

DECLARATION
OF
PLANNED RESIDENTIAL COMMUNITY

OVENWEST CORPORATION, a New Mexico corporation
(the "Developer") declares that:

ARTICLE I

DEFINITIONS

The following words and their derivatives have
the following meanings when used herein:

(A) "Articles" means the Articles of Incorporation of the Association.

(B) "Assessment" means the Annual Assessment or the Special Assessment for Capital Improvements established by this Declaration.

(C) "Association" means the La Luz de Sol Landowners Association, a New Mexico nonprofit corporation, and its successors.

(D) "Board" means the Board of Directors of the Association.

(E) "By-laws" means the Bylaws of the Association.

(F) "Common Area" means any area shown as a "Common Area" on any current recorded subdivision map of the Property, any area designated as a "Common Area" in any Supplemental Declaration, and includes the facilities intended for common use and enjoyment on a Common Area.

(G) "Office Unit" means any building or any portion of a building on the Property designed and intended for use and occupancy for an office purpose, or any plot of land shown as intended for office facilities on any

recorded subdivision map of the Property or the General Plan of Development established by the Developer as it may be amended from time to time.

(H) "Declaration" means this Declaration of Planned Residential Community, and any Supplemental Declaration.

(I) "Living Unit" means any building or any portion of a building on the Property designed and intended for use as a single family dwelling, or any plot of land shown as intended for residential facilities on any recorded subdivision map of the Property, or on the General Plan of Development established by the Developer, as it may be amended from time to time.

(J) "Property" means Groups A and B of La Luz del Oeste, Unit 4 as shown on the plat recorded March 11, 1980, with the Bernalillo County Clerk, and all additional real property made subject to the Declaration as allowed by the Declaration.

(K) "Regulations" means rules promulgated by the Board from time to time in the manner permitted by the Articles and By-laws.

(L) "Supplemental Declaration" means any instrument which amends or terminates the Declaration, or which accomplishes some action taken under the Declaration, and which has been executed and acknowledged in the manner required by the Declaration, and recorded with the Bernalillo County Clerk.

(M) "Unit" means a Living Unit or an Office Unit.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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Section 1. MEMBERSHIP: Every person or entity who is a record owner of a fee or undivided fee interest in any Unit will be a member of the Association (a "Member"). The rights of Membership, including the right to participate in Association affairs, the right to vote, and the right to use the Common Area, are subject to suspension by the Board during any period in which any Assessment payable by the Member remains unpaid, and for a period of not more than 30 days for an infraction of the Declaration, or of the Articles, By-laws or Regulations.

Section 2. VOTING RIGHTS: The Association will have three classes of voting membership:

(A) All members who are owners of Living Units except the Developer will be Class A Members and will have one vote for each Living Unit in which they hold the interests required for Membership in the Association. When more than one person or entity holds such an interest in a Living Unit, all will be Members, and the vote for the Living Unit will be exercised as they among themselves determine, but no more than one vote may be cast with respect to any Living Unit.

(B) The Developer will be the Class B Member and will have three votes for each Living Unit and three votes for each Office Unit in which it holds the interest required for Membership in the Association.

(C) Class B Membership will end and become automatically converted to Class A or Class C when the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership.

(D) All Owners of Office Units will be Class C Members and will have one vote for each Office Unit in which they hold the interests required for Membership in the Association. When more than one person or entity holds such an interest in an Office Unit, all will be members, and the vote for the Office Unit will be exercised as they among themselves determine, but no more than one vote may be cast with regard to any Office Unit. Class C Members will be entitled to vote only on matters concerning assessments to be paid by Class C Members.

(E) For purposes of determining the votes allowed under this Section, when Living Units or Office Units in a multi-Unit structure are involved, the plot of land upon which such Units are situated will not be counted as a Unit.

ARTICLE III

THE COMMON AREAS

Section 1. USE OF COMMON AREAS: The Common Areas are intended for, and are restricted to, the use shown on the instrument designating their status as Common Areas, or the use established by the Regulations. Every Owner of a Living Unit has a right to use the Common Areas, and that right is appurtenant to, and passes with, the Member's Living Unit. Every Owner of an Office Unit has a right to use only the Common Areas designated for use in conjunction with such Office Unit, and that right is appurtenant to, and passes with, the Member's Office Unit. Any Member may in the manner provided by the By-laws extend that right to the members of the Member's family who reside on the Property, or to any tenant, guest, or customer of the Member. Certain portions of the Common

Areas designated on any current subdivision plat of the Property as "Private Road" or "Access Easement" are for the use of Members and their guests, tenants and customers for vehicular and pedestrian ingress and egress to and from the Property.

Section 2. EXTENT OF MEMBER'S RIGHT OF USE: The right of a Member to use the Common Areas is subject to the right of the Association:

(A) To borrow money to improve the Common Areas, and to encumber the Common Areas to secure the loan; however, the lender's rights against the Common Areas upon default will be limited to a right to take possession of the Common Areas, to charge admission fees as a condition to continued enjoyment by the Members, and to open the enjoyment of such properties to a wider public until the debt is satisfied, whereupon the possession of the Common Areas will be returned to the Association, and the Member's rights will be restored; and

(B) To suspend the use rights of any Member for any period during which the Membership rights of the Member are suspended; and

(C) To charge reasonable admission and other fees for the use of the Common Areas; and

(D) To transfer all or part of the Common Areas to a public agency, authority, or utility for such purposes and subject to such conditions as are agreed to by the Members; however, no such transfer, or determination of purposes or conditions, shall be effective unless, after the Association gives each Member 90 days prior written notice of the proposed transfer, Members entitled to cast two-thirds of the votes of each Class of Membership, execute, acknowledge, deliver to the transferee, and

cause to be recorded with the Bernalillo County Clerk a Supplemental Declaration making the transfer and setting forth the purposes and any conditions; and

(E) To publish Regulations governing use of the Common Areas and the personal conduct of the Members and their tenants, guests and customers thereon.

Section 3. TITLE TO COMMON AREAS: The Developer will retain legal title to the Common Areas until it has completed the improvements thereon, and until, in the opinion of the Developer, the Association is able to maintain the Common Areas; however, in any event, the Developer will transfer the Common Areas to the Association, after the Developer has completed construction of all Units designated on the General Plan of Development and 85% of such Units have been sold. Developer will transfer the Common Areas without any warranties or representations as to condition or fitness for use for any purpose.

ARTICLE IV

ASSESSMENTS

Section 1. LIEN AND PERSONAL OBLIGATION OF

ASSESSMENTS: The Developer by this Declaration, and each Member by acceptance of ownership of a Unit, whether or not it is expressed in the indicia of ownership, promise to pay to the Association for each Unit owned (1) Annual Assessments, (2) Special Assessments, (3) interest at 10% per annum from delinquency, and (4) costs of collection including attorneys' fees and abstracting costs (collectively, the "Assessments"). The Assessments will be a charge and a continuing lien on the Unit against which the Assessment is made, and also the personal obligation of

all Members who were owners of the Unit when the Assessment became due. Assessments will begin on the date set by the Board and will be prorated for partial Assessment Years.

Section 2. PURPOSE OF ASSESSMENTS: The Assessments will be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property, and in particular for the improvement and maintenance of the properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Units including but not limited to, the payment of taxes and insurance on the Common Areas, repair, replacement, and additions to the Common Areas, and for the cost of labor, equipment, materials, management, and supervision of the above. The Association may establish reserves for this and other purposes.

Section 3. ANNUAL ASSESSMENTS: The Board will set the Annual Assessment amount for each calendar year (the "Assessment Year"). Until the Assessment Year beginning January 1, 1982, the Annual Assessment for Living Units other than those owned by the Developer for sale may not exceed \$600.00 per Living Unit per Assessment Year, the Annual Assessment for Office Units other than those owned by the Developer for sale may not exceed \$300 per Office Unit per Assessment Year, and the Annual Assessment for Living Units and Office Units owned by the Developer for sale may not exceed \$36 per Living Unit or Office Unit per Assessment Year. Beginning January 1, 1982, the Association, with the Special Assent of the Members, may change prospectively the basis or maximum amount of the

Annual Assessment for the next succeeding three Assessment Years, and at the end of each such period of three Assessment Years, for each succeeding period of three Assessment Years. The change will be effective when a Supplemental Declaration setting forth the change is executed, acknowledged, and caused to be recorded with the Bernalillo County Clerk by the Association Officers. The Annual Assessment will be due and payable in 12 equal monthly installments during the Assessment Year on the day of the month (which need not be uniform as to all Units) set by the Board.

Section 4. SPECIAL ASSESSMENTS: The Association, with the Special Assent of the Members, may levy in any Assessment Year, in addition to the Annual Assessment, a Special Assessment for that Assessment Year only to defray, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement, of a particular capital improvement in a Common Area, including the necessary fixtures and personal property related thereto. The amount, payment schedule, and due dates will be fixed in the levying resolution. The Special Assessment will be effective when a Supplemental Declaration setting forth the resolution is executed, acknowledged, and caused to be recorded with the Bernalillo County Clerk by the Association Officers.

Section 5. RECORD KEEPING: The Association will send each Member notice of the amount, payment schedule and due date of the Assessment against the Member's Unit. The Association will keep accurate records of the amount of Assessment against each Unit, the payment schedules and due dates, and the payments thereon, which will be kept in

the Association office open to inspection by any Member. The Association will on demand at any time furnish to a Member a certificate signed by an Association Officer setting forth whether the Assessment on the Member's Unit has been paid; the certificate will be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 6. THE REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF ASSESSMENT: If any installment of an Assessment is not paid within 30 days after it is due, it is delinquent. When an Assessment is delinquent, the Board may declare the entire Assessment for the Assessment Year due and payable, and the Association may bring a civil action to enforce payment of the personal obligation, or to foreclose the lien against the Unit, or both. Pending judgment in a foreclosure action, the Association is entitled to appointment of a receiver to take charge of the Unit, and may expel the Member from occupancy of the Unit. After foreclosure, Members will have the shortest statutory right of redemption then allowed for liens of any kind on real property.

Section 7. SUBORDINATION OF THE LIEN TO MORTGAGES: The lien of the Assessments will be subordinate to the lien of any mortgage placed upon the Unit; however, such subordination applies only to the Assessments due before a sale or transfer of the Unit pursuant to a decree of foreclosure, or any transfer in lieu of foreclosure. The sale or transfer does not relieve the Unit from the liability for or lien of Assessments thereafter becoming due.

ARTICLE V

ARCHITECTURAL MATTERS

No alteration of any exterior, or construction, may be begun on the Property by other than the Developer until plans and specifications describing the proposed alteration or construction have been submitted to, and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by, the Board, or an Association Committee appointed for that purpose by the Board pursuant to the Association By-laws. The failure to approve or deny any matter within 30 days after submission will be deemed equivalent to written approval. Written approval by the Committee is conclusive proof of compliance with this Article.

ARTICLE VI

ADDITIONS TO PROPERTY

Section 1. DEVELOPER ADDITIONS IN ACCORDANCE WITH A GENERAL PLAN OF DEVELOPMENT: The Developer may subject additional real property to this Declaration if the additional real property has been developed in accordance with a General Plan of Development prepared before the sale of any of the Property, and made known to each purchaser of a Unit, by brochure delivered to the purchaser, or otherwise, prior to the sale of the Unit to the purchaser. The General Plan of Development must contain: (a) the approximate size and location of the proposed additions; (b) the approximate size, location, and nature of the Common Areas proposed for each proposed addition; (c) a statement that the proposed additions, if made, will become subject to Assessments; (d) a schedule for termination of the Developer's right under this section to subject additional real property to the Declaration. The

General Plan of Development does not bind the Developer to make the proposed additions, or to adhere to the General Plan of Development in any subsequent development of the land shown as proposed additions. The General Plan of Development may be amended from time to time.

Section 2. OTHER ADDITIONS: The owner of any real property may subject that real property to the Declaration with the Special Assent of the Members. Upon a merger, consolidation or amalgamation of the Association with another entity, the properties of the other entity may be transferred to the Association without becoming subject to the Declaration, or the Property may be transferred to the other entity, and the continuing entity will administer the Property under the Declaration, and will administer the properties of the other association under the covenants and restrictions established on the other properties, but no combination of entities will amend this Declaration, or make properties subject to the Declaration without compliance with the other provisions of the Declaration.

Section 3. DOCUMENTATION: Additional properties may be made subject to the Declaration only by the owner thereof executing, acknowledging, and recording with the Bernalillo County Clerk a Supplemental Declaration making the properties subject to the Declaration. The Supplemental Declaration may contain complementary modifications to the Declaration necessary to reflect the character of the newly subject properties, and consistent with the scheme of the Declaration, but may not modify the Declaration with regard to Property other than that being made subject to the Declaration.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. EXTERIOR MAINTENANCE: In addition to maintenance of the Common Areas, the Association may provide exterior maintenance for each Unit as follows:

paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements.

Section 2. ASSESSMENT OF COST: The cost of such exterior maintenance will be assessed against the Unit on which the maintenance is done, will be added to and become part of the Annual Assessment to which such Unit is subject, will be a lien on the Unit and the personal obligation of the Member, and is due and payable in the same manner as the Annual Assessment.

Section 3. ACCESS AT REASONABLE HOURS: Solely for the purpose of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents will have the right, after reasonable notice to the Member, to enter upon the exterior of any Unit at reasonable hours on any day except Sunday.

ARTICLE VIII

PARTY WALLS

Section 1. GENERAL RULES OF LAW TO APPLY: Each wall built as part of the original construction of a Unit and placed on the dividing line between the Unit and an adjoining structure will constitute a party wall, and to the extent consistent with this Declaration, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions will apply to the party wall. If any party wall

encroaches on any Unit or Common Area, a continuing easement for the encroachment and its maintenance will exist while the party wall exists.

Section 2. COST OF REPAIRING AND MAINTENANCE:

The cost of reasonable repair and maintenance of a party wall will be shared by the Members whose Units make use of the party wall in proportion to such use. Any Member who by negligent or intentional act causes the party wall to be exposed to the elements will bear the whole cost of furnishing the necessary protection for the party wall against such elements.

Section 3. DESTRUCTION BY FIRE OR CASUALTY: If a party wall is destroyed or damaged by fire or other casualty, any Member whose Unit used the party wall may restore the party wall, and the other Members whose Units used the party wall may thereafter make use of the wall, the wall will be a party wall and the Members whose Units use the party wall will contribute to the cost of restoration of the party wall in proportion to each Unit's use, but without limiting the right of any Member to call for a larger contribution from the other Members under any rule of law regarding liability for negligent or intentional acts or omissions.

Section 4. RIGHT TO CONTRIBUTION RUNS WITH LAND: The right of any Member to repair, maintain and restore a party wall, and contribution from any other Member under this Article is appurtenant to the Unit using the party wall and passes to the Member's successors in title whether or not the indicia of transfer of title specifically refers to the right. The accrued obligation to contribute a specific amount does not pass to the Member's

successor in title unless specifically assumed by the successor, and is not a charge against or lien on the Unit.

ARTICLE IX

MISCELLANEOUS

Section 1. DURATION AND MODIFICATION: The Property will be owned and transferred subject to the Declaration. The provisions of the Declaration are "covenants running with the land," will run with and bind the Property, and will bind, inure to the benefit of, and be enforceable by, the Association, or any Member, and their respective personal representatives, heirs, successors, and transferees, for a term of 20 years from the date this Declaration is recorded with the Bernalillo County Clerk; after that time, the Declaration will be automatically extended for successive periods of ten years unless, after the Association gives each Member 90 days prior written notice of a proposed change or termination, Members entitled to cast two-thirds of the votes of each class of Membership execute, acknowledge, and record with the Bernalillo County Clerk, at least 3 years before the effective date of the change or termination, a Supplemental Declaration changing the Declaration or terminating the Declaration.

Section 2. ENFORCEMENT: The Declaration, and the Articles, By-laws, and Regulations may be enforced by any proceeding at law or in equity, against any person violating or attempting to violate the Declaration, either to restrain violation, specifically enforce, or to recover damages, and against the land to enforce any lien created by the Declaration. The failure by the Association or any Member to enforce the Declaration is not a waiver of the

right to do so thereafter. The Members and the Association must not violate the provisions of the Declaration, and the Articles, By-laws and Regulations.

Section 3. NOTICES: Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member on the records of the Association at the time of such mailing.

Section 4. "SPECIAL ASSENT"; "SPECIAL QUORUM":
The "Special Assent of the Members" required by some provisions of the Declaration means the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy at a Members' Meeting at which a Special Quorum is present, duly called for the purpose by a Notice which was sent to all Members at least 30 days in advance, and which set forth the purpose of the meeting. The words "Special Quorum" as used in this Section mean the presence in person or by proxy, at the first Members' Meeting called for the purpose of Members entitled to cast sixty percent of the votes of each class of membership, and if the required quorum is not present at the first meeting, the presence in person or by proxy at the second members' meeting called for the purpose within 60 days after the first meeting, of one-half of the required quorum at the first meeting.

Dated: 3/11, 1980.

OVENWEST CORPORATION, a New
Mexico Corporation

By Ray A. Graham III
Ray A. Graham III
President

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

The foregoing instrument was acknowledged before
me on March 11, 1980, by Ray A. Graham III,
President of Ovenwest Corporation, a New Mexico
corporation, on behalf of the corporation.

Tennys C. Gulp
Notary Public

My commission expires:

March 11, 1983

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED FOR RECORD

MAR 11 3 41 PM '80
BK 758 268-283
TENNYS C. GULP
CO. CLERK & RECORDER
J. G. [Signature] DEPUTY