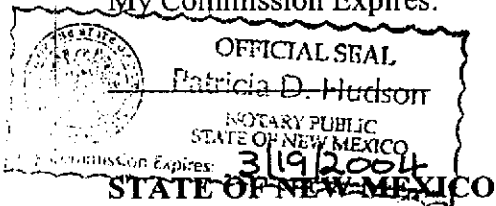
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STATE OF NEW MEXICO)
) ss.
COUNTY OF SANDOVAL)

This instrument was acknowledged before me on this 1st day of November, 2003, by Francisco Melendez.

Patricia D Hudson.
NOTARY PUBLIC

My Commission Expires:



STATE OF NEW MEXICO)
) ss.
COUNTY OF SANDOVAL)

This instrument was acknowledged before me on this 1st day of November, 2003, by Dawn Davide, President of Homes by Dawn Davide, Inc. on behalf of said corporation.

Patricia D Hudson.
NOTARY PUBLIC

My Commission Expires:



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