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DECLARATION OF EASEMENTS AND COVENANTS

THIS DECLARATION OF EASEMENTS AND COVENANTS is made this 30TH day of October, 1998, by and between SANDIA FOUNDATION, a New Mexico nonprofit corporation ("**Sandia**"), and The Regents of the University of New Mexico, a body corporate of the State of New Mexico ("**UNM**"), each of which, its successors and assigns, is referred to individually as an "Owner" and all of which are referred to as the "Owners."

WHEREAS, UNM is the Owner of Lots 1, 2 and 3 as shown and designated on the Plat of Mesa Vista Road Sorority Housing Area (the "Plat"), recorded April 27, 1966 in Volume C-6, Folio 120, records of Bernalillo County, New Mexico; and

WHEREAS, Sandia is the Owner of Lots 4, 5 and 6, Parcels "E" and "F", and Tract A, as shown and designated on the Plat (Lots 1, 2, 3, 4, 5 and 6, Parcels "E" and "F," and Tract A, as shown on the Plat, are referred to individually as a "Property" and together as the "Properties"); and

WHEREAS, Tract A is a private road for the benefit of the Owners, providing access to all of the Properties; and

WHEREAS, Sandia's Properties are undeveloped, but Sandia may hereafter develop, use and dispose of its Properties; and

WHEREAS, UNM has requested, and Sandia is willing to grant and declare for the benefit of the Properties, certain easement rights in Tract A. These easements and other terms shall run with the Properties, and shall inure to the benefit of and bind the Owners and their respective successors in interest, and they shall operate as covenants running with the land.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, it is declared and agreed between the Owners as follows:

1. **GRANT OF ACCESS AND UTILITY EASEMENTS.** Sandia hereby grants to UNM, and declares, (i) an easement over Tract A for access, ingress and egress for the Properties to and from University Boulevard, NE and (ii) an easement under Tract A to construct, install, maintain, repair and replace utilities serving the Properties. The parties agree that the scope of the easement is not limited by current use of the Properties, and that the Owners may expand, decrease, or otherwise change the type or intensity of use of the Properties, regardless of the effect of such changes on the scope and level of use of the easements. These easements are for the benefit of the Owners and their successors in interest, tenants, subtenants, invitees, licensees, agents and employees. Sandia reserves all rights to use Tract A in any manner not inconsistent with the rights granted hereunder.

2. **MAINTENANCE OF TRACT A; UTILITIES.**

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A. So long as the Sandia Properties are not developed or put into use, UNM alone shall maintain or cause to be maintained the paving and any other improvements on Tract A at its sole expense, in good, safe and clean condition and repair. After the commencement of any material use of the Sandia Properties, or commencement of any substantial development work on the Sandia Properties, all Owners shall be responsible for taking any actions reasonably necessary to maintain or cause to be maintained such paving and other improvements on Tract A in good, safe and clean condition and repair, and the reasonable expenses thereof shall be shared among all Owners in the proportion that the area of each Owner's Property (excluding Tract A) bears to the area of all the Properties (excluding Tract A). Such maintenance shall include, but not be limited to, (i) maintaining the paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material currently installed or such substitute as shall in all respects be equal or superior in quality, use and durability; (ii) removing papers, debris and refuse to the extent reasonably necessary to keep the area in a clean and orderly condition; (iii) placing, keeping in repair, and replacing any necessary and appropriate directional signs, markers and lines; (iv) installing, operating, keeping in repair and replacing artificial lighting facilities within Tract A to the extent the Owners jointly deem them to be necessary; and (v) removing snow and ice.

B. Utilities. Each Owner shall maintain those utilities within Tract A which exclusively serve its Properties, to the extent required by and subject to the requirements of the City and other utility providers, and in accordance with all applicable laws. Such maintenance shall include restoration of the surface if the surface is disturbed in connection with the utilities.

3. LIABILITY INSURANCE. Each Owner agrees to maintain or cause to be maintained liability insurance against claims for bodily injury, death or property damage occurring on, in or about its Properties, Tract A and the sidewalks adjacent to its Properties with a "Combined Single Limit" (covering bodily injury liability and property damage) of not less than One Million Dollars (\$1,000,000.00). Such insurance may be in the form of blanket liability coverage. Each Owner shall, upon request, provide the other Owner with evidence of such coverage and a description of any plan of insurance being used. All policies of insurance required under this Article shall contain a provision that the insurance company will give each Owner ten (10) days advance written notice prior to the effective date of any cancellation or lapse or any reduction in the amounts or scope of coverage. Notwithstanding the foregoing, it is understood that the above provisions in this paragraph regarding insurance shall only apply to a successor of UNM, and not UNM. The parties acknowledge that UNM is self-insured through the State Risk Management Division, with limits of liability as established by the Tort Claims Act.

4. GENERAL PROVISIONS.



A. Inurement; Protection of Lenders. This instrument and the easements, covenants, benefits and obligations created hereby shall inure to the benefit of and be binding upon each Owner and its successors and assigns; provided, however, that if

either Owner conveys any portion or all of its Property, such Owner shall thereupon be released and discharged from any and all future-arising obligations under this Agreement with respect to the Property conveyed, and provided further, that no such conveyance shall release such Owner from any liabilities, actual or contingent, existing as of the time of such conveyance, nor impose upon the purchaser any liability for matters not occurring or continuing at or after the time of such purchaser's acquisition. No lender now or hereafter holding a mortgage or other security interest in any of the Properties shall have any liability or obligation hereunder solely by reason of such mortgage or security interest, until such lender or its agent or receiver becomes an Owner by acquiring title to a Property.

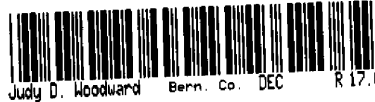
B. Duration; Termination by Owners. Except as otherwise provided herein, this Agreement shall remain in full force and effect in perpetuity. The Owner(s) from time to time may terminate their prospective rights and obligations under this Declaration by (i) sending written notice to all other Owners not later than three (3) months prior to the effective date of the termination; (ii) ceasing all use of the easements on or before such effective date; and (iii) recording a notice of termination as to such Owner's(s') prospective rights and obligations in the real property records of Bernalillo County, New Mexico, stating the effective date of termination. After proper termination, such terminating Owner(s) shall have no further rights or easements in Tract A hereunder or otherwise, nor shall such Owner(s) have any further rights, claims, obligations or liabilities hereunder, except rights, claims, obligations or liabilities accrued (whether fixed or contingent) as of the effective date of termination. No such termination shall affect the continuing rights of any other Owner hereunder.

C. Injunctive Relief and Damages. In the event of any violation or threatened violation of any provision in this Declaration by an Owner, lessee, or occupant of any portion of the Property, an Owner shall have the right, in addition to the other remedies herein provided, to enjoin such violation or threatened violation and/or to sue for damages resulting therefrom. The prevailing party shall be entitled to reasonable attorneys' fees and costs in any such action.

D. Right to Cure; Reimbursement; Interest. Should an Owner fail to promptly pay its share of common maintenance expenses under Paragraph 4 A., or fail to timely perform any of its other obligations hereunder, the other Owner may give the defaulting Owner written notice and demand for payment or performance. Should the defaulting Owner thereafter fail to pay the amount due, or to perform or commence diligently performing such obligations, within fifteen (15) days after receiving such notice, the Owner giving such notice shall have the right (but not the obligation) to perform any such obligation on behalf of the defaulting Owner and the defaulting Owner shall reimburse the curing Owner for the cost of performing such obligation within thirty (30) days after the receipt of billing and proof of payment. The curing Owner shall have all rights available at law or in equity to collect the amount due from the defaulting Owner, with court costs and attorneys' fees, and interest from the date of the expenditure until repaid at the highest then-current judgment rate of interest under New Mexico law.

E. Modification; Third Party Interests. This Agreement may not be modified

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or terminated in any respect whatsoever or rescinded, in whole or in part, except with the consent of all then-current Owners and then only by written instrument duly executed and acknowledged by all such Owners. No other person, including tenants of the Owners, shall be deemed to have any interest or rights hereunder except the rights to use the easements in Tract A for their specified purposes, unless such additional rights or interests are specifically delegated to them by an Owner during the grantee's actual time of possession of a Property. In no event shall any person other than an Owner exercise any right to modify this Declaration.

F. Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of a Property to the general public or for any public purposes whatsoever, it being the intention of the Owners that this Declaration shall be strictly limited to and for the purpose herein expressed. Sandia or its successor in interest as Owner of Tract A shall be free to dedicate Tract A for use as a public street at any time, without the consent of any other Owner, and all future obligations of the Owners under this Agreement shall be terminated effective on the date of acceptance of the dedication by the applicable governmental body. Sandia or its successor in interest as Owner of Tract A may also dedicate portions of Tract A and/or interests therein for utility easements, at any time, without consent of any other Owner. Sandia agrees to grant such other utility easements in Tract A as are reasonably requested by any other Owner.

G. Breach Shall Not Permit Termination. No breach of this Agreement shall entitle any Owner to cancel, rescind or terminate this Declaration.

H. Attorneys' Fees. In the event that legal proceedings are brought to enforce or construe any of the terms of this Declaration, the successful party in such action shall be entitled to receive from the other party reimbursement of its reasonable attorneys' fees and costs.

I. Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

If to Sandia:	Sandia Foundation 700 Lomas Blvd. NE, Suite 204 Albuquerque, NM 87102
If to UNM:	Director of Real Estate Real Estate Office University of New Mexico Scholes Hall, Rm. 252 Albuquerque, New Mexico 87131
With a copy to:	Office of the University Counsel University of New Mexico Scholes Hall, Rm. 152 Albuquerque, New Mexico 87131

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Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the U.S. Mail, (b) sent by overnight delivery using a nationally recognized overnight courier, in which case it shall be deemed delivered one (1) business day after deposit with such courier, or (c) sent by personal delivery. The above addresses may be changed, or a new Owner may inform the other Owners of its address, by written notice to the other Owner(s); provided, however, that no notice of a new address shall be effective until actual receipt of such notice.

WITNESS their hands and seals this 30TH day of October, 1998.

SANDIA: SANDIA FOUNDATION,
a New Mexico nonprofit corporation

RA By John Perovich
John Perovich, Chairman, Board of Trustees

UNM: THE REGENTS OF THE UNIVERSITY OF NEW
MEXICO, a body corporate of the State of New
Mexico

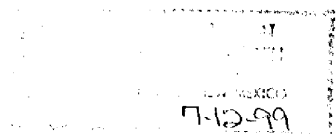
By William C. Gordon
President

County of Bernalillo)
) ss
State of New Mexico)

Approved as to form:
on file
University Counsel

This instrument was acknowledged before me on ^{Nov} ~~October~~ 2, 1998 by John Perovich as Chairman of the Board of Trustees of SANDIA FOUNDATION, a New Mexico nonprofit corporation.

Scott Deacon
Notary Public
My Commission Expires: _____



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County of Bernalillo)
)
State of New Mexico) ss

This instrument was acknowledged before me on ^{November 3, 1998} ~~October~~, 1998 by
William C. Gordon as President of THE REGENTS OF THE
UNIVERSITY OF NEW MEXICO, a body corporate of the State of New Mexico.

Michelle T. Sebastian
Notary Public
My Commission Expires: 2-12-2000


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