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SECTION 53.2 Subdivision Improvements Agreement

SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made between SB / RDC LLC, A Colorado Limited Liability Co. hereinafter called the "Subdivider," and the Board of County Commissioners of El Paso County, Colorado, hereinafter called the "County," shall become effective the date of approval of the Final Plat by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the Subdivider, as a condition of approval of the final plat of THE VILLAGE AT MOOR-WOOD subdivision wishes to enter into a Subdivision Improvements Agreement, as provided for by Section 30-28-137 (C.R.S.) and Section 49.4 of the El Paso County Subdivision Regulations incorporated herein; and

WHEREAS, pursuant to the same authority, the Subdivider is obligated to provide security or collateral sufficient in the judgment of the Board of County Commissioners to make reasonable provision for completion of certain public improvements set forth on "Exhibit A": attached hereto and incorporated herein; and

WHEREAS, the Subdivider wishes to provide collateral to guarantee performance of this Agreement including construction of the above-referenced improvements by means of 2 (insert one of the following).

1. Plat restriction
 - a. On plat
 - b. Separate agreement
2. Irrevocable letter of credit
3. Performance or property bond
4. Escrow agreements
5. Assignment of receivables
6. Deposits of certified funds
7. Liens on property

NOW, THEREFORE, in consideration of the following mutual covenants and agreements, the Subdivider and the County agree as follows:

1. The Subdivider agrees to construct and install, at his sole expense, all of those public improvements as set forth on "Exhibit A" attached hereto.

2. The Subdivider agrees that all of those certain public improvements to be completed as identified on "Exhibit A" shall be constructed in compliance with the following:
 - a. All laws, resolutions and regulations of the United States, State of Colorado, El Paso County and its various agencies, affected special districts and/or servicing authorities.
 - b. Such other designs, drawings, maps, specifications, sketches and other matter submitted to and approved by any of the above-stated governmental entities.
3. To secure and guarantee performance of its obligations as set forth herein, the Subdivider agrees to provide security and collateral (to extend for a period of at least twelve (12) months, from the date of final plat approval until _____, 19__) in the form of (insert one of the following):
 - a. A plat restriction appearing on the face of the plat which reads as follows:
 - b. A plat restriction by separate agreement which reads as follows:
 - c. An irrevocable letter of credit from The Bank of Broadmoor Bank in the amount of \$67,720.
 - d. A performance or property bond issued by _____ as corporate surety in the amount of \$ _____.
 - e. A cash escrow in the amount of \$ _____ to be held by _____, (an escrow agent) or a plat escrow.
 - f. Assignments of receivables in the form of _____.
 - g. Deposits of certified funds.
 - h. A lien(s) on the following property: _____.
4. It is mutually agreed pursuant to the provisions of Section 30-28-138 (3) C.R.S. that the County or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale.

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conveyance, or transfer of any such lot, lots, tract or tracts of land or of any other provision of this article. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of any lot, lots, tract or tracts of land contrary to the provisions of any such restrictions set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by the County where so required or otherwise prior to commencement of construction on any such lot, lots, tract or tracts of land.

5. It is further mutually agreed that, pursuant to the provisions of Section 30-28-137 (2) C.R.S., as improvements are completed, the Subdivider may apply to the Board of County Commissioners for a release of part or all of the collateral deposited with said Board. Upon inspection and approval, the Board shall release said collateral. If the Board determines that any of such improvements are not constructed in substantial compliance with specifications it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board of County Commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.
6. The Subdivider(s) agrees to provide the County with a title insurance commitment at time of final platting evidencing that fee simple title of all lands in the subdivision is vested with the subdivider(s).
7. The County agrees to approval of the final plat of THE VILLAGE AT MOOR-WOOD Subdivision subject to the terms and conditions of this Agreement.
8. Parties hereto mutually agree that this Agreement may be amended from time to time provided that such amendment be in writing and signed by all parties hereto.
9. This Agreement shall take effect on the day and year below written.

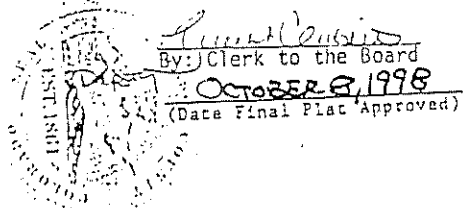
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IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year below written.

ATTEST:

COUNTY OF EL PASO, STATE OF COLORADO



By: J. Patrick Kelly
Clerk to the Board
OCTOBER 8, 1998
(Date Final Plat Approved)

By: Alvick Brown 11/19/98
Chairman, Board of County Commissioners of
El Paso County

SB/RDC LLC
Subdivider

By: [Signature] Manager
Representative (if applicable)

Subscribed, sworn to and acknowledged before me this 05 day of November, 1998, by the parties above named.

My commission expires: 11/20/99



Melissa L. Young
Notary Public

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EXHIBIT A
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ESTIMATE OF GUARANTEED FUNDS
FOR CONSTRUCTION OF PUBLIC FACILITIES

Subdivider: SB/RDC LLC
Subdivision Name: THE VILLAGE AT MOOR-WOOD

Item	Units	Unit Cost	Total Cost
Excavation & Embankment	200 CY	\$ 3	\$ 600
Dam Embankment Extension	(see attached detail)		\$ 13,150
Gravel Base	620 SY	\$ 3	\$ 1,860
Curb & Gutter	70 LF	\$ 10	\$ 700
Water Mains & Service Lines	680 LF	\$ 25	\$ 17,000
Asphaltic Concrete Pavement	620 SY	\$ 5	\$ 3,100
Sewer Main & Service Lines	680 LF	\$ 25	\$ 17,000
Street Signs, Stop Sign	2	\$ 250	\$ 500
Erosion Control Measures			\$ 2,650
Drainage Structures			\$ 4,520
Street Lights	3	\$ 1,000	\$ 3,000

\$ 64,080

Estimate Prepared by Jeffries Engineering

Date Sept. 23, 1998

Approved by Petitioner

SB/RDC LLC

Date

9/23/98

Approved by

County Engineer/Manager

Date

10-13-98

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EXHIBIT A
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EMBANKMENT EXTENSION
WOODMOOR LAKE DAM
EL PASO COUNTY, COLORADO

ESTIMATED COST

1,200 cu. yds. of compacted fill @ \$ 8	= \$ 9,600
Foundation preparation, stripping	= 700
475 lin. ft. of silt fence @ \$ 2	= 950
Construction staking	= 400
Soils Engineering and testing	= 1,000
Seeding disturbed areas	= 500
	\$ 13,150

[Signature] Partner
9/23/98

D. Jeffries 9/01/98

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El Paso County Clerk & Recorder: Index in Grantee Indexes under Village at Moor-Wood and under Grantor as SB/RDC LLC, a Colorado limited liability company and Village at Moor-Wood Owners Association, Inc., a Colorado non-profit corporation.

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
VILLAGE AT MOOR-WOOD

THIS DECLARATION, made and entered as of the date shown below, by SB/RDC LLC, a Colorado limited liability company (hereinafter called "Declarant") for itself, its successors and assigns.

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described on Exhibit "A" attached hereto (hereinafter called the "Property"), and

WHEREAS, the Declarant desires to submit the Property to the covenants, terms and provisions hereof.

NOW, THEREFORE, the Declarant hereby declares that all of the Property, as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, and assigns. The Declarant further declares that the Project shall be created pursuant to the CCIOA (C.R.S. 38-33.3-101 et seq.) and any amendments, repeals or modifications of that Act (hereinafter called "CCIOA").

I

DEFINITIONS

The terms used herein shall have the meanings stated in the CCIOA, except as otherwise provided herein:

1.1 "Association" shall mean and refer to Village at Moor-Wood Owners Association, Inc., a Colorado Non-Profit Corporation, which has been or shall be organized under the laws of the State of Colorado prior to the conveyance of the first Lot in the Project, its successors and assigns.

1.2 "Board" means the Board of Directors of the Association and shall also be the "executive board" as defined under the CCIOA. Except as specified herein, or in the Association's Articles of Incorporation or Bylaws or C.R.S. 38-33.3-303(3) or other provisions of CCIOA, the Board may act on behalf of the Association without any vote or consent of the members.

1.3 "Owner" means any person, corporation, partnership, association, contract sellers or other legal entity or any combination thereof, including Declarant, who owns the record fee simple interest in one or more lots and shall include the purchaser under any executory land sales contract wherein the Administrator of Veteran's Affairs is seller, whether recorded or not, and whether owned by said Administrator or its assigns. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Lot merely as security for the performance of an obligation, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. This term shall have the same meaning as "unit owner" under the CCIOA.

1.4 "Property" shall mean and refer to that certain real property described on Exhibit "A" hereto, together with all appurtenances thereto and all improvements now or hereafter thereon and shall include any real property which is hereafter annexed to the project pursuant to Article X hereof.

1.5 "Expansion Property" shall mean and refer to any part of that certain real property described on Exhibit "B" hereto, which may be annexed to the project pursuant to Article X hereof, together with all appurtenances thereto and all improvements now or hereafter thereon.

1.6 "Common Area" shall mean and refer to all of the Property, together with all improvements located thereon and all common property owned by the Association, but excluding the Lots, together with all improvements and property thereon and shall include any Common Area located upon any real property which is hereafter annexed to the project pursuant to Article X hereof. Notwithstanding any contrary provision, any items described in C.R.S. 38-33.3-202 and, by illustration, any of the following: parking spaces, carports, shutters, driveways, fences, landscaping, awnings, window boxes, fenced areas, doorsteps, balconies, porches, chimneys, utility lines, porches, patios, entryways, stairs, or decks leading solely to a Townhome, whether located upon the Common Area or upon any Lot or any other part of the Property, may be assigned or allocated as a "Limited Common Area" by the Declarant for the exclusive use of the Owners of the Townhomes to which they are assigned, allocated or attached, and they shall be repaired, maintained, replaced, cleaned and kept in good appearance by such Owners, rather than by the Association as a common expense, except as provided in Article V, Section 5.1(b) hereof; any such allocation may be done by plat, surveyor's statement or any document recorded by the Declarant or by the Association after the Period of Declarant Control. These terms shall have the same meaning as "common elements" and "limited common elements" under the CCIOA and may be reallocated pursuant to C.R.S. 38-33.3-208 and 205(1)(g). By way of illustration, but not limitation, the typical Limited Common Areas ("LCA") for each Lot are shown on Exhibit "E" attached hereto and incorporated herein by this reference.

1.7 "Lot" shall mean and refer to any of the lots shown on any recorded plat of the Property, together with all appurtenances thereto and improvements now or hereafter thereon and shall include any lot located upon any real property which is hereafter annexed to the project pursuant to Article X hereof. This term shall have the same meaning as "unit" under the CCIOA. The boundaries of any Lot may be relocated pursuant to C.R.S. 38-33.3-212. The boundaries of the Lots shall be shown on any recorded plat of the Property which shall be incorporated herein by this reference.

1.8 "Declaration" means this Declaration as contained herein and as it may be amended or supplemented from time to time as herein provided, which shall be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of the Declarant executing the Declaration. A copy of the Declaration shall be delivered to the assessor of the county in which the Property is located, after recording.

1.9 "Declarant" shall mean and refer to SB/RDC LLC, a Colorado limited liability company, its agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of its rights as Declarant hereunder, in compliance with C.R.S. 38-33.3-304. The Declarant hereby reserves any and all special, development and other rights, powers and privileges as set forth in the Colorado Common Interest Ownership Act and any other rights as created or set forth herein. Any such rights shall apply to the Property and shall terminate upon the earlier of seven (7) years from the date of recording hereof or as otherwise provided herein. The "Period of Declarant Control" means that period during which the Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board as set forth in Article III hereof.

1.10 "Member" shall mean and refer to every person or entity who holds membership in the Association or, following termination of the Project, of all former unit owners entitled to distributions of proceeds under C.R.S. 38-33.3-218, or their heirs, personal representatives, successors or assigns.

1.11 "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the real property records of the office of the Clerk and Recorder of the county in which the Property is located, and by which a Lot or any part thereof is encumbered. The term shall include a "security interest" as defined by the CCIOA. The term shall also include any executory land sales contract wherein the Administrator of Veteran's Affairs, an officer of the United States of America, is the original seller, whether such contract is recorded or not (but if not recorded, then written notice thereof shall be delivered to the Board) and whether such contract is owned by the said Administrator or has been assigned by the said Administrator and is owned by the Administrator's assignee, or a subsequent assignee who has notified the Board in writing of such assignment.

Unrecorded instrument with declarant's 10/23/98
consent of the copyright owner.

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1.12 "First Mortgage" shall mean a Mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First Mortgage.

1.13 "Mortgagee" means any person or entity, or any successor or assign thereof, which holds or owns a Mortgage. The term shall also include the Administrator of Veteran's Affairs, an officer of the United States of America, and its assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not but if not recorded, then written notice thereof shall be delivered to the Board.

1.14 "Project" means all of the Property, together with improvements and rights, and improvements located on the Property and all rights, easements and appurtenances belonging thereto, and shall include any real property subsequently annexed or added to the Project. This term shall have the same meaning as "common interest community" and "planned community" under the CCIOA. The Project is described on the recorded plat which is described on Exhibit "D" attached hereto and which is incorporated herein by this reference; the plat shall comply with C.R.S. 38-33.3-209.

1.15 "Architectural Control Committee" shall mean the committee of three or more persons appointed by the Declarant or Association to review and approve the plans for all improvements constructed on the Property.

1.16 "Patio Home" shall mean the residential dwelling improvement constructed and located upon a Lot and shall include any Patio Home which is hereafter annexed to the project pursuant to Article X hereof.

1.17 "Owner's Proportionate Share" or "Proportionate Interest" means that percentage of the total which is equal to such Owner's fractional or percentage interest as set forth in Exhibit "C" attached hereto and incorporated herein by this reference and which is subject to adjustment in the event that the Project is expanded as herein provided. Because the square footages of the Lots are approximately similar, the percentages shall be equal and expressed as fractions. These terms shall have the same meaning as "allocated interest" under the CCIOA.

1.18 "Improvements" shall mean and refer to all structures and any appurtenances thereto or components thereof of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, bicycle and/or pedestrian trails, sprinkler pipes, garages, carports, roads, driveways, parking areas, concrete, paving, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, mailboxes, exterior tanks, solar equipment, satellite dishes, and exterior air conditioning and water softener fixtures, and any alterations, changes or modifications to the foregoing. "Improvements" shall also mean an excavation or fill the volume of which exceeds two cubic yards, and any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

II

PROPERTY RIGHTS IN THE COMMON AREA

2.1 Title to the Common Area. Subject to the limitations and restrictions of this Declaration, title to the Common Area shall be conveyed in fee simple, free and clear of all encumbrances except easements or similar rights of record, by the Declarant to the Association, prior to the conveyance of the first Lot in any phase.

2.2 Non-Division of Common Area. Except for Limited Common Areas designated as provided by the Declaration, the Common Area shall remain undivided and shall not be subject to partition. By the acceptance of its deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Area. Each Owner specifically agrees not to institute any action therefor. Further, each Owner agrees that this Section may be pleaded as a bar to the maintenance of

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Exhibit A

PARCEL A:

All of vacation and replat of the Peninsula at Woodmoor, except that portion described as follows

A tract of land located in the northwest quarter (NW 1/4) section 14, and the southwest quarter (SW 1/4) of section 11, township 11 south, range 67 west of the sixth principal meridian, being further described as follows:

Commencing at the north quarter corner (N 1/4 COR) of said section 14, and considering the east line of the northwest quarter (NW 1/4) of said section 14, to bear south 00°14'49" east, with all bearings herein being relative thereto; thence south 24°00'40" west, 126.23 feet, to the true point of beginning; thence south 17°55'42" west, 122.00 feet; thence north 62°53'37" west, 534.65 feet; thence along the easterly line Woodmoor Drive by the following two bearings and distance:

Thence north 21°46'58" east, 35.00 feet; thence 67.15 feet along the arc of a curve to the right having central angle of 03°50'48", a radius of 100.00 feet, and a chord that bears north 23°42'21" east 67.13 feet, thence south 64°55'49" east, 522.75 feet. To the true point of beginning, El Paso County, Colorado

PARCEL B:

That certain 50 foot wide Electric Easement in A Vacation and Replat of the Peninsula at Woodmoor and A Portion of Sections 11 & 14, Township 11 South, Range 67 West of the 6th Principal Meridian, covering the property described as follows:

A portion of "A Vacation and Replat of the Peninsula at Woodmoor", said property being more particularly described in Deed recorded on September 29, 1998 at Reception No. 97113867.



WATER SERVICE AGREEMENT

by and between

WOODMOOR WATER & SANITATION DISTRICT NO. 1

and

SB/RDC, LLC

This Water Service Agreement is entered into this 11th day of August, 1998, between the WOODMOOR WATER & SANITATION DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the state of Colorado (the "District") and SB/RDC, LLC, a Colorado limited liability company.

WHEREAS, the District is the owner of all of the underground water rights within its boundaries, and has established a policy of allocating one-half (.5) acre-feet of water per acre per year to each property within the District; and

WHEREAS, SB/RDC, LLC is developing certain property located within the District's boundaries which is described in Exhibit A; and

WHEREAS, SB/RDC, LLC's development is known as the Village at Moor-wood (the "Development") and it's density is such that it will need more water than the District's one-half acre-foot per acre policy allows; and

WHEREAS, the District has excess water available, and is willing to provide water service to the Property in excess of its .5 acre-feet per acre policy, according to the terms and conditions contained herein.

NOW THEREFORE, in consideration of the covenants and conditions contained herein, and other good and sufficient consideration, the parties agree as follows:

1. Water Service Commitment. The Development will consist of 19 units with an anticipated need of .27 acre-feet of water per unit per year, totaling 5.13 acre-feet of water annually for a total of 1,539 acre feet (5.13 x 300) to meet El Paso County's 300 year water supply requirement. The District's water policy allows the Development a total of only 1.39 acre-feet of water annually (2.78 acres x .5 per acre). The difference between the acre-feet of water needed to serve the Development and the acre-feet allowed under the District's policy is 3.74 acre-feet of water annually.

The District agrees to provide water service to the Development at 5.13 acre-feet per year for a total of 1,539 acre feet (5.13 x 300) to meet El Paso County's 300 year water supply requirement, by providing the excess 3.74 acre-feet of water per year, in addition to the 1.39 acre-feet allowed the Property under the District's policy.

2. Payment for Water Service Commitment. The District has determined that the price for the excess water service provided pursuant to paragraph 1 is \$10,000 per acre-foot. SB/RDC, LLC agrees to pay to the District the sum of \$37,400 (3.74 acre-feet x 10,000) for the excess water service simultaneously with the execution of this Agreement.

3. Limitations of Water Service Commitment. The District's water service commitment is not intended to, and does not, exempt the Property from the District's Rules and Regulations. The Property is subject to all provisions of the Rules and Regulations, including but not limited to those provisions which allow the District to discontinue or decrease water service in the case of a water shortage or other emergency.

4. Entire Agreement. This Agreement constitutes the entire agreement between the parties on the subject contained herein and it may only be modified or amended in writing, signed by both parties.

5. Governing Law. This Agreement shall be governed by, and construed according to, the laws of the state of Colorado.

WOODMOOR WATER AND
SANITATION DISTRICT NO. 1

George A. Dodds

ATTEST:

Paul K. Drogge

STATE OF COLORADO)

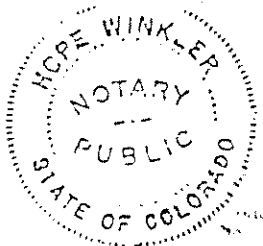
)ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 11 day of August, 1998, by George A. Dodds and Paul K. Drogge as President and Secretary of Woodmoor Water and Sanitation District No. 1.

WITNESS my hand and official seal.

My commission expires: 1-14-2000



Hope Winkler
Notary Public

SB/RDC, LLC

[Signature] Manager

ATTEST:

Melissa A. Young - Secretary

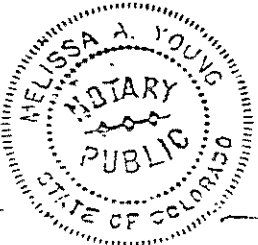
STATE OF COLORADO)
)ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 04 day of August, 1998, by John A. Spear and Melissa A. Young as Manager and Secretary of SB/RDC, LLC.

WITNESS my hand and official seal.

My commission expires: 12/31/2000

Melissa A. Young
Notary Public



WWSD/AGRT
TK01355
0317.0207

EXHIBIT A

The Property

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such an action. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney fees, costs and other damages the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and management of the Common Area. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Lot between the Owners thereof, but such legal partition shall not affect any other Lot, nor shall any such partition sever any part thereof from such Lot as a whole.

2.3 Owners' Common Area Easement of Enjoyment. Subject to the limitations and restrictions of this Declaration, every Owner shall have an equal, nonexclusive right and easement of enjoyment in and to the Common Area, including without limitation the right of ingress and egress to and from the Owner's Lot, his parking area, any public street, or any recreational facilities completed upon the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot without the necessity of additional reference.

2.4 Extent of Owners' Common Area Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to enforce the restrictions contained in Article VII of this Declaration and to promulgate and publish rules and regulations which every Owner, his family members, guests, tenants, and contractors shall strictly comply with, including, but not limited to, the right of the Association to establish reasonable charges for the use of all or a portion of the Common Area if deemed necessary;

(b) The right of the Association, as provided in its Articles or Bylaws, to suspend an Owner's voting rights and the right to the use of the Common Area for any period during which such Owner is in default under this Declaration, including without limitation the non-payment of any assessment levied by the Association, and to make such suspensions for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area;

(d) The right of the Association to grant easements and/or similar rights for utilities, access and related rights and to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes, subject to the provisions of Article XI hereof and C.R.S. 38-33.3-312, and subject to such conditions as may be imposed by the public entity; for example, if any interior streets are private and have not been built to city or county specifications and so might not be accepted by them;

(e) The rights of the Association as set forth in the Association's Articles of Incorporation and Bylaws, including, without limitation, to borrow money for the purpose of improving the Common Area and, subject to the provisions of Article XI and C.R.S. 38-33.3-312, to mortgage said property as security for any such loan;

(f) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

(g) The right of the Declarant (until termination of the Period of Declarant Control) or the Association's Board (after termination of the Period of Declarant Control) to assign or allocate any part of the Common Area to be a Limited Common Area, for the exclusive use of a particular Owner.

2.5 Other Easements.

(a) Utility Easements. Notwithstanding any provision of this Declaration to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the Property for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including but not limited to any gas, electric, water or sewer line, mains or laterals, any telephone and cable television lines, any heating or cooling installations, any master television antenna system, or for other public purposes consistent with the intended use of the Property under this Declaration. The foregoing easements shall include, without limitation, the

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right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment, subject to the restrictions of Section 7.18 hereof, and the right to enter into agreements relating to such utility service and easements; all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the Property without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the Property, including, but not limited to, any easements granted in the recorded subdivision map. The rights reserved herein for Declarant shall pass to the Association upon the termination of the Period of Declarant Control, and any and all of the covenants, terms, provisions, rights and duties arising from such easements granted by the Declarant and any related agreements shall thereupon pass to the Association and be assumed by it in place of the Declarant. Any consideration for any such easement shall be delivered to and become the property of the Association, whether the grant of easement was made by the Declarant or by the Association.

(b) Association Easement. A non-exclusive easement is hereby granted to the Association, its officers, agents, employees and assigns upon, across, over, in and under the Common Area and any Lot as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or otherwise, including without limitation, any maintenance required or permitted hereunder, any access or uses described in this Declaration, and any maintenance, repair or replacement of any facilities on the Common Areas; provided, however, that entry into any Patio Home in non-emergency situations shall only be made after service of reasonable written notice and during regular business hours, and, under emergency circumstances, shall only be made after such notice, if any, as is reasonable under the circumstances. The Association may authorize use of this easement by Owners, contractors, and others pursuant to rules adopted by the Board.

(c) Emergency Easement. A non-exclusive easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the Property and Common Area in the performance of their duties.

(d) Common Wall Easement. Each Owner, his agents and contractors, are granted a non-exclusive easement for the purpose of maintenance, construction, reconstruction and repair, in, over, under and upon adjacent Lots and in and upon adjacent Patio Homes for purposes of common wall repair or maintenance, in accordance with Section 5.5 of Article V, upon reasonable notice to the Owners thereof. Any damage occasioned to the adjacent Lot or improvements, including the dwelling unit, thereon in exercising said easement shall be the responsibility of the Owner whose negligence or wrongful acts or omissions cause such damage.

(e) Exterior Wall Easement. Each Owner, his agents and contractors are granted a non-exclusive easement in, over, under and upon the adjacent Common Area for the purpose of maintenance, construction, reconstruction and repair of any exterior wall on such Owner's Lot, provided, however, that such Owner shall be liable for any damage to the Common Area, which shall be restored to its condition prior to such work.

(f) Easement for Encroachments. If any part of the Common Area or any Common Area improvement or structure encroaches upon a Lot or Lots, a valid easement for such encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Lot or any Patio Home or other structure related thereto encroaches upon the Common Area, or upon any adjoining Lot or Lots, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. In the event that a Patio Home or structure related thereto is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachment of parts of the Patio Home due to such construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Patio Home or related structure constructed on the Property, by error in the plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any portion thereof. Such encroachments and easements shall not be considered or construed to be title defects or encumbrances either on the Common Area or on the Lots. In interpreting any and all provisions of this Declaration, subsequent deeds, Mortgages, or other security instruments relating to Lots and Patio Homes, the actual location of a Patio Home, and related

structures, shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Lot, Patio Home, and related structure, as indicated on the plat.

(g) Easement for Foundations. Owners of adjoining Lots shall have mutual easements of horizontal and vertical support for the foundations on which adjacent walls of their improvements rest, and similar easements for support from the Common Area, and for the benefit of the Common Area shall also exist.

(h) Easement for Ingress and Egress. Subject to the provisions of this Declaration, each Owner, his agents and guests are hereby granted a perpetual non-exclusive easement over any streets, roadways, driveways, and sidewalks, which are located upon the Common Area, for the purpose of vehicular and pedestrian ingress to and egress from such Owner's Lot. If any of the streets or roadways upon the Property are private streets, Declarant shall have the right to relocate any portion of them, but only if it provides all Owners with reasonable access to their Lots, and Declarant may also dedicate any portion of any private street or roadway upon the Property as a public right-of-way, in which case, if accepted by a public entity, the Association's obligations for repair and maintenance of the road shall cease. Furthermore, Declarant hereby reserves a non-exclusive easement across, over and under any such private streets or roadways for ingress, egress and the installation of utilities to any part of the Expansion Property and over, under and through the Common Area for the exercise of any special Declarant right hereunder or under the CCIOA.

2.6 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests, or contract purchasers who reside on his Lot. Each Owner shall, to the extent permitted by law, be liable for any damage done to the Common Area by his family, tenants, guests, or contract purchasers and for any breach of the Association's rules and regulations by such persons.

2.7 Non-Dedication of Common Area. Declarant, in recording this Declaration, has designated certain areas of land as Common Area intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Area is not dedicated hereby for use by the general public but is dedicated to the common use and enjoyment of the Owners, as more fully provided in this Declaration.

2.8 Recorded Easements. The Property, and all portions thereof, shall be subject to all recorded licenses and easements including without limitation any as shown on any plat affecting the Property, or any portion thereof, and additionally subject to those recorded matters set forth on Exhibit "D" attached hereto and incorporated herein by this reference.

III

MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. The following shall be members of the Association: the Declarant (so long as the Declarant owns a Lot) and every Owner of a Lot which is subject to assessment hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. Except as provided herein, each Lot shall have voting rights based upon that Owner's Proportionate Interest. Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint a Board of Directors and to operate the Association until the Period of Declarant Control is terminated, and the Association shall not begin to function through its other Members until such time, unless the Declarant otherwise consents in writing.

3.2 Declarant Control. The Association shall have one class of voting membership who shall be the Owners. The Owners shall elect all the members of the Board, following the termination of the Period of Declarant Control as set forth as follows:

(a) Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint the Board of Directors and to control the Association as follows: During the Period of Declarant Control, the Declarant, or persons designated by him or her, subject to certain limitations, may

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appoint and remove the officers and members of the Board. The Period of Declarant Control shall terminate no later than the earlier of: (1) Sixty days after conveyance of 75 percent of the Lots that may be created to Owners other than the Declarant; (2) Two years after Declarant has last conveyed a Lot in the ordinary course of business; or (3) Two years after any right to add new Lots was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots, which may be created to Owners other than the Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots, which may be created, to Owners other than the Declarant, not less than one-third (1/3) of the members of the Board must be elected by Owners other than the Declarant.

(c) Except as otherwise provided above, not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of at least three members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect the officers. These Board members and officers shall take office upon termination of the Period of Declarant Control.

(d) Notwithstanding any provision of the Declaration or Bylaws to the contrary, the Owners, by a sixty-seven percent (67%) vote (based upon Proportionate Interests) of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the Declarant.

(e) Within sixty days after the Owners other than Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property and items described by C.R.S. 38-33.3-303(9), to the extent such property and items are in Declarant's possession at that time.

IV

COVENANT FOR ASSESSMENTS

4.1 Creation of the Obligation for Assessments. Each Owner, for each Lot owned within the Property, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines and other sums which are described in this Declaration and which shall be both a personal obligation of the Owner and a lien against his Lot as provided herein. Each Owner shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees and other sums attributable to them and/or their Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by non-use of the Common Area or the facilities contained therein, by abandonment or leasing of his Lot, or by asserting any claims, defenses or other matters against the Association, the Declarant or any other person or entity. In addition to the foregoing assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Lot, as well as all charges for separately metered utilities servicing his Lot. The charges for any utilities which are master metered, if any, shall be included in the annual common expense assessments levied by the Association.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and to fulfill the purpose and duties of the Association, including without limitation, the improvement and maintenance of the Common Area and the Lots as more specifically provided herein.

4.3 Annual Assessments. The annual assessment shall specifically include, but shall not be limited to, all Common Expenses as defined by the CCIOA and the following:

- (a) expenses of management of the Association and its activities;
- (b) taxes and special assessments upon the Association's real and personal property including, without limitation, the Common Area and any Limited Common Area;
- (c) premiums for all insurance which the Association is required or permitted to maintain and any other expenses connected with such insurance;
- (d) common lighting, water and other common utility and sewer service charges; and any other common expenses including without limitation any common trash collection and snow removal approved by the Board;
- (e) landscaping and care of the Common Area, except the Common Area as provided herein, and any facilities or improvement thereon;
- (f) such repairs and maintenance which are the responsibility of the Association;
- (g) wages for Association employees;
- (h) legal and accounting fees for the Association;
- (i) any deficit remaining from a previous assessment year;
- (j) a working capital fund;
- (k) the creation of reasonable contingency reserves, surpluses, and sinking funds, and adequate reserve funds for maintenance, repairs and replacement of those elements of common property or maintenance that must be done or replaced on a periodic basis and are payable in regular installments, rather than by special assessments;
- (l) the creation of reasonable contingency reserves for any applicable insurance deductibles; and
- (m) any other costs, expenses, and fees which may be incurred or may reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Owners under or by reason of this Declaration.

The Association shall also have authority, to the extent it deems proper, to provide any other services requested by particular Owners, but only on a contract basis under which those Owners pay the cost thereof. The Association may enter into cooperative arrangements for provision of services with other homeowner associations in the surrounding area and may assume responsibility for that part of the cost fairly attributable to this Project.

4.4 Limit on Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be as shown on Exhibit "C" attached to this Declaration.

(a) From and after January 1 of the year (the "Base Year") immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year, without a vote of the membership, not more than either the greater of ten percent (10%) per annum, or the cumulative rise from the Base Year, if any, shown by the most recent annual Consumer Price Index (published by the Department of Labor, Washington, D.C. or any comparable successor index as shown by an average of the following items or more comparable items: Housing - General Shelter - Homeowners Costs and Fuel and Other Utilities) for the Denver metropolitan area.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the limitation which

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is set forth in paragraph (a) above by a vote of the Members pursuant to the procedure set forth in Section 4.6 of this Article.

(c) The Association's Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

4.5 Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of an emergency situation or of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and any improvements and fixtures upon any Lot.

4.6 Procedure for Assessment Under Sections 4.4 and 4.5. Any assessment under Section 4.5 or requiring a vote of the Owners under Section 4.4 of this Article shall require the vote, pursuant to a meeting described below, of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, and not less than sixty-seven percent (67%) of the First Mortgagees who are voting at that meeting. Written notice of any meeting called for the purpose of taking such action shall be sent to all Owners and First Mortgagees not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes of membership (based upon Proportionate Interests) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.7 Rate of Assessment. Except as provided herein, both annual and special assessments shall be set at the Owner's Proportionate Share as shown on Exhibit "C" attached, sufficient to meet the expected needs of the Association. If an Owner's Proportionate Share is reallocated due to expansion of the Project pursuant to Article X hereof or to other provisions of this Declaration, assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Owner's Proportionate Share. Assessments shall be applicable to all Lots following their annexation to the Project, including those owned by the Declarant.

4.8 Assessment Procedure.

(a) Annual Assessments. No later than thirty (30) days before the beginning of each annual assessment period, the Board of Directors of the Association shall set the total annual assessment based upon advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during the following assessment year. The annual budget shall be adopted pursuant to C.R.S. 38-33.3-303(4). Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determined appropriate, which is not required to credit or pay it to the Owners. That annual assessment shall be payable in monthly installments on the first day of each successive month, unless the Board otherwise directs. The Association shall cause to be prepared, delivered or mailed to each Owner, at least thirty (30) days in advance of each annual assessment period, a payment statement setting forth the annual assessment. The first annual assessment upon the Lots hereunder shall commence upon the first day of the first month following conveyance of the Common Area from the Declarant to the Association; it shall be adjusted according to the number of months remaining in the calendar year; the annual assessment upon any Lot in any part of the Expansion Property, which is subsequently annexed to the Project pursuant to Article X hereof, shall commence upon the recording of the documents required under Section 10.3(b) of this Declaration; provided however, notwithstanding any contrary provision of this Declaration, the Articles of Incorporation or the Bylaws, the annual and special assessments hereunder shall not commence upon any Lot, whether owned by the Declarant or any other Owner, unless and until a residential dwelling unit has been fully completed on that Lot, but upon full completion of the residential dwelling unit, as evidenced by the final inspection and approval by the Regional Building Department, the Lot and its Owner shall be liable to pay full assessments as provided in this Declaration, provided further that unless and until full assessments have commenced as provided above, the Lot and its Owner shall not be entitled to receive services from the Association.

Legal Instruments declared 5/10/2019
consent of the copyright owner.

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(b) Special Assessments and Other Sums. Special assessments and other sums imposed hereunder shall be due and payable on the date specified by the Board in written notice to each Owner, but such date shall not be less than ten (10) days after such notice is sent. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's rules and regulations, or other sum imposed by the Board, and the same is not paid for by insurance, the cost thereof shall be deemed to be an additional assessment against such Owner and his Lot and shall be enforceable as provided herein; any such assessment shall not require any vote of the Members. Additionally, the Board may impose assessments against particular Owners and Lots pursuant to C.R.S. 38-33.3-315(3)(a) and (b).

(c) Procedure. Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the Owner or his Lot for such assessment, but if notice is not given, the date when payments shall be due shall be deferred to a date after such notice is given. The Association's acceptance of any partial payment shall not waive, affect or impair its right to full payment of any assessment or sum. The Board may apply any payment to such assessments, charges, interest or fees as are the oldest or most appropriate as determined by the Board in its sole discretion.

4.9 Certificate of Payment. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. Upon payment of such fees as requested by the Association's rules, the statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

4.10 Effect of Nonpayment of Assessments-Remedies of the Association.

(a) General. Any assessments which are not paid when due shall be delinquent. If any assessment is not paid when due, the Association may impose a late charge/administrative fee not to exceed the amount set forth in the Association's rules and regulations. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot, and/or may suspend the delinquent Owner's right to vote and the right to use any recreational facilities within the Common Area for any period during which any assessment against his Lot remains unpaid. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the court, together with the expenses, late charges, and costs of the action.

(b) Lien. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation, with interest thereon at the rate of eighteen percent (18%) per annum, an administrative charge of not to exceed the amount set forth in the Association's rules and regulations, court costs and all other collection costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien, from and after the levy or assessment thereof, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made. All payments on account shall be first applied to interest, the late charge, any costs or fees, and then to the assessment payment first due. The Board may enforce such lien by filing with the Clerk and Recorder of the county in which the Property is located a statement of lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer or authorized agent of the Association, and notice thereof shall be mailed to the Owner of the Lot, at the address of the Lot or at such other address as the Association may then have in its records for the Owner of the Lot. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorney's fees, administrative charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the Board may proceed to the foreclosure of mortgages under the

statutes of the State of Colorado. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums which are not fully paid when due. Any recorded lien may be released by recording a Release of Lien executed by an officer or authorized agent of the Association. In addition, the Association shall have the right to a statutory lien under C.R.S. 38-33.3-316.

(c) Authority. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

4.11 Working Capital. The Association shall require an Owner who purchases a Lot from Declarant to pay to the Association an amount equal to two times the amount of the estimated monthly assessment which sum shall be held by the Association as and for working capital. Such sum shall not be refundable to such Owner but shall be placed in a segregated account for use by the Board to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Furthermore, payment of such sum shall not relieve an Owner from making the regular payment of assessments as the same become due. Upon termination of the Period of Declarant Control, the Declarant shall pay the working capital for any unsold Lots in the Project, but shall be reimbursed by subsequent purchasers. During the Period of Declarant Control, the Declarant may not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

4.12 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of a First Mortgage recorded before the delinquent assessment was due. Sale or transfer of any Lot shall not affect the lien for said assessment charges except that sale or transfer of any Lot pursuant to foreclosure of any such mortgage or any such executory land sales contract, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture of any such executory land sales contract shall extinguish the lien of assessment charges which became due prior to any acquisition of title to such Lot by the First Mortgagee pursuant to any such sale or transfer, or foreclosure, or any proceeding in lieu thereof, including without limitation any deed in lieu of foreclosure, or cancellation or forfeiture of any such executory land sales contract. No such sale, transfer, foreclosure, or any above described proceeding in lieu or in cancellation thereof, shall relieve any Lot from liability for any assessment charges becoming due after such acquisition of title, nor from the lien thereof, nor the personal liability of the Owner of such Lot for assessments due during the period of his ownership, nor from the provisions of C.R.S. 38-33.3-316.

4.13 Notice to Mortgagee and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under this Declaration and/or the Bylaws of the Association, which is not cured within sixty (60) days after the Board has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall make available to Owners and Mortgagees current copies of the Declaration, Bylaws, other rules concerning the Project, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. If the Project contains fifty (50) or more Lots, the Association shall provide an audited, annual financial statement to any First Mortgagee making a written request for it and without expense to such First Mortgagee. If the Project contains less than fifty (50) Lots, the holders of fifty-one percent (51%) or more of First Mortgagees shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available; said financial statement shall be furnished within a reasonable time following such request. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association common property and may pay overdue premiums on hazard insurance

policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. The Association shall keep financial records sufficiently detailed to enable the Association to provide the certificates of assessments described in Article IV hereof.

4.14 Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

4.15 Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) all Property dedicated to and accepted by local public authority; and (b) the Common Area.

V

MAINTENANCE

5.1 Association Maintenance. The Association shall provide such maintenance and repair as follows:

(a) Paint, repair, replace, maintain and care for roofs, gutters, downspouts, sidewalks, driveways, and exterior building surfaces, including without limitation, stucco, wood siding, decks, fences, and patios, but excluding foundations, structural components, glass surfaces, exterior light bulbs, doors (whether front, rear or garage doors, except that the Association may paint such doors), screens, windows, and any other areas and items which are the Owner's responsibility under this Declaration, all of which shall be each Owner's responsibility unless otherwise determined in writing by the Association's Board of Directors. An Owner shall not paint or change the appearance of the exterior of his Patio Home without the prior written approval of the Board. The Association shall paint or restrain the exterior of all Patio Homes as often as necessary to keep such exterior from having a weather-beaten or worn-down appearance.

(b) All repair, replacement, improvement and maintenance of the Common Area and all improvements located thereon, including without limitation, any landscaping, sprinkler system, any parking spaces, roadways, driveways, utility lines (including any common utilities within a Lot or Patio Home which also serve another Patio Home and any lines located outside of the exterior walls of a Patio Home but not including any maintenance which is the responsibility of any public or private utility company or entity), any drainage structures or facilities or public improvements to the extent applicable and set forth in C.R.S. 38-33.3-307(1.5), any light fixtures, sidewalks, and pathways, or other improvements located on the Common Area. Notwithstanding any contrary provisions of this Declaration or other documents, each Owner shall be responsible to repair, maintain, replace and keep in a clean, sanitary and attractive condition, any and all of his/her Limited Common Areas which are shown by illustration on Exhibit "E", and which may include by illustration and not limitation, any patios, porches, decks, privacy fences, landscaping and sprinkler system within fenced areas, and sidewalks, driveways, steps, stairs, or other items or areas which are designated for the exclusive use of that Owner to which such item or area is attached; provided however, that the Association may provide snow removal from driveways and sidewalks and that the Board may determine that certain items of repair, maintenance, replacement and improvements related to the Limited Common Areas are common to all Owners and shall be performed at the expense of the Association, and provided further, that the Board may, in its sole discretion, adopt rules and regulations regulating, controlling and determining all maintenance of Limited Common Areas and Patio Homes.

Owners shall not paint, alter, expand, change, or modify any Limited Common Area in any manner nor construct any Improvement or item thereon, without the prior written approval of the Architectural Control Committee or the Board. The Board may, in its discretion, regulate the use, maintenance and expenses of the Limited Common Areas, by rule or otherwise, and may provide insurance and other services to such areas at the expense of the Owners thereof or the Association as determined by the Board. Easements are hereby reserved and granted over, under, above and through the Limited Common Areas for the purposes set forth in this Section and Article II of this Declaration.

(c) Repair and replacement of any buildings or Improvements upon the Lot insofar as the Association receives insurance proceeds or makes a special assessment to accomplish such repair or replacement.

(d) The Association or the Owners shall maintain the landscaping, drainage, and sprinkler systems in such a fashion that the soil surrounding the foundations of the buildings and other improvements shall not become so impregnated with water that they cause expansion of or shifting of the soils supporting the improvements or other damage to the improvements and do not impede the proper functioning of the drainage, landscaping, or sprinkler systems as originally installed. Such maintenance shall include where necessary the removal or replacement of improperly functioning landscaping, drainage, or sprinkler system elements and shall also include preventing ponding and regrading and resurfacing where necessary to provide for adequate drainage and preventing Owners from installing landscaping or using water on the Lots in such a way as to endanger the structural integrity or the stability of any of the landscaping, drainage or sprinkler systems, the Patio Home or the other improvements upon the Lots or Common Area. The Association and the Owners shall indemnify the Declarant as to any breach of this provision.

(e) The Association may also undertake, but shall have absolutely no obligation to undertake, such emergency repairs as the Board of Directors believes necessary to prevent imminent danger to life or property.

5.2 Willful or Negligent Damage. In the event that the need for maintenance or repair described in Section 5.1 of this Article is caused, in the sole discretionary determination of the Board of Directors, through the willful or negligent acts or omissions of any Owner, his family, guests, tenants, contractors, or invitees, or other persons or parties acting with the consent of any of the foregoing, including without limitation any pets or animals of those persons or parties, the cost of such maintenance shall be the personal obligation of such Owner, shall be added to and become part of the assessment to which the Lot of such Owner is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration.

5.3 Access at Reasonable Hours. For the purpose of performing the maintenance referred to in Section 5.1 of this Article and inspections related thereto, the Board of Directors of the Association, through its duly authorized agents, contractors or employees shall have the right, after reasonable notice to the Owner or occupants thereof and during regular business hours, to enter upon any Lot and improvements thereon, and such entry shall not be deemed a trespass. In emergency situations, the Board of Directors or its agents, contractors or employees may enter without notice at any time, but the Owner or other occupants thereof shall be notified as soon as reasonably possible thereafter. In performing repairs or maintenance authorized under this Article, the Association shall not be liable for any loss, cost or damage caused by its action, except on account of its gross negligence or willful misconduct.

5.4 Owner Maintenance. Except as provided in Section 5.1 of this Article, the Owner shall be responsible for all other maintenance and repairs, including without limitation, maintenance of his Lot, Patio Home and any Limited Common Area, including without limitation, any fixtures, furnishings, furniture, personal property, equipment and appliances located thereon, and any other items listed in Section 5.1(b) hereof, except as may otherwise be provided in that Section 5.1(b). All utilities, fixtures and equipment installed within a Patio Home, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of such Patio Home, shall be maintained and kept in repair by the Owner thereof, except for any common utilities serving other Patio Homes which shall be the Association's responsibility as provided in Section 5.1 of this Article. An Owner shall do no act nor any work that will impair any easement or utility service, nor do any act nor allow any condition to exist which will adversely affect the use and enjoyment of the other Lots or the provision of utility services to such Lots. No Owner shall, in whole or in part, change the landscaping adjacent to or upon his Lot by the addition or removal of any items thereon, including fences, without the prior written approval of the Board. If Owner fails to fulfill his responsibilities under this Section, the Board, at its option, may take such action as it deems appropriate, including without limitation performing the Owner's obligations, after ten (10) days' notice to such Owner, except in emergencies, and any costs resulting therefrom shall be an assessment against such Owner and his Lot and shall be due and payable by the Owner thereof.

5.5 Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Patio Homes and placed on or immediately adjacent to the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and if the Association does not restore such wall with insurance proceeds or a special assessment, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provisions of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Section 5.5, each party shall choose one arbitrator, and such arbitrators shall choose an additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by an Owner, the Board of Directors of the Association shall select an arbitrator for the refusing party. The parties to the arbitration shall share the costs thereof, but each party shall pay its own attorneys' fees.

5.6 Management Agreements and Other Contracts. The Association may enter into agreements for professional management of the Association's business. Each Owner shall be bound by the terms and conditions of any management agreement entered into by the Association. Any agreement for professional management of the Association's business shall provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days' prior written notice, and shall have a maximum term of one (1) year. Further, each and every management contract made between the Association and a manager or managing agent during the period when the Declarant or other developer controls the Association shall be subject to review and approval by the Department of Veterans Affairs or the Federal Housing Administration and shall terminate absolutely, in any event, not later than thirty (30) days after termination of the Period of Declarant Control. Furthermore, any contracts and leases during the Period of Declarant Control shall be subject to C.R.S. 38-33.3-305. If professional management has been previously in effect after being required by any holder, insurer or guarantor of a First Mortgage at that time or later, any decision to terminate professional management and to establish self management by the Association shall require the prior consent of sixty-seven percent (67%) of the First Mortgagees (based upon one [1] vote for each First Mortgage held) and vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose.

VI

ARCHITECTURAL CONTROL

6.1 Composition of Committee. The Architectural Control Committee shall consist of three (3) persons appointed by the Association's Board of Directors, which may appoint itself to be the

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Committee, provided, however, that until the Period of Declarant Control terminates, Declarant shall have the right to appoint the Architectural Control Committee. A majority of the Committee may designate a representative to act for it. It shall be the duty of the Architectural Control Committee, and it shall have the power, by the exercise of its best judgment, to determine that all structures, improvements, construction, decoration and landscaping on the Property conform to and harmonize with the existing surroundings and structures. For convenience, the Architectural Control Committee shall hereinafter sometimes be referred to in this Article as the "Committee".

6.2 Review by Committee. After the purchase of a Lot from the Declarant, no changes, additions or modifications shall be made to any Patio Home or Lot or Common Area, no Improvement shall be constructed or maintained upon the Property; no alterations, restaining, repainting to the exterior of a Patio Home or Lot shall be made; no landscaping performed; and no Owner shall enclose, by means of screens or otherwise any balcony, porch or patio, unless the following, if applicable, shall have been submitted to and approved by the Committee: complete plans, specifications, and lot plans therefor, showing the exterior design, height, square footage, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Committee, and a copy of such plans and specifications as finally approved shall be deposited with the Committee. The provisions of Sections 6.1, 6.2, and 6.3 of this Article shall not apply in any way or manner whatsoever to the Declarant or any Lot owned by Declarant.

6.3 Procedures.

(a) The Committee shall approve or disapprove all plans and requests within sixty (60) days after requests have been submitted. In the event the Committee fails to take action within sixty (60) days after plans have been received by the Committee, approval will not be required, and this Article will be deemed to have been fully complied with. A majority vote of the members of the Committee is required for approval or disapproval of proposed improvements. The Committee shall maintain written records of all applications submitted to it and of all action taken. In approving or disapproving the plans submitted to it, the committee shall take into consideration the design, style and construction of the proposed Improvements or alteration, its location upon the Property, the harmony of its design, architecture and location with the terrain and surrounding neighborhood, and shall determine whether such proposed Improvement or alteration is consistent with the general terrain, the architecture of other buildings located upon the Property subject to this Declaration and whether or not the construction or alteration of said building will adversely affect or decrease the value of other Lots and/or dwellings because of its design, location, height or type of material used in construction. The Committee may make reasonable requirements of the Lot Owner, including the submission of additional plans, to ensure conformance of such building or alteration when erected with these restrictions and covenants and with the plans submitted and approved. All construction or alterations performed on any Lot or the Common Area will conform to the approved plans and specifications. The Committee may require such changes as may be necessary to conform to the general purposes as herein expressed. The Committee shall be responsible for enforcing compliance of the approved plans with these covenants and restrictions.

(b) The Committee shall have authority to grant variances from the provisions of this Article VI in cases of conditions wherein the strict enforcement of these restrictions would result in unusual hardship. The Committee shall be the sole and exclusive judge of whether or not said hardship exists, subject to an appeal under subparagraph (e) below.

(c) Whenever the Committee disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be met by alterations acceptable to the Committee.

(d) All plans submitted to the Committee shall be left on file with the Committee.

(e) It is the intent of this Declaration that the Committee shall exercise broad discretionary powers hereunder, provided however, any decision by the Committee may be appealed to the Board within thirty (30) days of such decision; any decision which is not appealed within that time or any decision by the Board shall be final and conclusive, except as provided in Section 12.14 of the Declaration.

(f) The Board shall resolve all questions of interpretation under this Declaration, which shall be interpreted in accordance with their general purpose and intent as herein expressed. Decisions by the Board shall be conclusive and binding upon the Owners and all persons.

VII

RESTRICTIONS

7.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Property, all thereof in order to enhance the value, desirability, and attractiveness of the Property and serve and promote the sale thereof.

7.2 Leases. Any lease agreements between an Owner and a tenant shall provide that the term of such lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association, and that any failure by the tenant to comply with the terms and provisions of such documents shall be a default under the lease. Further, all leases shall be in writing, and a copy thereof shall be provided upon request to the Board of Directors, which may require the use of its approved lease form or the insertion of particular provisions. After notice and an opportunity for hearing, the Board may require an Owner to evict any tenant who has repeatedly violated any provision of this Declaration, the Articles of Incorporation or the Bylaws. No short-term leases (i.e., for terms less than month-to-month) shall be permitted and no time-sharing or such other forms of interval ownership shall be permitted.

7.3 Residential Use. Each Lot shall be occupied and used as a private dwelling for the Owner, and members of his family, guests and tenants for residential purposes only, and the Board of Directors may make rules which limit the maximum occupancy permitted upon Lots in the Project. No Lot shall be used for any business, manufacturing or commercial purpose whatsoever; provided, however, if the appropriate zoning so allows and if prior written approval of the Board is obtained, an Owner may use a specifically designated portion of his Lot as a home business office, which approval may thereafter be withdrawn or terminated by the Board at any time.

7.4 Animals. No horses, dogs, cats, snakes, insects, birds, reptiles, cattle, sheep, goats, pigs, rabbits, poultry or other animals of any description shall be kept or maintained on any Lot, except that, if specifically permitted by the Board's rules and regulations or written consent, any Owner may keep a reasonable number of bona fide household pets, so long as such pets comply with the Board's rules and regulations, are not kept for commercial purposes, do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, and are kept in compliance with all existing applicable local ordinances and any rules and regulations of the Association. An Owner, family member, tenant or guest is responsible for any damage caused by his pet and shall be obligated to clean up after his pet while it is on the Property. If permitted, dogs shall be kept on leash and attended by their owners when present in the Common Area. The Board may institute such rules as it deems advisable for the control of pets, including without limitation, prohibitions and restrictions, and may impose such fines as are necessary in its sole discretion to enforce such rules and this Declaration.

7.5 Structures. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property, and no subsequent buildings or structures other than patio home buildings joined together by a common exterior, roof and foundation, shall be constructed. No temporary house, trailer, tent, garage or outbuilding shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any residence when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions herein set forth; provided, however, that the foregoing shall not apply to the Declarant. The work of constructing, altering, or remodeling any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof.

7.6 Miscellaneous Structures. Except as permitted in writing by the Committee or pursuant to its rules, no advertising or signs of any character shall be erected, placed, permitted or maintained on any Lot or within any Patio Home other than a name plate of the occupant and a street

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number; except that the Declarant shall be permitted to use signs such as will not unreasonably interfere with Owners' use of the Common Area until all Lots are sold by the Declarant. All types of refrigerating, cooling or heating apparatus shall be concealed, except as installed by the Declarant.

7.7 Lots to be Maintained. Each Lot at all times shall be kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that same are visible from any neighboring Lot or street, except as necessary during the period of construction by Declarant. No condition shall be permitted within any Patio Home, balcony, porch, patio or deck which is visible from other Patio Homes or the Common Area and which is inconsistent with the design integrity of the Project as determined by the Board in its sole discretion; such conditions include, but are not limited to, window treatments, draperies, shades and hangings, and articles on balconies, porches, patios, decks or Common Area or visible through a window. All drapes, shades, blinds and other window coverings shall be white when viewed from the outside, unless prior written approval of the Board is obtained.

7.8 Lots Not to be Subdivided. No Lot or Lots shall be subdivided, except for the purpose of combining portions with an adjoining Lot, provided that no additional building site is created thereby. No less than one entire Lot, as conveyed, shall be used as a building site.

7.9 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others. No electronic or radio transmitter of any kind shall be operated upon the Property. No aerials or antennae shall be installed upon the exterior of any Lot or for the transmission of electronic signals, except for garage door openers and except for devices specifically authorized by federal statute or regulation but subject to such review and prior approval by the Committee as permitted by law.

7.10 No Hazardous Activities. No activities shall be conducted on the Property and on improvements constructed on the Property which are or might be unsafe or hazardous to any person or property or might cause the cancellation or diminution of insurance or an increase in insurance premiums. Without limiting the generality of the foregoing, no firearms shall be discharged upon any of the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfire or picnic fires in an area designated for such by the Association.

7.11 No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on any Lot which is noxious or offensive to others. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of the neighboring Patio Homes. Ornamental post lights must be approved by the Architectural Control Committee.

7.12 Restrictions on Parking and Storage. Except as specifically authorized by the Board of Directors, no part of the Property, including but not limited to streets, drives, or parking areas, and no part of the streets adjoining the Property shall be used as a parking, storage, display, or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat, or accessories thereto, truck larger than 3/4 ton, bus, or self-contained motorized recreational vehicle, except as a temporary expedience for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles within the Properties which are necessary for the construction of Patio Homes or the maintenance of the Common Area or Lots or making deliveries or performing services. No abandoned vehicles shall be stored or parked upon any part of the Property or any street adjoining the Property, but excluding any area designated for such purpose by the Board. In the event that the Board shall determine in its sole discretion that a vehicle is an abandoned vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the unused vehicle (if the owner thereof cannot be reasonably ascertained), and if the unused vehicle is not removed within seventy-two (72) hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, house trailer or

other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of five (5) days or longer. The Board of Directors may make rules and restrictions regarding parking and vehicular traffic on the Property, and the Board may also designate any parking spaces as solely for the use of visitors or others, unless such spaces have been previously assigned by Declarant to an Owner, and the Board may require that all Owners park their vehicles in their garages, rather than in driveways, streets or other parts of the Property. Neither Owners, tenants, guests, family, nor other invitees shall park within or obstruct any prohibited area, including without limitation any fire lane. Any vehicle or other item which is parked in violation of any rules or restrictions shall be subject to immediate removal by the Board or its agents at the expense of the owner of such vehicle. Garage doors shall be kept closed at all times except when open for immediate ingress and egress.

7.13 Clotheslines and Storage. Outside clotheslines or basketball hoops and backboards, whether on buildings or free-standing, carports, patio covers or similar structures, and wood piles and storage areas shall not be allowed unless approved by the Architectural Control Committee in its sole discretion. All such approved structures shall be located out of view of the street or of any neighboring Patio Homes. Service or storage areas shall be so located as not to be visible from a street or road.

7.14 Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, on the Common Area, or on any Lots unless placed in an appropriate, clean container suitably located, solely for the purpose of garbage pickup. All trash and refuse containers, except when placed as noted above the sole purpose of garbage pickup, will be kept inside the Patio Homes. The burning of trash in outside incinerators, barbecue pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Property.

7.15 Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers, boats, or vans may be performed on any Lot unless it is done within completely enclosed structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motor-driven cycle together with those activities normally incident and necessary to such washing and polishing.

7.16 Tanks. No tanks of any kind, either elevated or buried, shall be erected, placed or permitted upon any Lot, except for customary barbecue grill tanks or tanks inside of Patio Homes.

7.17 Underground Electric Lines. All electric, television, radio and telephone line installations and connections shall be placed underground, except for power substations and switching stations which shall be adequately screened from view and except for customary surface devices for access or control and except that during the construction of a residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction and which shall be subject to Declarant's prior written approval.

7.18 Use of Common Area.

(a) No use shall be made of the Common Area which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Common Area.

(b) The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

(c) No use shall ever be made of the Common Area which will deny ingress and egress for a substantial period of time to those Owners having access to a public street, to their Lots, to their parking areas, or to any recreational facilities completed upon the Common Area.

7.19 Sales and Construction Facilities and Activities of Declarant. Notwithstanding any provision to the contrary contained herein, Declarant, its agents, employees and contractor shall have all rights set forth in C.R.S. 38-33.3-215 and shall be permitted to maintain during the period of any

construction on and sale of the Lots, upon such portion of the Common Area as Declarant may choose, such uses and facilities as may be reasonably required, convenient or incidental to the construction, sale or rental of Lots, to the construction and assignment of Limited Common Areas, sidewalks, driveways, fences, decks, patios and related improvements, and to the development of the Project, including without limitation, storage of equipment and vehicles, a business office, use of a Lot, or even a clubhouse if applicable, for a sales office, storage area, construction yards, signs of any size and type, model Patio Homes, sales offices, construction office, parking areas and lighting and temporary parking facilities for all prospective tenants or purchasers of Lots; the Declarant may promptly remove any of the above items if Declarant ceases to be a Lot owner. The Declarant and its contractors may maintain such management offices, signs, model units, construction offices, trailers and sales offices in such numbers, size and locations, as they may determine in their reasonable discretion from time to time. In addition, Declarant, its agents, employees, financiers, and any contractor involved in the construction or sale of said improvements and Lots, or in the development of the Property, shall have all rights set forth in C.R.S. 38-33.3-216, and shall have the right to ingress and egress over the Common Area as in Declarant's discretion may be necessary to complete the Project. Notwithstanding any provision of this Section, no right under this Section shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot, his parking area, any public street, or any recreational facility completed upon the Common Area. The Declarant shall have the right to execute or record or both any writing or document necessary or advisable to confirm, implement or transfer the rights reserved in this Declaration or granted by law or statute; the rights set forth in this Section shall terminate upon the earlier of seven (7) years from the date of the recording of this Declaration or as otherwise provided herein.

VIII

INSURANCE

8.1 Common Insurance. Commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, the Association shall obtain and maintain at all times, to the extent reasonably obtainable, insurance policies covering the following risks:

(a) Property. Property insurance on the Common Area for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. Such insurance must include all personal property owned by the Association and any improvements and fixtures located upon the Common Area, and such insurance shall include the Patio Homes and Lots, together with all fixtures, structural portions, building service equipment and any appliances which are attached thereto to the extent financed by a First Mortgage. Such insurance shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a one hundred percent (100%) of current replacement cost basis without deduction for depreciation or coinsurance, and including, to the extent available and applicable, an "Agreed Amount" and "Inflation Guard Endorsement," a "Demolition Costs Endorsement," a "Building Ordinance or Law Endorsement", "Increased Cost of Construction Endorsement" and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, and, if applicable, "Steam Boiler Coverage Endorsement" providing that the insurer's maximum liability per accident shall equal the lesser of the insurable value of any building housing such boiler or machinery or Two Million Dollars (\$2,000,000.00). Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:

(i) loss or damage by fire and all other hazards that are covered by the standard extended coverage endorsement, including without limitation endorsements for vandalism and malicious mischief, and

(ii) all other perils customarily covered for similar types of Projects, including without limitation those covered by the standard "all risk" endorsement.

(b) Public Liability. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas

and deemed sufficient in the judgment of the Board but not less than any amount specified herein, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties. Such insurance shall be in such amounts as the Board of Directors of the Association may from time to time determine, but not in an amount less than \$1,000,000.00 per occurrence covering claims for personal injury, bodily injury and/or for property damage. To the extent reasonably obtainable, coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether owned, non-owned or hired) on behalf of the Association, and activities in connection with the ownership, operation, maintenance or other use of the Common Area and the Patio Homes by the Association, its officers, directors, agents, employees, representatives and the Owners, off-premises employee coverage, water damage liability, contractual liability, bailee's liability for property of others, and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

(c) Workmen's Compensation. Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance. The Association shall purchase, in an amount equal to the maximum amount of funds in the Association's custody at any one time, but not less than the greater of any sum required under C.R.S. 38-33.3-306(3) or the sum of three months' assessments on the entire Project, plus reserves, blanket fidelity insurance covering losses resulting from dishonest or fraudulent acts or omissions committed by the Association's directors, managers, including without limitation, any person employed as an independent contractor for the purpose of managing the Association and any employee thereof, trustees, employees, volunteers, or anyone who manages the funds collected and held for the benefit of the Owners, provided however, any managing agent which handles funds for the Association should be covered by its own fidelity insurance policy, which must provide the same coverage required of the Association. Such policy shall also cover destruction or disappearance of money or securities and forgery. Such policy shall cover any person or entity handling funds of the Association, including but not limited to, employees of the professional manager which should also be covered by its own fidelity bond and submit evidence thereof to the Association. Such fidelity coverage or bonds shall name the Association as the named insured and as obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(e) Officers' and Directors' Personal Liability Insurance. To the extent obtainable, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

(f) Flood. If the Property is located in an area identified by the Secretary of Housing and Urban Development or the Director of the Federal Emergency Management Agency as an area having special flood hazards and the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Property in an amount which is the lesser of the maximum amount of insurance available under the Act or one hundred percent (100%) of the current replacement cost of all buildings and other insurable common and individual property owned in common by the Lot Owners and located within the Property.

(g) Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Project.

(h) Notice of Unavailability. If any insurance described in this Declaration is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and First Mortgagees as provided herein.

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8.3 Form of Issuance.

(a) All insurance shall be carried in blanket policy form, shall name the Association (pursuant to Article IX, Section 9.1) as the insured, as trustee and attorney-in fact pursuant to Article IX hereof, and shall provide that the proceeds shall be paid to the Association for the benefit of and in trust for the Association, the Owners and their First Mortgagees, as their interests may appear, shall additionally insure and identify the interest of each Owner and the First Mortgagee, and shall provide a standard, non-contributory mortgage clause in favor of each First Mortgagee which has given the Association notice of its lien. Each Owner shall be an insured person under such policy with respect to liability arising out of such Owner's interest in the Common Areas.

(b) To the extent possible, all insurance policies shall:

(i) be obtained from responsible companies duly authorized and licensed to do insurance business in the State of Colorado, and having at least a "B" general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide.

(ii) provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, its Owners and members of their households;

(iii) provide that the insurance cannot be canceled, invalidated, or suspended on account of the conduct of the Association, its officers, directors, employees and agents;

(iv) provide for a waiver of any defense based on co-insurance;

(v) provide that the policy of insurance shall not be permitted to lapse, be terminated, canceled or materially or substantially changed or modified without at least thirty (30) days' prior written notice to the Association, the Owners and the First Mortgagees which have given notice of their liens;

(vi) provide that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(vii) provide that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;

(viii) provide that no assessments therefor may be made against First Mortgagees and any such assessments made against other shall not become a lien on the Property superior to the First Mortgagee.

(c) On written request the Association shall furnish, by certificate or otherwise, a copy of any insurance policy, identifying the interest of the Owner in question, to any Owner or First Mortgagee, together with proofs of payment of premiums. Further, an insurer that has issued an insurance policy for the insurance described in this Declaration shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise

provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses.

(d) Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and as are consistent with the requirements of First Mortgagees and any secondary lenders purchasing First Mortgages. The deductible for an individual patio home should not exceed One Thousand Dollars (\$1,000.00) unless a greater deductible is allowed by secondary lenders. Any loss falling within the deductible portion of the policy shall be borne by the Association, except as otherwise provided in this Declaration.

(e) The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Lot is damaged by a loss, the Association in its reasonable discretion may assess each Lot Owner a pro rata share of any deductible paid by the Association.

8.4 Owner's Personal Property and Liability Insurance. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Each Owner shall be solely responsible, at his expense, for all insurance covering all loss or damage to any and all fixtures, appliances, furniture, furnishings or other personal property supplied, maintained or installed by the Owner and covering liability for injury, death or damage occurring within his Lot. Such insurance shall contain waivers of subrogation and shall be so written that the insurance obtained by the Association shall not be affected or diminished thereby. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance. If at any time of the any loss under any policy which is in the name of the Association there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance.

IX

DAMAGE, DESTRUCTION, CONDEMNATION AND MERGER

9.1 Attorney-in-Fact. All of the Owners and First Mortgagees irrevocably constitute and appoint the Association as insurance trustee under C.R.S. 38-33.3-313(5) and (9) and under this Declaration and as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Property in the event of their destruction, damage, condemnation, or liquidation of all or a part of the Project or from the termination of the Project, including without limitation the repair, replacement and improvement of any buildings, fixtures, improvements and service equipment located on the Property (but excluding any furniture, furnishings or other personal property installed by the Owners). Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted and to represent the Owners in any proceedings, negotiations, settlements or agreements. The proceeds of any insurance collected shall be payable to the Association, for the benefit of the Association, the Owners and their First Mortgagees as their interests appear, for the purpose of repair, restoration, reconstruction or replacement as provided in this Declaration. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact to deal with the Project upon its destruction, damage, or condemnation shall be appointed. Said appointment must be approved by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that

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purpose, and at least sixty-seven percent (67%) of the First Mortgagees. Notwithstanding any contrary provision of this Declaration, the Association's Articles of Incorporation and Bylaws, no Owner or any other party shall have priority over any rights of the First Mortgagee of the Lot pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Project common property.

9.2 Damage or Destruction of Common Area. Any portion of the Project for which insurance is required under this Declaration or C.R.S. 38-33.3-313 which is damaged or destroyed must be repaired or replaced promptly by the Association pursuant to that statutory section or the Declaration.

9.3 Damage to or Destruction of Patio Homes.

(a) In the event of damage to or destruction of a Patio Home due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvements. The annual assessments set forth in Article IV shall not be abated during the period of insurance adjustments and repair and reconstruction.

(b) If the insurance proceeds are insufficient to repair and reconstruct any or all of the damaged or destroyed Patio Homes, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made only against the Owners of the damaged or destroyed Patio Homes and their Lots. Such special assessment shall be made by the Board of Directors without a vote of the Owners and shall be a debt of each such Owner and a lien on his Lot and may be enforced and collected as is provided in Article IV. The Association shall have full authority, right and power as attorney-in-fact to cause the repair, replacement or reconstruction of the improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment.

(c) Notwithstanding any provision to the contrary, but subject to C.R.S. 38-33.3-313(9) to the extent applicable, if sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgagee held) and by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, have given their prior written approval, the Association shall provide that the Owners and First Mortgagees of any or all of the destroyed or damaged Patio Homes may agree that such Patio Homes shall forthwith be demolished and all debris and rubble caused by such demolition removed from the Lot, and the Lot regraded and landscaped to the satisfaction of the Board. The cost of such demolition work and landscaping, together with all taxes, liens and encumbrances and any costs in repairing any party walls, shall be paid for by any and all available insurance proceeds, with any deficiency thereof to be paid by the Owner(s) of the applicable Patio Home. Any excess insurance proceeds shall then be disbursed to such Owner and his First Mortgagee jointly and said Owner shall convey merchantable title to his Lot to the Association, free and clear of all liens, encumbrances, assessments, and taxes (except as prorated), for its fair market value as determined by an MAI appraisal, the cost of which shall be paid by the Owner of the applicable Patio Home, with the appraiser thereof to be named by the Association. Upon the Association's acquisition of the Lot, said Lot shall become part of the Common Area.

9.4 Condemnation. If a Lot, or any part thereof, is acquired by eminent domain, the provisions of C.R.S. 38-33.3-107. In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain the Common Area, any part thereof or any interest therein, any improvement thereon, or any interest therein, with a value (including loss of value to the balance of the Common Area and improvements thereon), as reasonably determined by the Association in excess of \$5,000.00, the Association shall give prompt notice thereof, including a description of the part of or the interest in the Common Area or improvement thereon sought to be so condemned, to all Owners. The Association shall have full power and authority to defend in said proceedings, but the Association shall not enter into proceedings pursuant to which the Common Area or any part thereof or any interest therein, or any improvement thereon or any part thereof or interest therein, is relinquished without giving all First Mortgagees of Lots and all Owners at least fifteen (15) days prior written notice thereof.

In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of a part or all of the Common Area, the award made for such taking shall be paid to the Association as provided by C.R.S. 38-33.3-107(3) and after the approval described below, the award shall be applied toward the repair and restoration of the Common Area, the Association shall arrange for the same and shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that seventy-five percent (75%) or more of the Owners and at least fifty-one percent (51%) of First Mortgagees do not duly and promptly approve the repair and restoration of such Common Area, the Association shall disburse the net proceeds of such award jointly to the Owners and their respective First Mortgagees at the rate of one (1) equal share per Lot, except that any award attributable to the acquisition of a limited common area shall be paid solely to the Owner thereof and that Owner's First Mortgage.

9.5 Repair and Reconstruction. Unless otherwise agreed by sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage held) and by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and with the original plans and specifications, and shall restore any Patio Home or other improvement partially condemned or damaged by an insurable hazard to substantially the same condition in which it existed prior to such condemnation or damage.

9.6 Excess Insurance Proceeds. With the prior written approval of sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage held) and by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any insurance proceeds remaining after any repairs or reconstructions are completed shall be paid to each Owner and his First Mortgagee jointly at the rate of one equal share per Lot. Without such approval, any excess insurance proceeds shall be placed in the Association's reserves.

9.7 Notice of Loss to First Mortgagees. Provided that a First Mortgagee has, in writing, requested the following information with respect to a Lot upon which said First Mortgagee holds the First Mortgage and has furnished the Association with the address to which said First Mortgagee wants the information sent, then in the event that there shall be any damage to or destruction of: (a) any improvement on the Lot on which such First Mortgagee holds the First Mortgage which shall be in excess of Five Thousand Dollars (\$5,000.00) and/or (b) the Common Area which shall be in excess of Five Thousand Dollars (\$5,000.00), or in the event of the condemnation of any part of the Common Area as described in Section 9.4 of this Article in excess of Five Thousand Dollars (\$5,000.00), then timely written notice of any such damage, destruction or condemnation shall be given by the Association to such First Mortgagee. Notwithstanding any provision to the contrary, no provision of this Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee in the case of a distribution to an Owner of insurance proceeds or condemnation awards for loss to or taking of Lots or Common Area, or both.

9.8 Merger. The Association may merge with one or more homeowners' association in the surrounding area on such terms and conditions as may be agreed to by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, and by sixty-seven percent (67%) of all First Mortgagees. The surviving entity in any such merger or affiliation shall be the Association for purposes of this Declaration.

X

PHASED DEVELOPMENT

10.1 Right to Expand. For a period continuing until seven (7) years from the date of the recording of this Declaration, Declarant reserves the right to expand this Project, without the approval of the Owners or First Mortgagees, except as provided in Article XI, Section 11.2, to include additional land and one or more additional buildings located upon all or any part of the Expansion

Witnessed by me, J. Patrick Kelly, on 11/19/1998

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hinder, encumber or burden, in any way whatsoever, Declarant's, or its successors' or assigns' sole and complete right, title and interest to the Expansion Property and any improvements constructed thereon. The Declarant alone shall be liable for all expenses of the Expansion Property unless and until annexed hereunder, and shall be entitled to any income and proceeds therefrom. The Declarant's right to annex, and other development rights, may be exercised at different times and as to different portions of the Property or Expansion Property, and so no assurances are made hereby regarding the boundaries of any portion of real property which may be annexed hereunder nor the order in which said portion may be annexed. If the Declarant exercises any right to annex additional portions, the Declarant is not required to exercise any development rights to any and all portions of the remaining Property or Expansion Property. Any development right of the Declarant may be exercised with respect to different portions of real estate at different times, and no assurances are made in regard to the boundaries of those portions or regulating the order in which those portions may be subjected to the exercise of any development right. If any development right is exercised in any portion of the real estate subject to that right, that development right is not required to be exercised in all or any portion of the remainder of that real estate. Any portion of the Property or Expansion Property may be designated as general or limited areas or elements as shown by the plat or map which has been or will be recorded regarding that portion.

XI

ADDITIONAL RESTRICTIONS

11.1 Restrictions Upon Association and Owners. Unless at least sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) and the Owners (other than Declarant) by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, have given their prior written approval, neither the Association nor the Owners shall be empowered or entitled to do any of the following:

- (a) by act or omission, seek to abandon or terminate this Declaration or any scheme or architectural control, or enforcement thereof, as set forth in this Declaration, regarding the architectural design, exterior appearance, or exterior maintenance of the Lots, improvements thereon, or the Common Area, or the maintenance of the common property, party walls or common fences and roads, or the upkeep of lawns and plantings in the Project;
- (b) by act or omission, seek to abandon, partition, subdivide, mortgage, encumber, sell or transfer any of the Common Area, except for the granting of utility easements as provided by Section 2.5 (a) of Article II hereof; any conveyance or encumbrance of the Common Area shall also comply with voting requirements of C.R.S. 38-33.3-312.
- (c) fail to maintain full current replacement cost fire and extended insurance coverage on the Lots and Common Area, and such other insurance as is required under this Declaration;
- (d) use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction of such improvements as herein provided; or
- (e) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; or
- (f) a material change in any of the following provisions of this Declaration: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Areas; responsibility for maintenance and repairs; reallocation of interests in the Common Areas, or rights to their use; redefinition of any Lot boundaries; convertibility of Lots into Common Areas or vice versa; expansion or contraction of the Project, or the addition, annexation, or withdrawal of Property to or from the Project; insurance or fidelity bond; leasing of Lots; imposition of any restrictions on an Owner's right to sell or transfer his or her Lot; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors.

11.2 Additional Restrictions During Declarant Control. In addition to the provisions of Section 11.1 of this Article, after the Declarant has obtained evidence of approval for guaranteed or insured loans by Federal Housing Administration or the Department of Veterans Affairs and continuing until such time as the Period of Declarant Control has terminated, the prior written approval of the Department of Veterans Affairs or the Federal Housing Administration of the U.S. Department of Housing and Urban Development shall be required for any of the following:

- (a) Amendment of this Declaration;
- (b) Amendment of the Articles of Incorporation or the Bylaws of the Association;
- (c) Annexation of all or any part of any additional property to this Declaration;
- (d) Encumbering or mortgaging of all or any part of the Common Area;
- (e) Dedication of all or any part of the Common Area, except for the granting of utility easements as provided by Section 2.5 (a) of Article II hereof; and
- (f) Merger, consolidation or dissolution of the Association. Any merger or consolidation shall also comply with C.R.S. 38-33.3-221.

11.3 Implied Approval by Mortgagee. Notwithstanding any provision of this Declaration, any matter requiring Mortgagee approval will be assumed when that Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. Any First Mortgagee shall be given notice of any proposed action requiring its consent, if the First Mortgagor has sent a written request to the Association, stating both its name and address and the Lot number or address of the Lot on which it has (or insures or guarantees) the Mortgage.

XII

GENERAL PROVISIONS

12.1 Acceptance of Provisions of All Documents. The conveyance or encumbrance of a Lot or the improvements thereon shall be deemed to include the acceptance of all provisions of this Declaration, the Articles of Incorporation of the Association and the Association's Bylaws and rules and regulations, all of which shall be binding upon each Owner, his heirs, personal representatives, family, guests, tenants, successors and assigns, and everyone having an interest in the Lot without the necessity of inclusion of an express provision in the instrument of conveyance or encumbrance. The Association and the Owners shall obey and perform any protective or other covenants recorded against the Property prior to the recording of this Declaration.

12.2 Enforcement. The Board, the Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board or by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board may make such rules and regulations to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Areas or Lots or Townhomes, as are, in its sole discretion, consistent with the rights and duties established in this Declaration, and all Owners and other parties subject thereto shall strictly comply therewith. The Board shall have the sole discretion and authority to interpret this Declaration or the Bylaws and to resolve any dispute as to the interpretation thereof; the Board's interpretation shall be final, conclusive and binding on all persons and parties. In addition to all other remedies, the Board of Directors shall have the right, after notice and an opportunity of hearing, to impose upon any Owner reasonable fines for any breach by that Owner of the provisions of this Declaration, the Bylaws and/or the Association's rules and regulations. All rights and remedies provided in this Declaration are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity, and may be exercised concurrently, independently or successively.

12.3 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of any such provision. The rights and remedies of the Association are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity and may be exercised concurrently, independently or successively without effect or impairment upon one another.

12.4 Cumulative. Each of these covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

12.5 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

12.6 Conflicts of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

12.7 Duration and Amendment. Each and every provision of this Declaration shall be binding upon each and every Owner, his heirs, successors, assigns and personal representative and shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as is otherwise provided herein, this Declaration shall not be revoked or terminated unless all of the Owners and all of the First Mortgagees agree to such termination or revocation by an instrument duly recorded and such termination and revocation shall comply with C.R.S. 38-33.3-218. This Declaration may be amended or modified by agreement of Owners of Lots to which at least sixty-seven percent (67%) of the Proportionate Interests in the Association are attached and not less than sixty-seven (67%) of the First Mortgagees; provided, however, (a) that any Section in this Declaration which requires a particular percentage of Owners and/or Mortgagees may be amended only by written consent of that percentage of those parties, (b) that this Section may be amended by an instrument signed by Owners owning not less than ninety percent (90%) of the Lots, and one hundred percent (100%) of the First Mortgagees who have given the Association notice of their lien, and (c) that the Declarant hereby reserves the right, until the Period of Declarant Control is terminated, but without the vote of the Owners, to make such amendments to this Declaration, the Articles of Incorporation and/or the Bylaws, to the extent permitted by the CCIOA, or as permitted by this Declaration or as may be necessary to correct typographical errors or to make clarifications or as may be approved in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Department of Veterans Affairs so as to induce any of such organizations to make, purchase, sell, insure or guarantee First Mortgages covering any portion of the Property, and each Owner and Mortgagee by accepting a deed, Mortgage or other instrument affecting a Lot appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's and/or Mortgagee's name and recording any such amendments to this Declaration, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments. The consent of any junior Mortgagee shall not be required under the provisions of this Article. In determining whether the appropriate percentage of First Mortgagee approval is obtained, each First Mortgagee shall have one (1) vote for each First Mortgage owned. To be effective, all amendments to this Declaration must be recorded in the office of the Clerk and Recorder of the county in which the Property is located, and an amendment must be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of each person executing the amendment. The amendment shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of the persons or parties as set forth in C.R.S. 38-33.3-217(6). The Association shall notify any First Mortgagee who has requested notice in writing of any proposed action under this Declaration which would require the consent of a specified percentage of First Mortgagees.

12.8 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the registered agent of the Association at his address filed with the Secretary of State of the State of Colorado, together with a copy addressed to the President of the Association at his registered address.

12.9 Assignment of Declarant's Rights. The Declarant may assign its rights and authority hereunder, in whole or in part, by express written assignment, duly recorded.

12.10 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

12.11 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of the Declaration or the intent of any provisions hereof.

12.12 Governing Law. This Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with, the statutes and laws of the State of Colorado.

12.13 Development Rights and Special Declarant Rights. In addition and supplement of all rights reserved by the Declarant under this Declaration, the Declarant reserves the following development rights and other special Declarant rights for the maximum time limit allowed by law, but not less than seven (7) years from the date of the recording of this Declaration:

- (a) The right to complete or make improvements indicated on the plats or maps;
- (b) The right to maintain sales offices, management offices and models on Lots or on the Common Area;
- (c) The right to maintain signs on the Property and Expansion Property and to advertise the Project;
- (d) The right to use and permit others to use easements through the Common Area as may be reasonably necessary for the purpose of making improvements within the Property or Expansion Property or performing other rights under the Declaration.
- (e) The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Project.
- (f) The right to enter into, establish, execute, amend, and otherwise deal with contracts, assignments, and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Owners and/or the Association.
- (g) The right to appoint or remove any officer of the Association or any director of the Association during the Period of Declarant Control.
- (h) The right to amend the Declaration in connection with the exercise of any development rights or other rights.
- (i) The right to amend the Map in connection with the exercise of any development rights or other rights.

(k) Any and all other rights of Declarant as set forth in this Declaration, by law or statute; in the event of any conflict, the broadest right reserved by Declarant shall prevail.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal as of this 30 day of Oct., 1998.

SB/RDC LLC,
a Colorado limited liability company

By
his

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 30 day of October, 1998, by SB/RDC LLC, a Colorado limited liability company.

(S E A L)

Notary Public

Notary Public
Address: 2015 Pennsylvania Ave, Colo. Spgs, CO 80907
My commission expires: 11/20/99

My commission expires:



11/19/1998

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EXHIBIT "A"
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
TOWNHOMES AT VILLAGE AT MOOR-WOOD

LEGAL DESCRIPTION FOR PHASE I.

LEGAL DESCRIPTION:

PHASE 1, THE VILLAGE AT MOORWOOD

A PORTION OF LOT 1 AND TRACT A IN "THE VILLAGE AT MOOR-WOOD" AS RECORDED UNDER RECEPTION NUMBER 098170428 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER AND LOCATED IN THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 14 AND THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 11, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6th P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE S 16° 51' 56" W ALONG THE EASTERLY BOUNDARY OF SAID LOT 1, A DISTANCE OF 244.46 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE N 64° 55' 49" W ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 1, A DISTANCE OF 96.85 FEET; THENCE N 14° 47' 06" E, A DISTANCE OF 105.97 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID TRACT A; THENCE N 14° 51' 05" W, A DISTANCE OF 42.52 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT A; THENCE N 34° 47' 06" E, A DISTANCE OF 106.81 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 1; THENCE S 64° 48' 32" E ALONG SAID NORTHERLY LINE, A DISTANCE OF 90.15 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 0.58 ACRES, MORE OR LESS.

PREPARED BY:

CHRISTOPHER THOMPSON, COLORADO P.L.S. NO. 19625
FOR AND ON BEHALF OF ROCKY MOUNTAIN LAND SERVICES
1623 SOUTH TEJON STREET
COLORADO SPRINGS, COLORADO 80906
719-630-0559

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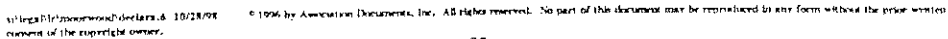


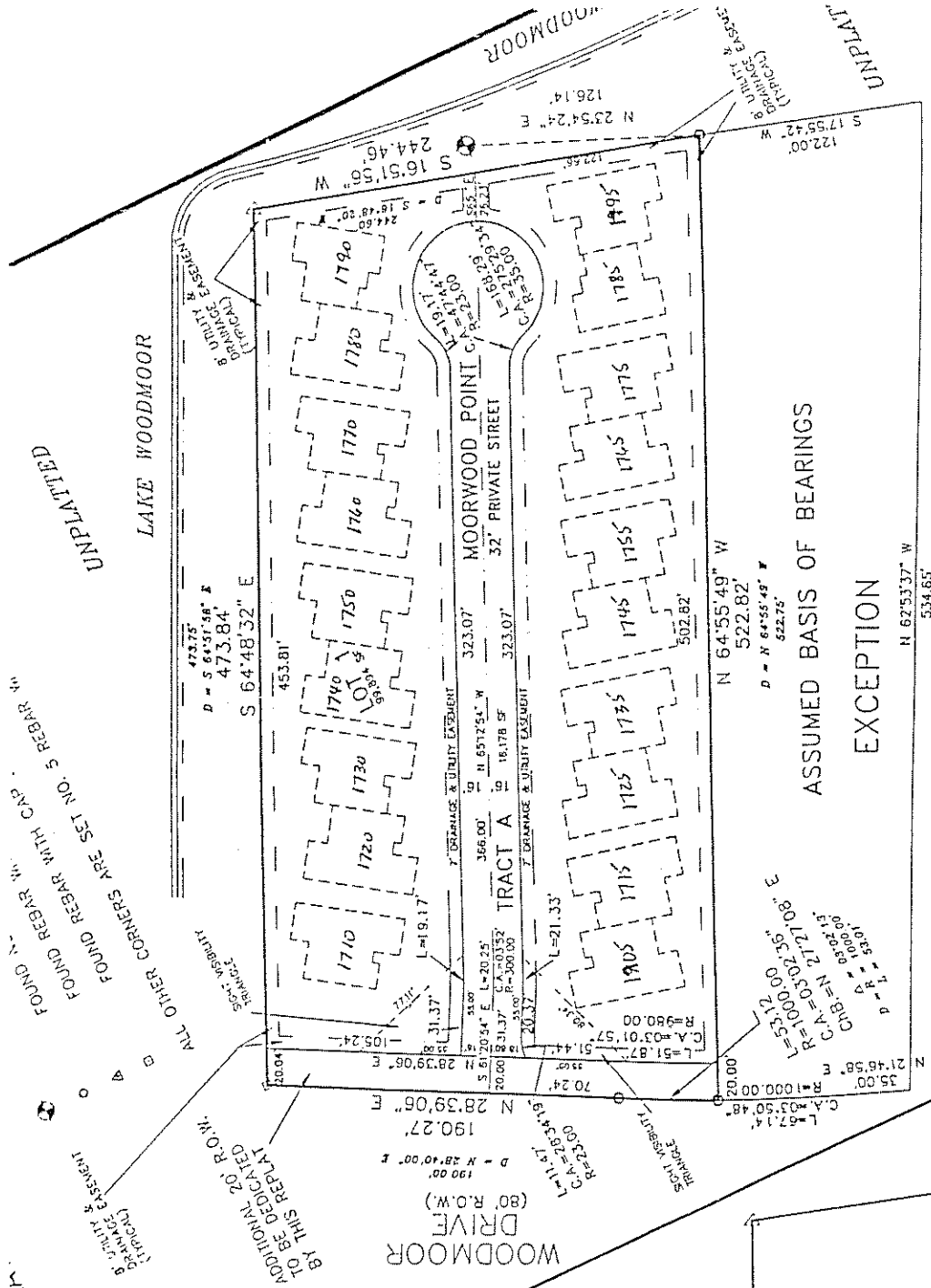
EXHIBIT "C"
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
TOWNHOMES AT VILLAGE AT MOOR-WOOD

<u>Lot</u>	<u>Proportionate Interest/Share</u>	<u>Initial Maximum Assessments</u>
1780	1/4	\$125.00 / Month
1785	1/4	125.00 / Month
1790	1/4	125.00 / Month
1795	1/4	125.00 / Month

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
TOWNSHOMES AT VILLAGE AT WOOD-MOOR
EASEMENTS, EXCEPTIONS AND RECORDED PLAT

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TO
EXHIBIT "E"

