

## CROSS ACCESS EASEMENT

### BACKGROUND:

A. WELLS FARGO BANK NEW MEXICO, NATIONAL ASSOCIATION (herein "Wells Fargo") is the owner of Lots 9 and 10, and Tract A, in Block 10, of Montgomery Heights, as the same are shown on the plat recorded on June 5, 1952, in Map Book D1, Folio 54, records of Bernalillo County, New Mexico (herein "Easterly Parcel").

B. Wells Fargo is also the owner of Lots 7 and 8, in Block 10, of Montgomery Heights, as the same are shown on the plat recorded on June 5, 1952, in Map Book D1, Folio 54, records of Bernalillo County, New Mexico (herein "Westerly Parcel").

C. Wells Fargo desires to grant a cross - access easement between and for the benefit of the Easterly Parcel and the Westerly Parcel.

### GRANT:

1. Wells Fargo hereby grants, over and across the boundary line common to the aforementioned Lots 8 and 9, an easement for ingress and egress to and from the Easterly Parcel and the Westerly Parcel, over the portions of the other parcel from time to time improved as driveway area, to and from the public streets adjoining the parcels.
2. The owner of each of the parcels shall be responsible for maintaining the driveway areas located on its parcel in good and serviceable condition, at its own expense.
3. Notwithstanding anything herein to the contrary, the cost of any maintenance, improvement or repair necessitated by the negligent or intentional act or omission of any person or entity, shall be recoverable from such person or entity by the person or entity who pays for such maintenance, improvement or repair.
4. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the benefit of the successors and assigns of the parties hereto.
5. Whenever a transfer of ownership of any portion of the Easement Area occurs, the transferor shall remain liable for breach of this agreement occurring prior to such transfer, but shall not be liable for any breach of this agreement occurring after such transfer.
6. If any party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strike, lockout, labor trouble,

inability to procure material, failure of power, restrictive governmental law or regulation, riot, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under this agreement, the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

7. This agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, supersedes all prior agreements, oral or written, pertaining to the subject matter hereof, may be modified only by an instrument in writing signed by the party to be charged, and will be governed as to validity, interpretation, effect, enforcement, and in all other respects in accordance with the internal (without resort to principles of conflict of laws) substantive and procedural laws of the State of New Mexico, except to the extent that the laws of the United States may prevail. In the event that any one or more of the provisions contained in this agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of this agreement. Failure of any party to insist, in any one or more instances, upon strict performance of any term, provision, covenant or condition of this agreement, or to exercise any right, remedy or option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such term, provision, covenant or condition, and the same shall continue and remain in full force and effect. Should any party bring any suit or action to enforce or related to this agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs as part of the judgment awarded therein, including fees and costs at trial and appellate levels.

October 15, 2002

WELLS FARGO BANK NEW MEXICO, N.A.

By: [Signature]  
Gary D. Williams, Sr. Vice President

ACKNOWLEDGMENTS

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

This instrument was acknowledged before me on October 15, 2002, by Gary D. Williams, Senior Vice President of Wells Fargo Bank New Mexico, National Association

[Signature]  
NOTARY PUBLIC

