

DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
BUENA VIDA UNIT NO. 2  
AS SHOWN ON THE AMENDED PLAT FILED FOR RECORD  
ON  
MAY 13, 1977

KNOW ALL MEN BY THESE PRESENTS:

United Continental New Mexico, Inc., a New Mexico corporation, being the owner of all of the real property described upon Exhibit "A" attached hereto, and made a part hereof by reference, in order to provide for a general scheme for the development, use and sale of such following covenants and restrictions, which shall run with the land and be binding upon and inure to the benefit of all present and future owners of the land, and all persons claiming under them. By the execution and cancel, withdraw, and terminate the effect of, all prior recorded Protective Conditions, covenants and Restrictions upon the lands covered hereby, and substitutes the following, to-wit:

1. These covenants and restriction, from and after the date upon which three-fourths of the lots to be sold to the public in Unit No. 2 have been sold and have been conveyed by deed to purchasers, may then be amended at any time by the vote of the owners of record of the majority of all lots in Unit No. 2. Where more than one person owns a lot, or an interest therein, the majority vote among such owners within such a lot shall be deemed the lot vote upon such amendment. Each lot shall be entitled to one vote.

2. Except as provided in Paragraph 11 hereinbelow, each lot shall be used for single family residence purposes only. Upon any lot containing five (5) acres or more, which is occupied by only one family, such residential purposes may include the keeping of livestock and fowl, excluding swine. Residential purposes shall also include garages, storage buildings, sheds and such other structures as may be desirable for country living, whether or not the lot contains five (5) acres or more. Nothing in this Paragraph 2 shall authorize kennels, stables, or other commercial livestock care.

3. The ground floor area of each single family residence, exclusive of one story porches, carports and garages, shall be not less than 1,000 square feet, except multi-story residences, for which total footage on all floors shall be 1,000 feet, or more.

4. Utilities, buildings, pens or other improvements shall not be constructed so as to interfere with the easements for utilities, drainage, and roadways, and access thereto.

5. After December 31, 1980, no structure of a temporary character, or trailer, tent, shack, or other similar structure shall be used as a residence. After such date, no structure, other than a fully completed residence, shall be used as a residence. This paragraph, however, shall not be deemed to prohibit a temporary sales or construction office of United Continental New Mexico, Inc., or its successor in interest, or a temporary building used by a building contractor, nor be deemed to prohibit the parking of a recreational or travel vehicle at a permanent residence.

6. Except as provided in Paragraph 11 herein below, no commercial or business operation, other than arts, crafts, or professions operated solely by members of a family occupying a residence, shall be conducted upon Unit No. 2. No advertising billboards or similar nuisances shall be allowed on any residential lot, nor shall any lot in Unit No. 2 be used for a purpose which may endanger the health or unreasonably disturb the owner of any other lot, except as may be expressly allowed by these restrictive covenants.

7. No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than ten (10) feet to any side lot line, except that as to a corner lot the side setback shall be twenty-five (25) feet. No building shall be closer than thirty (30) feet to the rear line of any lot. No building shall be nearer than ten (10) feet to any easement line. Nothing in this Paragraph 7 shall apply to a well house, however, which may be placed at any convenient location.

8. No lot shown upon the Amended Plat of Unit No. 2, filed for record in the office of the County Clerk on May 13, 1977, shall be split and physically divided in ownership, unless prior approval of each such case is given by the Board of County Commissioners of Chaves County. These Restrictive Covenants shall continue to be applicable to any such divided area.

9. All garbage, trash and refuse shall be deposited in the refuse disposal site designated by United Continental New Mexico, Inc. No offensive activity or condition may be created or permitted to exist on any tract which may become an annoyance or nuisance to the neighborhood.

"EXHIBIT A" TO CORRECTION INDENTURE  
 DATED THE 28<sup>th</sup> DAY OF OCTOBER, 1975.  
 BETWEEN UNITED AND ASSOCIATION

All of Blocks One (1) through Forty-Two (42) inclusive of Buena Vida Unit Number One (1), a subdivision in Chaves County, New Mexico, as shown upon the official plat thereof filed for record November 29, 1972, and recorded in Book "E" at Page 3 through 15 inclusive in the Office of the County Clerk.

B-2

(State of New Mexico, County of Chaves) ss.  
**FILED FOR RECORD**

OCT 30 1975  
 11:55 AM  
 #1583  
 J. J. Sells  
 #1583 Jan 8 14 75



Atwood, Malone, Mann & Coater  
 Drawn 700  
 Roswell, New Mexico  
 88201

BOOK 156 PAGE 79

10. No residence shall be constructed lower in elevation than six (6) inches above the fifty-year return period for storm run-off.

11. All lots within the following numbered Blocks may be used for commercial purposes, to-wit:

- |              |       |
|--------------|-------|
| Block One    | Block |
| Eight        | Block |
| Eleven       | Block |
| Block Five   | Block |
| Thirty-Eight |       |
| Block Seven  |       |

All lots within the following Blocks may be used for multi-family purposes, to-wit:

- Block Thirty-Six
- Block Thirty-Seven
- Block Thirty-Nine

As used in this Paragraph 11, "commercial purposes" means those purposes which are defined as commercial purposes in the current Chaves County Regulations which are in force on the date upon which building plans are submitted to the Architectural Committee, which is provided for in Paragraph 14 herein below. It is hereby further provided, however, that regardless of the County Regulations, the following commercial uses shall not be allowed, to-wit: drive-in theaters, wrecking yards, junk yards, slaughter houses or rendering or meat-packing plants or any similar businesses, nor shall any heavy manufacturing or heavy industry be conducted in a commercial area.

As used in the Paragraph 11, "multi-family purposes" means construction and use of dwellings physically connected containing separate space and facilities for use as residences by not more than four resident families, each such family residence area to contain not less than 600 square feet of heated area, excluding garages, together with accessory buildings, and other uses customarily incident to such multi-family dwelling. "Multi-family purposes" also includes non-profit religious, educational and philanthropic institutions, except alcoholic treatment; hospital and clinics for humans; private clubs and lodges; professional offices; and accessory buildings customarily incident to such uses.

12. If the undersigned or any subsequent owner of any portion of Buena Vida Unit No. 2 shall violate any covenant or restriction, then the undersigned, or any person or persons owning any portion of said property, or the Architectural Committee, or one or more of them, may file suit to enjoin or abate and recover damages for such violation by appropriate action at law or in equity, or both, in which event such owner or Committee shall recover costs incurred, together with a reasonable attorney's fee if any relief sought is granted in such action.

13. In the event that one or more of the restrictive covenants and conditions set forth herein be held by a court of competent jurisdiction to be null and void, then all remaining covenants and restrictions herein shall continue unimpaired and remain in full force and effect.

14. An Architectural Committee is hereby established, which shall be composed of the Board of Directors of United Continental New Mexico, Inc. When seventy-five per centum (75%) of all lots in Unit No. 2 have been sold and conveyed to the public, the Committee shall thereupon be composed of the Board of Directors, or not less than five nominees appointed by such Board, of Buena Vida Improvement Association, Inc., a New Mexico Corporation. The Architectural Committee shall be furnished a copy of such plans as it may require for all structures to be constructed upon Buena Vida Unit No. 2, prior to beginning any such construction. "Structures" is defined as everything which shall be built or constructed upon the land above ground level, except fences. The Committee's written approval of all structures shall be first obtained before starting any structure. Such approval shall be given by the Committee to any structure which complies with these Restrictive Covenants and is permanent in nature, and is in conformance with good building practices and the esthetics of attractive country home living. No movable homes shall be approved by the Committee unless of the modular construction type, installed upon a permanent foundation. No pre-used structure of any kind shall be brought into Unit No. 2 for use, without prior written approval of the Committee.

The members of the Architectural Committee shall have absolute discretion in making all decisions which it believes are necessary to be made under these Restrictive Covenants, and neither the Committee nor its members shall ever be held liable for any act or omission unless occasioned by bad faith.

The determination of any court that any provision of this Correction Indenture is unenforceable or void shall not affect the validity of any of the other provisions hereof.

#### Section 7.03

ASSOCIATION shall be empowered to assign its rights hereunder to any successor non-profit membership corporation (hereinafter referred to as "Successor Corporation") and, upon such assignment the Successor Corporation shall have the rights and be subject to all the duties of ASSOCIATION hereunder and shall be deemed to have agreed to be bound by all the provisions hereof, to the same extent as if the Successor Corporation had been a n original party hereto, and all references herein to the "Board" shall refer to the Board of Directors of said Successor Corporation. Any such assignment shall be accepted by the Successor Corporation under written agreement pursuant to which the Successor Corporation expressly assumes all duties and obligations of ASSOCIATION hereunder. If for any reason ASSOCIATION shall cease to exist without having first assigned its rights hereunder to a Successor Corporation, the covenants, easements, charges and liens imposed hereunder shall nevertheless continue, and any Owner may petition a court of competent jurisdiction to have a trustee appointed for the purpose of organizing a non-profit membership corporation and assigning the right of ASSOCIATION hereunder with the same force and effect, and subject to the same conditions, as provided in this Section 7.03 with respect to an assignment and delegation by ASSOCIATION to a Successor Corporation.

#### Section 7.04

All titles or headings of the Articles herein are for the purpose of reference only and shall not be deemed to limit, modify, or otherwise affect any of the provisions hereof. All references to a singular term shall include plural where applicable.

ARTICLE VI – DURATION, AMENDMENT, AND SUPPLEMENTS

Section 6.01

All Covenants set forth or provided in this Correction Indenture shall be deemed covenants running with the land and charges and liens upon the land and any and every conveyance of any part of the property shall be absolutely subject to said Covenants whether or not it shall be so expressed in the deed, lease, or other conveyance thereof.

Section 6.02

All Covenants herein shall continue with full force and effect until the 27<sup>th</sup> day of November, 2012.

Section 6.03

Additional land may from time to time be subjected to the Covenants, liens and charges of this Correction Indenture by recording in the Deed Records of the County Clerk’s Office of Chaves County, New Mexico, a declaration adopted by resolution of the Board describing the additional land and providing for the payment of Annual Charges to ASSOCIATION at the rate then in effect.

Section 6.04

The provisions of this Correction Indenture may be modified altered or totally cancelled by a written instrument signed by the Owners of all land (other than land dedicated to the public) within the area covered hereby, and signed by the ASSOCIATION, and recorded in the County Clerk’s office.

ARTICLE VII – MISCELLANEOUS

Section 7.01

No change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Indenture.

Section 7.02

Should the Committee fail to act upon any plans submitted, or request necessarily made under these covenants, within thirty days after receipt, then the plans or request shall be deemed approved by the Committee.

15. Notwithstanding anything contained elsewhere in these Restrictive Covenants, upon written approval of the Architectural Committee, a police station, fire station, post office, school or other public building may be allowed and constructed upon any lot in Unit No. 2.

IN WITNESS THEREOF, this document was executed this 13<sup>th</sup> day of May, 1977.

UNITED CONTINENTAL NEW MEXICO, INC.

ATTEST:

ATTEST:

David Roe  
Secretary

By David Roe  
President

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

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of OCTOBER, by DAVID ROE, President of UNITED CONTINENTAL NEW MEXICO, INC., a New Mexico corporation.

Charles E. Johnson  
Notary Public

My Commission Expires:

July 1, 1976

EXHIBIT "A"  
TO RESTRICTIVE COVENANTS FOR  
BUENA VIDA UNIT NO. 2  
AMENDED PLAT FILED  
MAY 13, 1977

Land Description

All Lots and Blocks shown upon the Amended Plat of Buena Vida Unit No. 2 as shown upon the Amended Plat thereof filed for record in the Office of the County Clerk of Chaves County, New Mexico on May 13, 1977.

transfer of such Tract pursuant to a decree of foreclosure, or proceedings in lieu of foreclosure, and such sale or transfer shall not release such property from liability, for any Annual Charge thereafter becoming due, nor from the subsequent Annual Charge.

Section 5.02

In addition to taking subject to the charge and the lien imposed by Section 5.01 hereof, each Owner of each Tract prior to the acceptance of a Deed therefore, whether or not it shall be so expressed in such Deed, shall be deemed to have agreed to be personally liable for the payment of each Annual Charge in each year during any part of which such Owner holds title to the Tract.

Section 5.03

As used in this Article V, the term "Annual Charge" shall mean the total of the following:

- (i) The Annual Charge as imposed pursuant to Section 4.01 hereof;
- (ii) The interest or delinquent charges imposed by Section 4.03 hereof; and
- (iii) The cost of enforcing the lien provided in Section 4.04 hereof.

Section 5.04

Nothing contained in these Covenants shall prevent any Owner from changing, altering, or destroying any Permanent Improvement owned by him, if

- (i) the Annual Charges imposed hereunder with respect thereto have been paid for the year in which such change, alteration, or destruction takes place and all previous years; or
- (ii) the Annual Charges with respect to the Permanent Improvements in question have been paid for all the years preceding such change, alteration, or destruction and a bill for the Annual Charge for the then current year has not been sent to BVIA under Section 4.03 hereof prior to such change, alteration or destruction.

The Board shall have the right to adopt procedures for the purpose of billing and collecting the Annual Charges, provided that the same are not inconsistent with the provisions hereof.

Section 4.06

Upon written demand by an Owner, ASSOCIATION shall within a reasonable period of time furnish to such Owner a written certificate stating that all Annual Charges (including interest and costs, if any) have been paid with respect to any specified Tract as of the date of such certificate, or, if all Annual Charges have not been paid, setting forth the amount of such Annual Charges (including interest and costs, if any) due and payable as of such date. ASSOCIATION may make a reasonable charge for the issuance of such certificate, which must be paid at the time that the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between ASSOCIATION and any bona fide purchaser of, or lender on, the Tract in question.

ARTICLE V – IMPOSITION OF CHARGE AND LIEN UPON THE PROPERTY

Section 5.01

Each Owner of each Tract, and the heirs, personal representatives, successors, and assigns thereof, hereby covenant and agree for the period that these covenants shall remain in force under Section 6.01:

- (i) To pay the Annual Charges herein provided, except and excluding upon the Exempt Property; and
- (ii) That the Annual Charge shall be and remain a first charge and first lien against the Property, and shall run with, bind and burden such land, for the term hereinafter provided. Provided, however, that the lien of the Annual Charge provided for herein shall be subordinate to the lien of any mortgage, mechanic's lien, deed of trust, or vendor's lien now or hereafter placed upon any Tract subject to such Annual Charge, if such mortgage, mechanic's lien, deed of trust, or vendor's lien is imposed as a bona fide security for purchase money or as bona fide security for a construction or improvement loan on the Tract in question. Such subordination shall apply only to the Annual Charges which have become due and payable prior to the sale or

"EXHIBIT A" TO RESTRICTIVE COVENANTS  
BUENA VIDA UNIT ONE

All of Blocks One (1) through Forty-Two (42) inclusive of Buena Vida Unit Number One (1), a subdivision in Chaves County, New Mexico, as shown upon the official plat thereof filed for record November 29, 1972, and recorded in Book "E" at Page 3 through 15 inclusive in the office of the County Clerk.

(State of New Mexico, County of Chaves) ss.  
**FILED FOR RECORD**  
**OCT 29 1975**  
 at 4:20 P. M., and recorded by  
 Book 1533 Page 42  
 Susan B. Walker County Clerk  
 Susan B. Walker Deputy  
 # 1533 Fee: \$3.75

*Susan B. Walker, Clerk*



CORRECTION INDENTURE

This Correction Indenture is made this 28<sup>th</sup> day of October, 1975, by and between BUENA VIDA IMPROVEMENT ASSOCIATION, INC., a New Mexico non-profit corporation (herein called "ASSOCIATION" or "BVIA") and UNITED CONTINENTAL NEW MEXICO, INC., a New Mexico corporation (herein called "UNITED").

WITNESSETH:

WHEREAS, under date of November 27, 1972, United Continental-New Mexico, Inc. and ASSOCIATION made and entered into that certain Indenture which was filed for record November 29, 1972 and recorded in Book 263 at Page 259 in the office of the County Clerk of Chaves County, New Mexico, by the terms of which ASSOCIATION granted and conveyed the real property described therein to United Continental New Mexico, Inc., and the covenants, easements, charges and liens provided therein were imposed upon the real property, to run with the land and be binding upon all successors and assigns, and

WHEREAS, UNITED is now the owner of all such lands described in the said Indenture, except dedicated portions and a portion of Sections 1 and 2 which were platted and dedicated as a portion of Buena Vida Unit Two, and ASSOCIATION and UNITED desire to correct and modify the said Indenture dated November 27, 1972, for the benefit of both parties hereto and in consideration of the fact that said lands are now to be sold to the public in tracts of five acres or more, rather than in lots (although the official plat thereof, in which lots are established shall not be modified, and is not deemed to be modified by this Correction Indenture), and it is therefore necessary that reference to "lots" and other provisions of the original Indenture which are no longer applicable, must be corrected, and Bomaine Automotive Corporation, a New Mexico corporation, which was formerly United Continental New Mexico, Inc., desires to join herein, as owner of Buena Vida Unit Two, to assist in effectuating the changes made herein with respect to Unit One.

NOW THEREFORE, IN CONSIDERATION of the sum of Ten Dollars (\$10.00) paid by each of the parties hereto to the other party, and in further consideration of the premises and the mutual promises and covenants contained herein, the receipt and sufficiency of all such consideration being hereby acknowledged, ASSOCIATION and UNITED agree as follows:

a lien for the amount thereof. The sum shall be due and owing on or before November 15, 1976, and on or before the same day of each succeeding year, to-wit:

- (i) The amount of the Annual Charge for each tract shall be Seventy-Five Dollars (\$75.00) per year, except hereinafter provided.

Section 4.02

In any given year, the Board may in its sole discretion increase the amount of the Annual Charge for each Tract as hereinbefore set forth by a percentage equal to the percentage increase in the Consumer Price Index—United States City Average for Urban Wage Earners and Clerical Workers (including single workers), 1967 Equals One Hundred, as published by the Bureau of Labor statistics, or any successor Index, above the index 126.2.

Section 4.03

As soon as may be practical in each year, ASSOCIATION shall send a written statement to each Owner subject to the Annual Charge stating the amount of the Annual Charge. Unless the Owner shall pay the Annual Charge by November 15 of each year, the same shall be deemed delinquent and shall bear interest from November 15 until paid at the rate of Eight Percent (8%) per annum.

Section 4.04

If the Owner of any Tract subject to the Annual Charge shall fail to pay the Annual Charge by November 15 of each year, ASSOCIATION shall have the right to enforce the lien which is hereby imposed in its favor, to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under the applicable law, and the amount due by such Owner shall include the Annual Charge as well as the costs of such proceedings, including a reasonable attorney's fee, and the aforesaid interest. Extension of time for payment granted by ASSOCIATION shall not constitute a waiver of the right to enforce timely payment as to any subsequent Annual Charge.

Section 4.05



so long as they are Residents within the defined meaning of that term. All such rights, easements, and privileges, however, shall be subject to the right of ASSOCIATION to adopt and promulgate reasonable rules and regulations pertaining to the use of Community Facilities, which shall enhance the preservation of such facilities, the safety and convenience of the users thereof, or which, in the discretion of the Board, shall serve to promote the best interests of the Owners and Residents, including making available of certain Community Facilities to school children, with or without charge. ASSOCIATION shall have the right to charge Owners and Residents reasonable admission and other fees in connection with the use of any Community Facility. In establishing such admission and other fees, the Board may, in its discretion, establish reasonable classifications of Owners and of Residents; such admission and other fees must be uniform within each such class but need not be uniform from class to class. ASSOCIATION shall have the right to borrow money for the purpose of improving any Community Facility and in the aid thereof, to mortgage the same and the rights of any such mortgage shall be superior to the easements herein granted and assured.

#### Section 3.02

ASSOCIATION shall have the right to suspend the right of any Owner and Resident for any period during which the Annual Charge under Article IV hereof remains overdue and unpaid, or in connection with the enforcement of any rules or regulations relating to such facilities in accordance with the provisions of this Article III.

#### Section 3.03

Notwithstanding the rights, easements, and privileges granted under this Article III, ASSOCIATION shall nevertheless have the right and power to convey any property referred to in Section 3.01 hereof free and clear of all such rights, easements, and privileges if such conveyance is to a public body for public use.

### ARTICLE IV – ASSESSMENTS OF ANNUAL CHARGE

#### Section 4.01

For the purpose of providing funds for the use as specified in Article II hereof, an Annual Charge is hereby imposed against the property, except and excluding the Exempt Property, in favor of ASSOCIATION commencing November 15, 1975, in the amount as hereinafter specified. Such Annual Charge shall be separately imposed upon each Tract which is hereby charged with and subject to

1. This Correction Indenture is made to encourage the development upon the real property hereinafter described (called “THE PROPERTY”), of a community for country living which affords well-planned residential, commercial, recreational, institutional, and open-space use, buildings, facilities and areas, and to protect and enhance the value of the property by providing funds for the purposes specified herein and granting rights, easements and privileges with respect to community facilities provided herein. It is further made to provide for the creation, operation, management and maintenance of the facilities and services herein provided.

2. The property shall be subject to, burdened with and bound by the covenants, easements, charges and liens imposed herein, which shall run with the land and be binding upon all successors and assigns of ASSOCIATION and UNITED.

3. In consideration of the premises and the sum of Ten Dollars (\$10.00) paid by each party to the other, ASSOCIATION hereby grants to UNITED the following described property located in Chaves County, New Mexico, with warranty covenants:

The real property shown upon Exhibit “A” attached hereto, which is hereby incorporated herein by reference.

### ARTICLE I – DEFINITIONS

#### Section 1.01

The following words, phrases, and terms, when used herein, shall have the following meanings:

- (A) “Chargeable Property” means the Property, except such part or parts thereof as may, from time to time, constitute “Exempt Property” or “Community Facilities” as hereinafter defined.
- (B) “Correction Indenture” means this Correction Indenture as the same may from time to time be supplemented in the manner provided in Article VI hereof.
- (C) “BVIA Land” means such part of the property as may at any time hereafter be owned by BVIA (or a “Successor Corporation” as defined in Article VII hereof) for so long as BVIA (or such “Successor Corporation”) may be the owner thereof.

- (D) “Board” means Board of Directors of BVIA.
- (E) “Deed” means a deed, assignment, or other instrument conveying the fee simple interest in any tract of five (5) acres as hereinafter sold to a member of the public by UNITED.
- (F) “Exempt Property” means the following portions or parts of the Property:
  - (i) All land and “Permanent Improvements”, as hereinafter defined, which may now be or hereafter owned by the United States of America, State of New Mexico, Chaves County, or any subdivision, instrumentality or agency thereof, for so long as it shall be the owner thereof; and
  - (ii) All and any “Permanent Improvements” owned by BVIA (or a “Successor Corporation” as defined in Article VII hereof) for so long as BVIA (or such “Successor Corporation”) shall be the owner thereof, and all land and improvements owned by UNITED.
- (G) “Tract” means any plot of land of five (5) acres sold by UNITED to the public as defined by any recorded subdivision map of the Property with the exception of “Exempt Properties”, as heretofore defined.
- (H) “Notes” means all notes, bonds, debentures, or other evidences of indebtedness issued and sold by BVIA.
- (I) “Note Holder” means the holder of any Note and all trustees or other representatives of one or more such holders.
- (J) “Owner” means the record owner, whether one or more persons or entities, of a fee simple title to any five (5) acre tract situated upon the Property, but, notwithstanding any applicable theory of Mortgage or Deed of Trust, shall not mean or refer to the mortgage or trustee unless and until such mortgagee or trustee shall have acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 2.03

ASSOCIATION shall not be obligated to spend in any calendar year any part of or all of the sums collected in such year by way of Annual Charges, or otherwise, and may carry forward as surplus any balances remaining; nor be obligated to apply any such surpluses to the reduction of the amount of Annual Charge in the succeeding year, but may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for greater financial security and the effectuation of its purposes.

Section 2.04

ASSOCIATION shall be entitled to contract with any corporation, firm or other entity in order to carry out the performance of the various functions hereunder.

ARTICLE III – RIGHTS OF ENJOYMENT OF COMMUNITY FACILITIES

Section 3.01

UNITED and other parties may from time to time convey to ASSOCIATION, subsequent to the recordation of this Correction Indenture, a certain tract or tracts of land within the Property for park and recreational purposes. In the event of any such conveyance, any such tracts, together with such parts of ASSOCIATION land as the Board, in its discretion, may by resolution from time to time hereafter designate for use of Owners or Residents, are hereinafter collectively referred to as “Community Facilities”. Upon designation of land as a Community Facility, as herein provided, the Board shall cause a declaration to be executed and recorded in the Deed Records of the County Clerk’s Office for Chaves County, New Mexico, which shall state that such land has been designated as a Community Facility for the purpose of this Section 3.01. No land, or any part thereof, shall be a Community Facility subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been so designated and the above described declaration recorded.

Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Community Facilities, and such easement shall be appurtenant to and shall pass with every tract upon transfer thereof. All Residents shall have a non-transferable privilege to use and enjoy all Community Facilities for

(n) Skeet ranges, bowling alleys, and other related or unrelated recreational facilities; and

(o) Any and all other improvements, facilities and services that the Board shall find to be necessary, desirable or beneficial to the interest of the Property.

#### Section 2.02

In order to secure the repayment of any and all sums which may be borrowed by it in furtherance of the objectives outlined in Section 2.01, ASSOCIATION is hereby granted the rights and powers:

(i) To assign and pledge all revenues received, or to be received, by it under any provision of the Covenants.

(ii) To enter into agreements with Note Holders with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein ASSOCIATION covenants:

(a) To assess and collect the Annual Charges in its favor when the same shall become due;

(b) To establish sinking funds and/or other security deposits;

(c) To apply all funds received by it first to the payment of the cost of collection and then to the payment of the cost of collection and then to the payment of all principal and interest, when due, on such loans;

(d) To establish such collections, payment and lien enforcement procedures as may be required by the Note Holders;

(e) To provide for the custody and safeguarding of all funds received.

The amount, terms, rate or rates or all borrowing and the provisions of all agreements with Note Holders shall be subject solely to the decision of the Board.

(K) "Permanent Improvements" means all buildings, structures, and other matters and things which at the time of assessment of each "Annual Charge", as hereinafter defined, are taxable by the State of New Mexico or Chaves County as real property under applicable law.

(L) "Property", as used herein, means the following:

(i) At the time of the execution hereof, "Property" shall mean all land herein conveyed and all the presently existing "Permanent Improvements" built, installed, or erected thereon;

(ii) From and after the building, installation, or erection of each new "Permanent Improvement" upon the land herein conveyed, "Property" shall include each such new "Permanent Improvement";

(iii) From and after each addition to the land subjected to the "Covenants" as hereinafter defined, pursuant to Article VI hereof, "Property" shall include each such new parcel of land and each "Permanent Improvement" existing on each such new parcel of land at the time that the same is subjected to the "Covenants"; and

(iv) From and after the building, installation, or erection of each new "Permanent Improvement" on each new parcel of land referred to in Subparagraph (iii) above, "Property" shall include each such new "Permanent Improvement".

(M) "Resident" means the following:

(i) Each tenant actually residing on (or conducting a business on) any part of the Chargeable Property; and

(ii) Members of the immediate family of each Owner and of each such tenant actually living in the same household with such Owner or such tenant. Subject to such rules and regulations as BVIA may hereafter specify, including the

imposition of special fees for use if BVIA shall so direct, the term "Resident" shall also include the employees, guests, or invitees of any such Owner or tenant, if the Board, in its discretion, by resolution so directs.

(N) "Covenants" means all covenants, easements, charges and liens imposed and created on lands within the Property in favor of ASSOCIATION.

## ARTICLE II – USE OF FUNDS

### Section 2.01

ASSOCIATION shall apply all funds received by it pursuant to the Covenants and all other funds and property received by it from any source, including the proceeds of loans referred to in Section 2.02 and the surplus funds referred to in Section 2.03, for the benefit of the property in the following manner:

(i) The payment of all principal and interest, when due, on all funds borrowed to the extent required under any agreement with the Note Holders referred to in Section 2.02 hereof;

(ii) The costs and expenses of ASSOCIATION; and

(iii) For the benefit of the Property by devoting the same to the acquisition, construction, reconstruction, conduct, alteration, enlargement, laying, renewing, replacement, repair, maintenance, operation, and subsidizing of such of the following as the Board, in its discretion, may from time to time establish or provide:

(a) Any and all projects, sources, facilities, studies, programs, systems, and properties relating to parks, recreational facilities, or services;

(b) Drainage systems;

(c) Streets, roads, highways, walkways, curbing, gutters, sidewalks, trees, flowers and landscaping; fountains, benches, shelters, directional and informational signs, walkways,

bridges; and street, road, and highway lighting facilities;

(d) Facilities for the collection, treatment and disposal of garbage, sewage, and refuse;

(e) Mass transit systems, terminals, airfields, airports, air terminals, and associated facilities;

(f) Facilities for the fighting and preventing of fires;

(g) Public utility systems, including plants, systems, facilities, or properties used or useful in connection with the manufacture, production, distribution, delivery and storage of electric power and manufacture of natural gas or any other potential power source, and any integral part thereof, utility lines, poles, surface and underground ducts, relay stations, cables, pipes, pipelines, valves, meters, and equipment and appurtenances, and all properties, rights, easements and franchises, relating thereto;

(h) Auditoriums, galleries, halls, amphitheaters, theaters, arenas, stadiums, educational buildings and facilities, including equipment, supplies and accessories in connection therewith;

(i) Office buildings, buildings, storage and maintenance yards, garages and other buildings and facilities deemed necessary or desirable by the Board in connection with the administration management, control, and operation of BVIA;

(j) Libraries, including equipment; books, supplies, and accessories in connection therewith;

(k) Traffic engineering programs and parking facilities;

(l) Facilities for animal rescue and shelter;

(m) Lakes, dams, parks, golf courses, tennis courts, zoos, playgrounds, boat basins, marinas, equestrian centers and facilities;