

**BYLAWS OF**  
**ESTANCIAS ATALAYA PROPERTY OWNERS ASSOCIATION**

Article I - Name

The name of the corporation is ESTANCIAS ATALYA PROPERTY OWNERS ASSOCIATION, herein referred to as the Association. The principal office of the corporation shall be located at 204 Bendix Drive, Unit I, Taos, New Mexico 87571, but meeting of Members and directors may be held at such places within the State of New Mexico, County of Taos, as may be designated by the Board of Directors.

Article II - Definitions

**Section 2.1. Association:** Estancias Atalaya Property Owners Association, its successors and assigns.

**Section 2.2. Properties:** that certain real property described on Exhibit "A" attached hereto and hereby made a part hereof, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 2.3. Roads, Easement Areas, and Facilities:** shall mean all real property interests owned or managed by the Association for the common use and enjoyment of the Owners as indicated on the Plat (hereinafter defined).

**Section 2.4. Lot:** any plot of land shown upon the Subdivision Plat of Estancias Atalaya Subdivision filed in Plat Cabinet \_\_\_\_\_ at Pages \_\_\_\_\_ to \_\_\_\_\_, records of Taos County, New Mexico (the "Plat"), with the exception of the Roads, Easements, and Facilities.

**Section 2.5. Owner:** the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 2.6. Declarant:** Klauer Manufacturing Company, Incorporated, an Iowa Corporation, its successors and assigns

**Section 2.7. Declaration:** the Declaration of Covenants and Restrictions of Estancias Atalaya Subdivision recorded in the Office of the Taos County Clerk and Recorder in Book \_\_\_\_ at Pages \_\_\_\_\_ to \_\_\_\_\_.

**Section 2.8. Member:** those persons entitled to Membership as provided in the Declaration. The Association has two classes of voting membership:

**Class A.** Class A Members shall be all owners with the exception of the declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they amongst themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The class B Members shall be the Declarant and shall be entitled to two (2) votes for each Lot owned by the Declarant. The Class B Membership shall cease and be converted to Class A Membership when the total votes outstanding in Class A equals sixty-seven percent (67%) percent of the total votes.

### Article 3 - Meeting of Members

**Section 3.1. Annual Meetings.** The first annual meeting of the Members shall be held the second Saturday in June, 2009, and each subsequent regular annual meeting of the Members shall be held on the second Saturday in June each year thereafter.

**Section 3.2. Special Meetings.** Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Membership.

**Section 3.3. Notice of Meetings.** Excepting the Annual Meeting discussed in Section 3.1, written notice of meetings of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) but not more than sixty (60) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. It is the sole obligation of each lot owner to notify the Secretary of any change of address at which notification is to be received.

**Section 3.4 Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-fourth (1/2) of the votes of all Membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 3.5. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

#### Article 4 - Board of Directors: Selection; Term of Office

**Section 4.1. Number.** The affairs of this Association shall be managed by a Board of three (3) directors, who need not be Members of the Association.

**Section 4.2. Term of Office.** At the first annual membership meeting to be held the second Saturday of June, 2009, the Members shall elect one (1) director for a term of one year, one (1) director for a term of two years, and one (1) director for a term of three years; and at each annual meeting thereafter the members shall elect successor directors for terms of three years.

**Section 4.3. Removal.** Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, a successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of the predecessor.

**Section 4.4. Compensation.** No director shall receive compensation for any service rendered to the Association unless employed by the Association. However, any director may be reimbursed for actual expenses incurred in the performance of duties.

**Section 4.5. Action Taken Without a Meeting.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

#### Article 5 - Nomination and Election of Directors

**Section 5.1. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or Non-Members.

**Section 5.2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### Article 6 - Meeting of Directors

**Section 6.1. Regular Meetings.** Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 6.2. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the president of the association, or by any two directors, after not less than three (3) days' notice to each director.

**Section 6.3. Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

#### Article 7 - Powers and Duties of the Board of Directors

**Section 7.1. Powers.** The Board of Directors shall have power to :

- C adopt and publish rules and regulations governing the use of the Roads, Easement Areas, and Facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- C suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied and/or fines by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- C exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- C declare the office of a Member to the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- C employ a manager, independent contractors, and /or such employees as they deem necessary, and to prescribe their duties.

**Section 7.2. Duties.** It shall be the duty of the Board of Directors to:

- C cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- C supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- C fix the amount of the annual assessment against each Lot in the Estancias Atalaya Subdivision at least thirty (30) days in advance of each annual assessment period;
- C set reasonable and appropriate fines for violation of any provision of the Declaration of Restrictive Covenants.
- C send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
- C enforce and/or foreclose the lien against any property for which assessments and/or fines are not paid within sixty (60) days after due date or to bring an action at law against the owners personally obligated to pay the same as provided hereinafter in Article 11.
- C issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment and/ or fine has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states and assessment has ben paid, such certificate shall be conclusive evidence of such payment;
- C procure and maintain adequate liability and hazard insurance on property owned by the Association;
- C cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- C cause the Roads, Easements, Fire Suppression Systems, and Open Space Trails (if any) to be maintained.

## Article 8 - Officers and Their Duties

**Section 8.1. Enumeration of Officers.** The officers of this Association shall be a president and vice-president, who shall at all times be additional Members of the Board of Directors, a secretary, and a treasurer, and such other officers as the board may from time to time by resolution create.

**Section 8.2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**Section 8.3. Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

**Section 8.4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 8.5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 8.6. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder for the term of the officer he replaces.

**Section 8.7. Multiple offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article 8.

**Section 8.8. Duties.** The duties of the officers are as follows:

- C **President** - The president shall preside at all meetings of the Board of Directors and at all meetings of the Membership; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.
  
- C **Vice President** - The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

- C **Secretary** - The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members (excepting the annual meeting); keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board. It is the sole obligation of each lot owner to notify the Secretary of any change of address at which notification is to be received.
- C **Treasurer**- The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall co-sign all checks and promissory notes of the Association; keep proper books of account; cause an annual review of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

#### Article 9 - Committees

The Association shall appoint an Architectural Review Committee to implement and enforce the Estancias Atalaya Subdivision Guideline, as provided in the Declaration, and a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### Article 10 - Books and Records

The books, records and papers of the Association shall at all time, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the Principal office of the Association, where copies may be purchased at reasonable cost.

#### Article 11- Assessments

Each Member is obligated to pay to the Association annual and special assessments and/or fines which are secured by a continuing lien (until payment) upon the property against which the assessment is made and/or the fine is levied. Any assessments and/or fines which are not paid when due shall be delinquent. If the assessment and/or fine is not paid within sixty (60) days after the due date, the assessment and/or fine shall bear interest from the date of delinquency at the rate of five (5%) percent per annum above the Base Rate of Interest then being charged by Centinel Bank of Taos, to its largest credit-worthy commercial borrowers, and the Association any bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment an/or fine. No Owner may waive or otherwise escape liability for the assessments and/or fines provided for herein by nonuse of the Roads, Easements, and/or Facilities (if any) or by abandonment of his Lot.

## Article 12 - Corporate Seal

The Association shall have a seal in circular form having within its circumference the words:  
ESTANCIAS ATALAYA PROPERTY OWNERS ASSOCIATION.

## Article 13 - Amendments

**Section 13.1.** These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

**Section 13.2.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these bylaws, the Declaration shall control.

## Article 14 - Indemnification

Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Association as a director, officer, trustee, employee or agent shall be indemnified and held harmless by the Association to the fullest extent authorized by the New Mexico Non-profit Corporation Act as the same exists or may hereafter be amended. All such persons shall be indemnified and held harmless by the Association against all expense, liability and loss (including attorney's fees, judgements, fines, taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection with the indemnified action or inaction and such indemnification shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of his or her heirs, executors and administrators.

The right to indemnification conferred in this Article shall be a contract right and shall include the right to be paid by the Association the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer of the Association in advance of the final disposition of a proceeding, shall be made only upon delivery to the Association of and undertaking, by or on behalf of such director or officer, to repay all amount so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this Article or otherwise. The Associations may, by action of its Board of Directors, provide indemnification and advance expenses to employees and agents of the Association and others permitted to be indemnified by the New Mexico Non-profit Corporation Act with the same scope and effect as the foregoing indemnification and advancement of expenses of directors and officers.



If a valid claim pursuant to the above provisions of this Article is not paid in full by the Association within ninety (90) days after a written claim has been received by the Association, the claimant may at any time thereafter bring suit against the Association to recover the unpaid amount of the claim, and, if successful in whole or in part, the claimant shall be entitled to be paid the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the Association) that the claimant has not met the standards of conduct which make it permissible under the New Mexico Non-profit Corporation Act for the Association to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be on the Association. Neither the failure of the Association (including its Board of Directors independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the New Mexico Non-profit Corporation Act, nor an actual determination by the Association (including its Board of Directors or independent counsel) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

The right to indemnification and payment of expenses incurred in defending a proceeding the advance of its final disposition conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Association's Articles of Incorporation, Bylaws, agreement, or otherwise.

The Association may maintain insurance, at its expense, or provide alternative financial arrangements including but not limited to providing a trust, letter of credit or self-insurance to protect itself and any director, officer, trustee, employee or agent of the Association or another venture, trust or other incorporated or unincorporated enterprise against any such expense, liability or loss, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under the New Mexico Non-profit Corporation Act.

#### Article 16 - Miscellaneous

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**In Witness Whereof**, we, being the first Board of Directors of Estancias Atalaya Property Owners Association, have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Robert E. Klauer, Director

\_\_\_\_\_  
James F. Klauer, Director

\_\_\_\_\_  
Mark Cowan, Director

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the Estancias Atalaya Property Owners' Association, a New Mexico Nonprofit Corporation.

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**In Witness Whereof**, I have hereunto subscribed by name and affixed the seal of said Association this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Penny Thor, Secretary

## Exhibit "A"

A certain tract of land near Ranchos de Taos, Taos County, New Mexico; within the Gijosa Grant; located within projected Sections 4 and 9, Township 24 North, Range 12 East, NMPM; described as being part of Lots 14 and 15, Block 18; part of Lots 2, 3, 4, 5, 7, 10, 11, 12, 14 & 15, and all of Lot 6, Block 21 of a private survey for the Ranchos Orchard and Land Company; also described as part of Tracts 45 and 46, Map 30, Survey 1; part of Tract 8, Map 63, Survey 2 and part of Tract 9, Map 56, Survey 2 of the 1941 Taos County Reassessment Survey; and more particularly described by metes and bounds as follows;

BEGINNING at the SE corner of this tract, a 1/2 in. rebar found on the westerly boundary of the Cristoval de la Serna Grant, being also the easterly boundary of the Gijosa Grant, from whence triangulation station "Gijosa 2," a 1954 USC&GS brass cap monument found bears N 86°29'37" W, 8248.98 ft. distant, thence along said grant boundary;

S 35°11'56" W, 414.44 ft. to a 1/2 in. rebar found and accepted as MC 16 of said grant, thence;  
S 36°06'00" W, 577.46 ft. to a 1/2 in. rebar found at the re-established position of MC 17, thence;  
S 33°36'07" W, 811.83 ft. to a point from whence a 1/2 in. rebar found and used as a witness corner, bears N 89°26'57" E, 0.39 ft. distant, thence leaving said grant boundary;  
S 89°26'57" W, 242.27 ft. to the SW corner, a 1/2 in. rebar found on the easterly right of way of "Stakeout Drive," thence along said right-of-way;  
N 37°53'35" W, 1136.47 ft. to a 1/2 in. rebar found, thence;  
An arc distance of 357.62 ft. along a 498.79 ft. radius curve to the right, through a 41°04'46" central angle, the chord of which bears N 17°21'12" W, 350.01 ft. distant, thence;  
N 03°11'11" E, 87.88 ft. to a 1/2 in. rebar found, thence;  
An arc distance of 214.47 ft. along a 377.67 radius curve to the left, through a 32°32'12" central angle, the chord of which bears N 13°04'55" W, 211.60 ft. to a 1/2 in. rebar found, thence;  
N 29°21'01" W, 3002.43 ft. to a 1/2 in. rebar found, thence;  
An arc distance of 82.54 ft. along a 50.45 ft. radius curve to the right, through a 93°44'02" central angle, the chord of which bears N 17°43'22" E, 73.44 ft. to the NW corner, a point on the southerly right-of-way of State Road 68, from whence a 1/2 in. rebar found and used as a witness corner bears S25°24'37"E, 0.26 ft. distant, thence along said right-of-way;  
N 65°06'02" E, 2730.24 ft. to the NE corner, a point from whence a 1/2 in. rebar and used as a witness corner bears N 14°16'03" W, 0.34 ft. distant, thence leaving said right-of-way;  
S 14°16'03" E, 1115.88 ft. to a 1/2 in. rebar found, thence;  
S 11°03'56" E, 955.77 ft. to a 1/2 in. rebar found, thence;  
S 13°03'32" E, 853.68 ft. to a 1/2 in. rebar found, thence;  
S 23°04'51" E, 1115.99 ft. to the POINT AND PLACE OF BEGINNING.  
This tract contains 229.198 acres.