

DECLARATION of
Covenants, Conditions, Restrictions and Easements
for
THE KNOLLS AT SPRINGS RANCH

This Declaration is made this 23d day of May 2000, by BRE/SPRINGS RANCH L.L.C., a Delaware Limited Liability Company ("Declarant"), in order to create a common interest community pursuant to the Colorado Common interest Ownership Act.

ARTICLE 1

GENERAL

Section 1.1 Common Interest Community. The name of the common interest community created by this Declaration is "The Knolls at Springs Ranch. The Knolls at Springs Ranch is a planned community as defined in the Colorado Common Interest Ownership Act, Section 38-33.3-103(22), Colorado Revised Statutes and it is intended that all of Article 33.3 of Title 38, Colorado Revised Statutes, will be applicable to The Knolls at Springs Ranch. All of The Knolls at Springs Ranch is located in El Paso County, Colorado.

Section 1.2 Property Affected. Declarant owns certain real property in the City of Colorado Springs, El Paso County, Colorado described on the attached Exhibit A and shown on the plats attached hereto as Exhibit B, which are made a part of this Declaration. The real property described on Exhibit A and shown on Exhibit B is referred to in this Declaration as the "Community Area."

Section 1.3 Purposes of Declaration. This Declaration is executed and recorded (a) in furtherance of a common and general plan for those parcels of land which are part of the Community Area; (b) to protect and enhance the quality, value, desirability and attractiveness of all property within the Community Area; (c) to provide for the Association to hold, maintain and manage certain common properties and amenities in the Community Area and to perform certain functions for the benefit of owners of land within the Community Area; (d) to define the duties, powers and rights of the Association; and (e) to define certain duties, powers and rights of Owners.

Section 1.4 Declaration. Declarant, for itself, its successors and assigns, hereby declares that the Community Area, and each part thereof (except as provided in Article 12 with respect to portions of the community area used for multifamily or nonresidential purposes), shall, on and after the date this Declaration is recorded, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions

and other provisions set forth in this Declaration, all of which are declared to be a part of and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Community Area. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with Section 14.1 hereof, shall bind, be a charge upon and inure to the mutual benefit of (a) all of the property within the Community Area and each part or parcel thereof; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all other persons and entities having or acquiring any right, title or interest in any property which is part of the Community Area or any part or parcel thereof or any Improvement thereon, and their encumbrances, claimants, heirs, personal representatives, successors and assigns.

ARTICLE 2

DEFINITIONS

Unless otherwise expressly provided in this Declaration, the following words and phrases, whenever used in this Declaration, shall have the meanings specified in this Article 2.

Section 2.1 Agencies. "Agencies" shall mean and collectively refer to the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal Housing Administration of the Department of Housing and Urban Development ("FHA"), the Veterans Administration ("VA"), the Colorado Housing Finance Authority ("CHFA") or any other public, quasi-public or private agency or entity which performs (or may in the future perform) functions similar to those currently performed by the entities specifically listed herein.

Section 2.2 Architectural Committee. "Architectural Committee" shall mean the approving authority described in Section 6.1 of this Declaration

Section 2.3 Assessment. "Assessment" shall mean a "Common Assessment," pursuant to Section 11.3, a "Special Assessment," pursuant to Section 11.10 or a "Site Assessment," pursuant to Section 11.11.

Section 2.4 Association. "Association" shall mean The Knolls at Springs Ranch Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Section 2.5 Association Documents. "Association Documents" shall mean the various operative documents of the Association, whether recorded or adopted at this time or as the same have been or may be amended, modified, supplemented, or otherwise changed from time to time, all of which are incorporated herein by this reference, and shall include the following:

- a. the Articles of Incorporation of the Association;
- b. the Bylaws of the Association;

c. this Declaration, including the Plat and all amendments to this Declaration; and

d. any Supplemental Plat.

Section 2.6 Association Properties. "Association Properties" or "Association Property" shall mean all real and personal property, together with any and all Improvements now or hereafter thereon and appurtenances and rights thereto, hereafter owned by the Association or which the Association hereafter maintains, holds or uses for the common use and enjoyment of all of the Members as provided herein and for other purposes as may be permitted by this Declaration. The Association Properties as of the date of this Declaration include the following: Public Improvement, Utility and Sign Easements upon Lots 1 and 2 and upon Tract A and Tract B, The Knolls at Springs Ranch Filing No. 2 (located at the intersection of Peterson Road and Golf Club Drive), and Tract "13" The Knolls at Springs Ranch Filing No. 1 (which is a Sign, Landscape, Public Improvement and Public Utility Easement). Any land or other property which becomes Association Property in the future will be specifically identified in a deed conveying such property to the Association, or in an amendment to this Declaration or in another instrument designating such property as Association Property, signed by Declarant and recorded in the real property records of El Paso County, Colorado. Notwithstanding any contrary provision of the Association Documents, if the Association hereafter purchases, acquires, receives or otherwise obtains any real property or Improvements thereon, which add substantial value to the Association, the Association shall then comply with all applicable requirements of the VA regarding approvals and other matters for planned unit developments or requirements of other Agencies, if applicable. Any Association Property owned by the Association constitutes "common elements" as defined in the Colorado Common Interest Ownership Act, Section 38-33.3-102(5), Colorado Revised Statutes.

Section 2.7 Board of Directors. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 2.8 Community Area. "Community Area" shall mean the real property described on Exhibit A and shown on Exhibit B, together with any and all Improvements now or hereafter on such real property and appurtenances and rights to such real property.

Section 2.9 Declarant. "Declarant" shall mean BRE/Springs Ranch L.L.C., a Delaware limited liability company, its successors and assigns. A Person shall be deemed a "successor and assign" of BRE/Springs Ranch L.L.C. as Declarant only if specifically designated in a duly recorded instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument. Notwithstanding the foregoing, a successor to BRE/Springs Ranch L.L.C. by consolidation or merger shall automatically be deemed a successor or assign of BRE/Springs Ranch L.L.C. as Declarant under this Declaration.

Section 2.10 Declaration. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for The Knolls at Springs Ranch, in its entirety, including all attached exhibits and all subsequent amendments.

Section 2.11 Dwelling Unit. "Dwelling Unit" shall mean an Improvement on a Lot which is intended or used for residential occupancy, including, without limitation, any individual single family attached or detached home.

Section 2.12 First Mortgage. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the office of the Clerk and Recorder of the County of El Paso, Colorado, pertaining to a Lot and having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 2.13 First Mortgagees. "First Mortgagee" shall mean and refer to any Person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such Person under such First Mortgage.

Section 2.14 Improvements. "Improvements" shall mean 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, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures. "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.

Section 2.15 Landscape. "Landscape" shall mean the treatment of ground surface with live plant materials, wood chips, crushed stone, decorative rocks, mulch materials or other decorative surfacing materials approved by the Architectural Committee. For purposes of this definition, the word "Landscape" shall include all other forms of the word Landscape, such as "Landscaped" and "Landscaping."

Section 2.16 Lot. "Lot" shall mean a parcel of land subject to this Declaration which is identified as a Lot on Exhibit B or shown as a separate parcel on the Plat or any Supplemental Plat, and which is not owned by the Association. Each Lot constitutes a "unit" as defined in the Colorado Common Interest Ownership Act, Section 38-33.3-103(30), Colorado Revised Statutes.

Section 2.17 Member. "Member" shall mean a member of the Association, who must also be an Owner. Membership in the Association shall be appurtenant to, and may not be severed from, ownership of a Lot.

Section 2.18 Owner. "Owner" shall mean the record title holder, including Declarant, whether one or more Persons, of fee simple title to a Lot, including sellers under executory contracts of sale and excluding buyers thereunder.

Section 2.19 Person. "Person" shall mean a natural person, a corporation, a partnership or any other public or private entity recognized as being capable of owning real property under Colorado law.

Section 2.20 Plat. "Plat" shall mean the land survey plat of the Community Area which is attached hereto as Exhibit B.

Section 2.21 Related User. "Related User" shall mean: (a) any Person who resides with an Owner within the Community Area; (b) a guest or invite of an Owner, (c) an occupant, tenant or contract purchaser of any Dwelling Unit on a Lot; and (d) any family member, guest, employee, agent, representative, licensee, contractor, invitee or cohabitant of any of the foregoing Persons.

Section 2.22 Supplemental Plat "Supplemental Plat" shall mean a plat satisfying the requirements of Section 209 of the Colorado Common Interest Ownership Act, Section 38-33.3-209, Colorado Revised Statutes, recorded pursuant to and meeting the requirements of Section 10.3 of this Declaration, which creates new Lots. The term Supplemental Plat shall also include any plat meeting the requirements of Section 209 of the Colorado Common interest Ownership Act which changes the boundaries of any Lot or Lots.

ARTICLE 3

COVENANTS TO PRESERVE THE RESIDENTIAL CHARACTER OF THE COMMUNITY AREA

- **Section 3.1 Property Uses.** All Lots in the Community Area shall be used exclusively for residential purposes. An owner may rent his Dwelling Unit to an individual or a single family provided that the Dwelling Unit is rented pursuant to a lease or rental agreement which is (a) in writing, (b) for a term of at least 30 days, and (c) subject to all of the provisions of this Declaration. No Dwelling Unit erected or maintained within the Community Area shall be occupied for any purpose other than for a single-family dwelling.

Section 3.2 Improvements. No Improvement shall be erected within the Community Area except single-family Dwelling Units and other Improvements which have been approved by the Architectural Committee. No Improvement other than a Dwelling Unit with an attached garage for a minimum of two cars, and no trailer, tent or other similar or dissimilar temporary quarters may be used for living purposes. No other Improvement may be placed on any Lot before completion of the Dwelling Unit upon such Lot except with the permission of the Architectural Committee.

Section 3.3 Storage. No building materials shall be stored on any Lot except temporarily during continuous construction of a building or its alteration or improvement.

Section 3.4 Completion of Work. A Dwelling Unit shall not be occupied in the course of original construction until substantially completed. All construction work shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 3.5 Construction Completion. The exterior of all Dwelling Units or other Improvements must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. For purposes of this Section 3.5, "commencement of construction" for a Dwelling Unit is defined as the obtaining of necessary building permits and the excavation of earth for a foundation, and for all other Improvements is defined as the undertaking of any visible exterior work. If construction is not completed within one year after commencement, or if construction shall cease for a period of sixty days without permission of the Architectural Committee, the Architectural Committee will give the Owner thereof written notice of such fact, and if construction on such Improvement is not diligently commenced within thirty days after such notice, the unfinished Improvement or unfinished portion thereof shall be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner.

Section 3.6 Construction or Sales Offices. Temporary buildings for construction or administration purposes or for sales offices may be erected or maintained only by Declarant or with the permission of the Architectural Committee. Model homes may be used and exhibited only by Declarant or with the permission of the Architectural Committee. Temporary buildings permitted for construction or administration purposes or for sales offices shall be promptly removed when they cease to be used for these purposes.

Section 3.7 Control During Construction. During the period of construction of a Dwelling Unit or other Improvements on a Lot, the Owner of the Lot or his contractor shall control dirt and dust, keep surrounding streets reasonably clean and keep construction debris confined in a trash receptacle. Trash shall be removed from the Lot at least once a week during the construction period. All construction debris, which is blown by the wind, shall be collected and placed in the trash receptacle. Construction debris may not be dumped or left on any Lot or on any of the Association Properties. Contractors, subcontractors and construction personnel shall not enter upon any other Lot or any of the Association Property without the permission of the owner of such property.

Section 3.8 Underground Utilities. All utilities except lighting standards and customary service devices for access, control or use of utilities shall be installed underground.

ARTICLE 4

DENSITY, SETBACK AND QUALITY STANDARDS

Section 4.1 Limitation on Dwellings and Subdivisions. No more than one Dwelling Unit shall be erected or maintained within any Lot. No Lot shall be replatted or otherwise subdivided except with the prior approval of the Architectural Committee. The foregoing sentence shall not apply to or restrict Declarant's rights under Sections 10.2 and 10.3.

Section 4.2 Compliance with Law. All Lots and Dwelling Units must comply with the setback, dwelling area, and height requirements and limitations of the applicable building code, zoning code and subdivision regulations of the City of Colorado Springs.

Section 4.3 Right and Duty of Owners to Insure. It is the responsibility of each Owner to maintain insurance on his Lot, Dwelling Unit and the personal property within his Dwelling Unit.

Section 4.4 Exterior Materials and Colors. Unless otherwise approved by the Architectural Committee, exterior walls of Dwelling Units shall be constructed of or covered by wood, stone, stucco, brick or manufactured siding approved by the Architectural Committee. The Architectural Committee shall not approve exterior materials for Dwelling Units and other Improvements if such materials are not compatible with materials used on neighboring Dwelling Units.

Section 4.5 Roofs. All roof areas shall be of wood shakes, wood shingles, composition shingles, asphalt shingles, slate, tile or other material approved by the Architectural Committee.

Section 4.6 Antennae and Roof Projections. No aerial, antenna or microwave system for reception or transmission of radio, television or other electronic signals, or other roof projection, including but not limited to lightning rods and weather vanes, shall be maintained on the roof or any other exterior location of a Dwelling Unit, other Improvement or Lot, except with the prior approval of the Architectural Committee and except as allowed by applicable law.

Section 4.7 Rebuilding or Restoration. Any Dwelling Unit or other Improvement which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to a sightly condition, such rebuilding or restoration to be completed with reasonable promptness and in any event within six months from the time the damage occurred.

Section 4.8 Fences. No fence shall be installed or erected without the prior approval of the Architectural Committee. Approved fences must normally be constructed of wood, wood composite, brick, stucco or combinations of those materials, and a fence on a Lot shall have a color that is consistent with the color of the house on the Lot. In order to differentiate between neighborhoods and promote a variety of fence designs within the Community Area, the Architectural Committee shall have the right to approve certain types of fences in one neighborhood that may not be approved in another neighborhood. Except with approval of the Architectural Committee, no fence shall be more than six feet high. Except with approval of the Architectural Committee, no fence or hedge more than two feet high shall be installed closer to an adjoining street than the Dwelling Unit or any other building located on the Lot is to the street. Chain link fences are prohibited, except to the extent approved by the Architectural Committee for dog runs as provided in Section 4.9.

Section 4.9 Dog Runs. Fenced dog runs may be erected on Lots with the prior approval of the Architectural Committee, in locations and in accordance with plans approved by the Architectural Committee.

ARTICLE 5

LIVING ENVIRONMENT STANDARDS

Section 5.1 Building and Grounds Conditions. Each Owner shall maintain the exterior of his or her Dwelling Unit and all other Improvements in good condition and shall cause them to be repaired as the effects of damage or deterioration become apparent. If the Owner fails to properly perform such maintenance, Declarant or the Architectural Committee may, after giving thirty days' written notice, effect such repairs and maintenance as it deems necessary in its judgment to maintain the standards of the Community Area. Entry to effect such repairs and maintenance shall not be deemed a trespass and the Owner shall be liable for all costs incurred in connection with the repairs and maintenance.

Section 5.2 Maintenance Equipment. All maintenance equipment shall be stored in an enclosed building or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets.

Section 5.3 Refuse. No unsightly objects or materials, including but not limited to ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefor, shall be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street, except during refuse collections. After a period of two weeks of continued violation of this Section 5.3, the Association or Declarant shall have the right to enter upon the Lot involved and remove such unsightly objects or materials at the expense of the Owner. Such an entry shall not be deemed a trespass and the Owner shall be liable for all costs incurred relative thereto.

Section 5.4 Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No offensive or hazardous activities may be carried on within any Lot or in any Dwelling Unit. No annoying lights, sounds or odors shall be permitted to emanate from any Lot or Dwelling Unit.

Section 5.5 Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices except security devices used exclusively for security purposes shall be located, used or placed on any improvement or within any Lot.

Section 5.6 Landscaping. Within six months after completion of a Dwelling Unit or within any extension of that period granted by the Architectural Committee, all yards and open spaces shall be Landscaped and thereafter maintained in lawn or Landscape in accordance with plans approved by the architectural Committee. All Lots shall have sodded front yards and one, tree which meets City of Colorado Springs' standards.

Section 5.7 Weeds. All yards and open spaces and the entire area of every Lot on which no building has been constructed shall be kept free from plants or weeds infected with noxious insects or plant diseases and from weeds which in the reasonable opinion of the Association or Declarant are likely to cause the spread of infection or weeds to neighboring property and free from brush or other growth or trash which in the reasonable opinion of the Association or Declarant causes undue danger of fire.

Section 5.8 Mowing and Pruning. In order to effect insect, weed and fire control and to prevent and remove nuisances, the Owner of any Lot upon which a building has not been constructed shall mow, cut, prune, clear and remove from the unsightly brush, weeds and other unsightly growth and shall remove any trash which may collect or accumulate on the Lot.

Section 5.9 Grading Patterns. No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior consent and approval of the Architectural Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture.

Section 5.10 Animals. No animals except domesticated birds or fish and other small domestic animals permanently confined indoors and except an aggregate of three domesticated dogs or cats shall be maintained in or on any Lot within the Community Area and then only if kept as pets. No animal of any kind shall be permitted which in the opinion of the Association makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Community Area for any commercial purposes. No dogs or other pets shall be chained or enclosed on a Lot outside of the Dwelling Unit, except the Architectural Committee, in its sole discretion, may approve dog runs or enclosures, as provided in Section 4.9.

Section 5.11 Parking of Vehicles.

(a) No motor vehicles owned, leased, rented or used by Owners or Related Users shall be parked overnight on any street within the Community Area. Motor vehicles owned, leased, rented or used by Owners or Related Users may only be parked in any portion of the Community Area designated and intended for the parking of motor vehicles and in garages and on driveways. No motor vehicle may be parked on any lawn portion of any Owner's Lot Driveways may not be extended or widened beyond their original width without the express prior written approval of the Architectural Committee, in its sole discretion.

(b) No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, any towed trailer unit or truck shall be parked on any street, Association Properties, or within any Lot except in a completely enclosed building such as a garage, or unless screened in a manner approved by the Architectural Committee. Pickup trucks having a 3/4 ton or less manufacturer's rated capacity, with or without bed toppers, and passenger vans for the private use of the

residents of a Dwelling Unit shall not be considered trucks for purposes of the foregoing restrictions.

Section 5.12 Inoperative Vehicles. No unused, stripped down, partially wrecked or inoperative motor vehicle or part thereof shall be permitted to be parked on any street or on any Lot in such a manner as to be visible at ground level from any neighboring property or street, unless fully screened in a manner approved by the Architectural Committee. An unused vehicle shall be any vehicle which is not properly licensed or registered or has remained immobile for more than a week as determined by the Association.

Section 5.13 Vehicle Repairs. No maintenance, servicing, repair, dismantling, sanding or repainting of any type of vehicle, boat, machine or device may be carried on except within a completely enclosed Improvement which screens the sight and sound of the activity from adjoining streets and from neighboring property.

Section 5.14 Signs. The only signs permitted on any Lot or Improvement shall be:

- (a) one sign of customary size for offering of the signed property for sale or for rent;
- (b) one sign of customary size for identification of the occupant and address of any Dwelling Unit;
- (c) multiple signs for sale and administration purposes installed by, or with the permission of, Declarant during development;
- (d) signs as may be necessary to advise of rules and regulations or to caution or warn of danger; and
- (e) such signs as may be required by law.

Except for permitted signs, there shall not be used or displayed on any Lot or Improvement, any signs or any banners, streamers, flags, lights or other devices calculated to attract attention in aid of sale or rental. All permitted signs must be professionally painted, lettered and constructed.

ARTICLE 6

ARCHITECTURAL CONTROL

Section 6.1 Architectural Committee. Declarant shall act as the Architectural Committee until it has sold all of the Lots in the Community Area, or until such earlier time as Declarant elects to assign the right to act as the Architectural Committee to the Board. After such assignment by Declarant, the Board shall appoint three or more Members of the Association to act as the Architectural Committee, or the Board itself may serve as the Architectural Committee. The Architectural Committee shall exercise the functions assigned to it

by this Declaration, including reviewing and approving all plans for Improvements as provided in this Declaration.

Section 6.2 Approval Required. No Improvement shall be placed, erected, installed or permitted to occur or exist on any Lot, nor shall the exterior of any existing Improvements be altered, nor shall any construction be commenced on any Improvements, unless and until the plans and specifications for such Improvements shall have been submitted to and approved in writing by the Architectural Committee. Matters which require the approval of the Architectural Committee include but are not limited to:

- (a) the construction, installation, erection or expansion of any Dwelling Unit or any building, storage shed, structure, fence, kennel, dog run or other Improvements (as defined in Section 2.14);
- (b) the installation or modification of Landscaping;
- (c) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;
- (d) the grading, excavation, filling or similar disturbance to the surface of the land; and
- (e) any change or alteration of any previously approved Improvements, including any change of exterior appearance, finish material color or texture.

Section 6.3 Plans Submissions. All plans, samples and other materials to be submitted to the Architectural Committee shall be submitted in duplicate. The minimum scale of these plans shall be one-twentieth inch equals one foot. The plot plan in this minimum scale shall show the location of all buildings, drives, walks, fences and any other Improvements. Proposed new contours throughout the Lot and abutting street elevations on all sides shall be shown. Structure plans shall show all exterior elevations, and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples.

Section 6.4 Approval Process. All action required or permitted to be taken by the Architectural Committee shall be in writing and any such written statement shall establish the action of the Architectural Committee and shall protect any person relying on the statement. If the Architectural Committee does not execute and acknowledge such a statement within thirty days after delivery of all the required materials to the members of the Architectural Committee, the materials so delivered shall be deemed approved for the purpose of this Declaration. The Architectural Committee may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to this Declaration, not including reimbursement or compensation to the members of the Architectural Committee for their services. The Architectural Committee shall be entitled to retain one copy of all approved plans as part of its files and records. Approvals of all plans and specifications for an Improvement will automatically expire within one year after approval if construction is not

commenced within one year after approval, and if approval so expires, the applicant must resubmit a request for approval of the Improvement.

Section 6.5 Approval Standards. In granting or withholding approval of matters submitted to it, the Architectural Committee shall consider, among other things: the adequacy of the materials for their intended use; the compatibility and harmonization of the external appearance of the Improvement in question with the surroundings; the proper relation of the Improvement to the size, shape and terrain of the Lot, the environment and the surrounding uses; the extent of disturbance of slopes and natural vegetation; and the degree, if any, to which the proposed Improvement will cause intrusions of sound, light or other effects on neighboring sites beyond those to be expected in a quality area from considerate neighbors. The Architectural Committee shall have the right to establish reasonable and consistent design standards and guidelines applicable to Improvements, provided they are not in conflict with any express provisions of this Declaration. The Architectural Committee shall have the right to disapprove any plans, specifications or details submitted to it if it determines the proposed Improvement is not consistent with the above standards; if the plans and specifications submitted are incomplete; or if the Architectural Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the Community Area, the Association or the Owners. If the Architectural Committee believes there may be questions of structural integrity, it may, as part of the approval requirements, require certification of the final plans and specifications by a professional architect or engineer licensed in Colorado. The decisions of the Architectural Committee shall be final and binding unless they are clearly arbitrary and there is no evidence to support the Architectural Committee's decision.

Section 6.6 No Liability. Neither Declarant, the Board nor the Architectural Committee or any member thereof shall be liable in damages or otherwise to anyone submitting plans to them for approval or requesting a variance, or to any Owner by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval or failure to approve any plans, specifications or variance. Approval by the Architectural Committee shall not mean that plans and specifications are in compliance with the requirements of any local building codes, zoning ordinances or other governmental regulations, and it shall be the responsibility of the Owner or other person submitting plans to the Architectural Committee to comply with all codes, ordinances and regulations.

ARTICLE 7

ASSOCIATION OPERATION

Section 7.1 Association Structure. The Association has been formed as a Colorado corporation under the Colorado Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in the Association Documents. As more specifically set forth hereinafter, the Association shall have a Board of Directors to manage its affairs. The Board of Directors shall be elected by its Members; provided, however, that the Declarant shall have the sole right to appoint a majority of the members of the Board of Directors for the period of time provided in Section 7.5.

Section 7.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number, terms and qualifications of the members of the Board of Directors shall be fixed in the Articles of Incorporation and Bylaws of the Association.

Section 7.3 Members in Community Association. Each Owner shall be a Member of the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Lot, and the membership shall automatically pass with fee simple title to the Lot. Declarant shall hold one membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot. All rights, title and privileges of membership shall be subject to the Association Documents.

Section 7.4 Voting Rights of Members. Members shall have the right to cast votes for the election of Board of Directors and on such other matters to be voted on by the Members, as provided in the Association Documents. One vote is allocated to each Lot and Members shall have one vote for each Lot owned. Subject to the provisions of Section 310 of the Colorado Common Interest Ownership Act, Section 38-33.3-310, Colorado Revised Statutes, if more than one Person is the Owner of a Lot, the vote allocated to that Lot may be divided fractionally among the Owners in any manner they agree upon, or equally among them if they are unable to agree; provided, however, that not more than one vote may be cast for any one Lot. Voting rights and procedures may be further defined in the Articles and Bylaws of the Association. Notwithstanding the foregoing, Declarant shall have the reserved rights set forth in Section 7.5.

Section 7.5 Declarant's Reserved Right to Appoint. Notwithstanding any contrary provision, but subject to Section 303(6) of the Colorado Common Interest Ownership Act, Section 38-33.3-303(6), Colorado Revised Statutes, the Declarant hereby reserves the right to appoint the members of the Board of Directors, at all times subsequent to the date of recordation of this Declaration, which right shall terminate upon the occurrence of the first of the following events:

- (a) December 31, 2025;
- (b) by written notice from the Declarant to the President or Secretary of the Association of the Declarant's intent to terminate its right to appoint of the members of the Board of Directors;
- (c) upon that date which is sixty days after 75% of the Lots which can be created have been sold to Owners other than Declarant; or
- (d) two years after the last conveyance of a Lot by Declarant in the ordinary course of business.
- (e) two years after Declarant's rights to add Lots to the Community Area pursuant to Section 10.2 was last exercised,

ARTICLE 8

DUTIES AND POWERS OF ASSOCIATION

Section 8.1 General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or representatives to whom the Board has delegated such powers, shall have the duties and powers given non-profit corporations, including without limitation those hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance Association Properties, and to improve and enhance the attractiveness, desirability and safety of the Community Area. The Association shall have and may exercise all powers enumerated in Section 302 of the Colorado Common Interest Ownership Act, Section 38-33.3-302, Colorado Revised Statutes. Except as expressly otherwise provided in the Association Documents or by Colorado law, the Association shall act through the Board of Directors, without the vote or meeting of the Members, and the Board may exercise all rights, powers and interests of the Association, as described in this Article or elsewhere in the Association Documents.

Section 8.2 Duty to Manage and Care for Property. To the extent owned by the Association, the Association shall manage, operate, care for, maintain and repair all Association Properties and keep the same in an attractive and desirable condition for the use and enjoyment of the Members, provided however, maintenance responsibilities for any Association Properties shall not commence until Assessments commence.

Section 8.3 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Association Properties owned by the Association and all other taxes and assessments payable-by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings. The Association may maintain a tax reserve fund for payment of any taxes.

Section 8.4 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration and as required by Colorado law.

Section 8.5 Power to Enforce Association Documents. The Association shall have the power to enforce the provisions of the Association Documents, and shall take such action as the Board deems necessary or desirable to cause compliance by each Member, other Person, and Related Users of each Member. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Association Documents by any one or more of the following means: (a) by entry upon any property within the Community Area after any notice and hearing required by the Bylaws (unless a bona fide emergency exists), without liability to the Owner or occupants thereof, for the purpose of enforcement of or causing compliance with the Association Documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of the Association Documents, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Association Documents; (d) by exclusion, after any notice and hearing required

by the Bylaws, of any Member, Related User or other Person from use of any Association Properties for a period not to exceed sixty days as a penalty for any breach of the Association Documents by a Member, Related User or other Person; (e) by suspension, after notice and hearing required by the Bylaws, of the voting rights of a Member during and for up to sixty days following any breach by such Member or a Related User of such Member of the Association documents, unless the breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after notice and hearing required by the Bylaws, unless the violation consists of failure to pay any Assessment, in which case notice and hearing shall not be required, a Site Assessment against any Member for breach by the Member or a Related User of such Member of the Association Documents; (g) by performing any duty of any Member, Related User or other Person or correcting any violation or breach of the Association Documents and obtaining, upon demand, reimbursement for all expenses related thereto as a Site Assessment; and (h) by exercising any right or remedy permitted by law or in equity.

Section 8.6 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under Association Property for any lawful purpose, including, without limitation, the provision of emergency services, utilities, telephone, television, or other uses or services.

Section 8.7 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a manager or managers to undertake any of the management of any functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the manager. Any contract or agreement with a manager shall be terminable by the Association for cause on no more than thirty days' prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety days' prior written notice. No such contract or agreement shall be for a term of more than one year. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, power and functions.

Section 8.8 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act and all powers contained in Section 302 of the Colorado Common Interest Ownership Act, Section 38-33.3-302, Colorado Revised Statutes, subject to any limitations, restrictions, or requirements expressly set forth in the Association Documents.

ARTICLE 9

ASSOCIATION PROPERTIES

Section 9.1 Right of Association to Regulate Use. To the extent that the Association hereafter owns, holds, uses or maintains Association Properties, the provisions of this Article 9 shall apply. The Association, acting through the Board, shall have the power to regulate use of Association Properties by Members to enhance further the overall rights of use

and enjoyment of all Members, including without limitation, imposing limits on the times of use and numbers of guests permitted to use Association Properties.

Section 9.2 No Obligation to Convey Property. Declarant has no obligation to convey any property to the Association at any time.

Section 9.3 No Partition of Association Properties. No Owner shall have the right to partition or seek partition of the Association Properties or any part thereof.

Section 9.4 Liability of Owners for Damage. Each Owner shall be liable to the Association for any damage to Association Properties or for any expense or liability incurred by the Association, to the extent not covered by insurance, which may be sustained by reason of the negligence or willful misconduct of such Owner or a Related User of the Owner, and for any violation by such Owner or Related User of the Association Documents. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Site Assessment against a Member, Owner, Residential Site, Related User, or other Person to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of the Association Documents, including without limitation, interest, costs, expenses and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 9.5 Damage to Association Properties. In the event of damage to or destruction of all or a portion of the Association Properties due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, then the Association shall levy a Special Assessment in the aggregate amount of such insufficiency pursuant to this Declaration and shall proceed to make such repairs or reconstruction, unless the Owners and First Mortgagees agree not to repair and reconstruct such damage in accordance with the terms and provisions of this Declaration. No distributions of insurance proceeds shall be made to the Owners, unless made jointly payable to Owners and the First Mortgagees, if any. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction or replacement, the Association may use the excess for future maintenance, repair, and operation of and improvements to Association Properties.

Section 9.6 Association Powers in the Event of Condemnation.

(a) If proceedings are initiated by any government or agency thereof seeking to take the Association Properties or any interests therein or part thereof, including any Improvements, the Association shall give prompt notice thereof, including a description of the part of or interest in the Association Properties or Improvements thereon sought to be so condemned, to all Owners. The Association shall have full power and authority to defend in said proceedings, and to represent the Owners in any negotiations, settlements and agreements with a condemning authority for acquisition of the Association Properties, any part thereof, or any interest therein, and each Owner hereby appoints the Association as the Owner's attorney-in-fact for such purposes. Any award or proceeds of

settlement shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings.

(b) If all of the Association Properties are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, any award or settlement shall be apportioned by the Association on such a fair and equitable basis as the Association determines to be appropriate in the circumstances, or as determined by judicial decree. If the allocation of the condemnation award is already established in the negotiations, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent that it is relevant and applicable.

(c) If less than all of the Association Properties are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, the condemnation award shall first be applied by the Association to the rebuilding and replacement of those Improvements on the Association Properties which are damaged or taken by the condemning public authority, if such rebuilding or replacement is reasonably practical, unless Members with at least sixty-seven percent of the voting power of the Association and unless sixty-seven percent of the First Mortgagees (based upon one vote for each First Mortgage held) agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be distributed by the Association on the same basis as indicated in subparagraph (b) of this section. No provision of this Declaration or any other document relating to the Association Properties shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee, pursuant to a First Mortgage, awarding distribution of insurance proceeds or condemnation awards for losses to or taking of Association Properties.

ARTICLE 10

DECLARANTS DEVELOPMENT RIGHTS, SPECIAL RIGHTS AND RESERVATIONS

Section 10.1 Period of Declarant's Rights and Reservations.

Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association, the Association Properties and the Community Area until December 31, 2025, or until such earlier date when Declarant ceases to own any real property within the Community Area. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant, whether or not specifically stated therein, and in each deed or other instrument by which any property within the Community Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of the Association Documents and may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of the Association Documents. Declarant's consent to any one such amendment shall not be construed as a consent to any other amendment.

Section 10.2 Declarant's Development Rights. For the period stated in Section 10.1, Declarant shall have the following development rights:

(a) Declarant may add real property to the Community Area if the property to be added is within the area described on the attached Exhibit C;

(b) Declarant may add real property to the Community Area if the addition of property is necessary to correct errors or omissions in the legal description contained in Exhibit A;

(c) Subject to the limitation contained in Section 10.8, Declarant may create additional Lots within the Community Area;

(d) Subject to the limitation contained in Section 10.8, Declarant may subdivide any Lot into two or more Lots;

(e) Declarant may create additional Association Properties within the Community Area or convert any of the Lots within the Community Area to Association Properties; and

(f) Declarant may withdraw any portion of the real estate contained within the Community Area, as described on Exhibit A and as shown on the Plat, or additional portions of the Community Area added pursuant to Section 10.2(a) which may be described in an amendment to this Declaration and shown on a Supplemental Plat, from the Community Area and release such withdrawn property from the provisions of this Declaration.

All of the foregoing development rights shall be exercised by Declarant, if at all, in accordance with Section 210 of the Colorado Common Interest Ownership Act, Section 38-33.3-210, Colorado Revised Statutes. Declarant's right to add real property to the Community Area may be exercised with respect to any or all of the real property described on Exhibit C, and all of the development rights set forth above may be exercised by Declarant with respect to all or any portion of the Community Area owned by Declarant from time to time. No assurances are made by Declarant concerning which portions of the Community Area may be affected by Declarant's exercise of its development rights or the order in which portions of the Community Area may be affected. Declarant is not obligated to exercise any of its development rights and may elect not to exercise any or all of them. If Declarant does exercise a development right in any portion of the Community Area, Declarant is not obligated to exercise that development right in all or any other portion of the remainder of real estate affected by the exercise of the development right or in all or any other portion of the remainder of the Community Area.

Section 10.3 Additional Lots. From time to time and at any time during the period stated in Section 10.1, but subject to the limitation contained in Section 10.8, Declarant may subdivide any of the Lots or other parcels shown on the Plat or on any Supplemental Plat into one or more additional Lots. Declarant shall exercise this right in accordance with Section 210 of the Colorado Common Interest Ownership Act, Section 38-33.3-210, Colorado Revised Statutes, by preparing, executing and recording an amendment to this Declaration and by recording a Supplemental Plat showing the additional Lots created. Voting rights shall be allocated to each new Lot created by Declarant in accordance with Section 7.4

(i.e., one vote is allocated to each Lot), and each new Lot shall bear its share of Assessments in accordance with Article 11 (or Article 12, if applicable).

Section 10.4 Special Declarant Rights. For the period stated in Section 10.1, and as more particularly set forth in this Article 10 or elsewhere in this Declaration, Declarant shall have the following special Declarant rights:

- (a) to complete any Improvements shown on the Plat or any Supplemental Plat;
- (b) to exercise any development rights set forth in Section 10.2;
- (c) to maintain anywhere within the Community Area, sales offices, management offices, signs advertising the Community Area and model homes;
- (d) to use easements through the Association Properties for the purpose of making improvements within the Community Area; and
- (e) to appoint or remove any officer of the Association or any member of the Board of Directors, subject to the provisions of Section 7.5 of this Declaration and Section 303(5) of the Colorado Common Interest Ownership Act, Section 38-33.3-303(5), Colorado Revised Statutes.

Section 10.5 Right to Construct Additional Improvements on Association Properties. Declarant shall have and hereby reserves the right, but shall not be obligated, to construct additional Improvements on Association Properties at any time and from time to time in accordance with this Declaration for the improvement and enhancement of the Association Properties and for the benefit of the Association and the Owners.

Section 10.6 Declarant's Rights to Use Association Properties in Promotion and Marketing. Declarant shall have and hereby reserves the right to use the Association Properties and to use services offered by the Association in connection with the promotion and marketing of property within the boundaries of the Community Area or nearby areas. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Association Properties such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of real property within the Community Area; may use vehicles and equipment on Association Properties for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Community Area to use Association Properties.

Section 10.7 Declarant's Rights to Complete Development of Community Area. No provision of this Declaration shall be construed to present or limit Declarant's rights to complete the development of property within the boundaries of the Community Area or nearby areas and to subdivide, resubdivide, or rezone any portion of such property; to grant licenses, easements, reservations and rights-of-way; to construct or alter Improvements on any property owned by Declarant within the Community Area; to maintain

model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within the Community Area; or to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the boundaries of the Community Area. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant; to make changes or modifications to Article 6 of this Declaration by means of an amendment to this Declaration; to change any landscaping, grading, drainage, vegetation, or view; or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure on any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within the boundaries of the Community Area, nor shall anything herein be deemed to require Declarant to seek or obtain the approval of the Architectural Committee or of the Association for any such activity or Improvement to Property by Declarant on any property owned by Declarant or by the Association. Nothing in this section shall limit or impair the reserved rights of Declarant as may be elsewhere provided in the Association Documents, which rights are incorporated in this section by this reference.

Section 10.8 Maximum Number of Lots. Notwithstanding any other provision of this Declaration, the maximum number of Lots that Declarant may create within the Community Area is 2,120.

Section 10.9 Declarant's Approval. Until Declarant no longer has the right to appoint a majority of the Board, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change or alter the use of Association Properties; mortgage the Association Properties; use Association Properties other than for the benefit of Members; levy any Special Assessment; change or repeal any rules of the Architectural Committee; make any substantial reduction or change in Association services; or make any amendment of Association Documents.

ARTICLE 11

ASSESSMENTS

Section 11.1 Obligation for Assessments. Each Owner, for each Lot owned within the Community Area, 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 which are described in the Association Documents and which shall be both a personal obligation of the Owner and a lien against his Lot as provided therein. Each Owner shall be jointly and severally liable to the Association for the payment of all Assessments attributable to them and for their Lot. The personal obligation for delinquent Assessments 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 provided for herein by non-use of the Association Properties or the facilities contained therein, by abandonment or leasing of his Lot, or by asserting any claims 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. All property dedicated to and accepted by a public or governmental authority and the Association Properties shall be exempt from Assessments hereunder.

Section 11.2 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Association Properties as more specifically provided herein.

Section 11.3 Common Assessments. The Common Assessments may include, but shall not be limited to, the following common expenses:

- (a) expenses of management of the Association and its activities;
- (b) taxes and special assessments upon the Association's real and personal property;
- (c) premiums for all insurance which the Association is required or permitted to maintain;
- (d) landscaping and care of the Association Properties and any recreational or other Association facilities or improvements located thereon;
- (e) repairs and maintenance that are the responsibility of the Association;
- (f) payments to Association contractors;
- (g) legal and accounting fees for the Association;
- (h) any deficit remaining from a previous Assessment year;
- (i) the creation of reasonable contingency reserves, surpluses, and sinking funds, and adequate reserve funds for maintenance, repairs and replacement of those elements of Association Property or maintenance that must be done or replaced on a periodic basis;
- (j) the creation of reasonable contingency reserves for any applicable insurance deductibles and emergencies; and
- (k) 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.

Common Assessments shall be paid quarterly as provided in Section 11.6.

Section 11.4 Declarant's Obligation. Until Assessments are first levied by the Association pursuant to this Article 11, Declarant shall pay all common expenses of the Association described in Section 11.3.

Section 11.5 Maximum Common Assessments. Subject to the authority of the Board of Directors to set reduced assessments for early or lump-sum payment of Common Assessments, or portions thereof, the maximum annual Common Assessment on Lots, until the commencement of the second fiscal year of the Association, shall be no more than \$240 per Lot, or \$20 per Lot per month. -

Section 11.6 Common Assessment Procedure.

(a) After this Declaration is recorded, the Board of Directors shall set the total annual Common Assessment for 2000 based upon an estimated budget for the Association for 2000. No later than ninety days before the beginning of each year after 2000, the Board of Directors shall set the total annual Common Assessment based upon an advanced budget of the Association's requirements for the following Assessment year. Within thirty days after adoption of the Association's budget for each year by the Board, the Board shall mail by ordinary first-class mail, or otherwise deliver, a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing or other delivery of the budget summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(b) After approval of the budget by the Owners, the Board shall cause to be prepared, delivered or mailed to each Owner, at least thirty days in advance of the date payment is due, a payment statement setting forth the annual Common Assessment. That annual Common Assessment shall be payable in advance in quarterly installments due on the first day of each successive quarter unless the Board otherwise directs or changes to monthly assessments. All payments of Common Assessments shall be due and payable, without any notice or demand, on the due dates declared by the Board. Common Assessments shall be applicable to all Lots, including those owned by Declarant. Each Owner other than Declarant shall become responsible for Common Assessments on a Lot as of the date the Lot is transferred to such Owner. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as established pursuant to the Bylaws of the Association.

(c) At the first closing of the purchase of each Lot after a house (or other building, as provided in Article 12) has been constructed on that Lot, the purchaser, who shall become an Owner upon closing of the purchase, shall pay to the Association at such closing an amount equal to the Common Assessment for the Lot for the balance of the calendar quarter in which closing occurs. If Declarant has previously paid the Common Assessment for that quarter, the Association shall refund to Declarant an amount equal to the Common Assessment paid to the Association by the new Owner.

Section 11.7 Rate of Assessments. Common Assessments and Special Assessments shall be sufficient to meet the expected needs of the Association. Common Assessments and Special Assessments shall be allocated equally and uniformly among all Lots,

so that each Owner is obligated to pay an equal Common Assessment or Special Assessment for each Lot owned. The rates for Common Assessments and Special Assessments shall be determined by dividing the total Common Assessments or Special Assessments, as the case may be, payable for any Assessment period, as determined by the ratified budget, by the number of Lots then subject to this Declaration. The resulting quotient shall be the amount payable with respect to each Lot. Notwithstanding the foregoing, if Lots other than single-family residential Lots are added to the Community Area, the amount of Common Assessments and Special Assessments for each Lot shall be determined as provided in Section 12.3.

Section 11.8 Failure to Fix Assessment. The failure by the Board of Directors to levy an Assessment for any period shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Owner to pay Assessments for that or any subsequent period.

Section 11.9 Special Maintenance Assessment. In addition to the Common and Special Assessments provided for in this Article 11, each Lot will be equally assessed a Special Maintenance Assessment. The Special Maintenance Assessment shall be used for the installation and maintenance of Landscaping and fencing along the publicly dedicated streets known as North Carefree Circle and Peterson Road within the Springs Ranch development in Colorado Springs, Colorado. The amount of the Special Maintenance Assessment will be equal to the amount assessed by The Springs Ranch Community Association, Inc., a Colorado non-profit corporation, pursuant to the Declaration of Covenants, Conditions, Restrictions and Easements for The Springs Ranch as recorded February 23, 1994, at Reception No. 094024786, Book 6386, page 103, in the records of the County of El Paso, State of Colorado, including all amendments thereto, for the installment and maintenance of Landscaping and fencing along Peterson Road and North Carefree Circle within the Springs Ranch development in Colorado Springs, Colorado. Notwithstanding the foregoing, if lots other than single-family residential lots are added to the Community Area, the amount of the Special Maintenance Assessment for each such Lot shall be determined as provided in Section 12.3.

Section 11.10 Special Assessments. In addition to Common Assessments, the Board of Directors may, subject to the provisions of this section, and upon receipt of any necessary approval by the FHA or VA until Declarant's reserved rights under Section 7.5 terminate, levy Special Assessments for the purpose of raising funds to construct or reconstruct, repair or replace capital Improvements upon Association Properties, including personal property relating thereto; to add to the Association Properties; to provide for necessary facilities and equipment; to offer the services authorized in this Declaration; to correct any deficit or cost overrun; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. Special Assessments shall be equally, uniformly imposed upon Lots as provided in Section 11.7. At any time that insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed Improvements on the Association Properties, or on any other property which the Association maintains, the Association may levy Special Assessments for the purpose of repair or reconstruction of such damaged or destroyed Improvements; all such Special Assessments shall be equal to the amount by which the cost of repair or reconstruction of Improvements exceeds the sum of insurance proceeds awarded for the

damage or destruction, and shall be set in the same manner as other Special Assessments. The Association shall notify Owners in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable, and the Owners shall pay any such Special Assessment in the manner so specified.

Section 11.11 Site Assessments. The Board of Directors may, subject to the provisions hereof, levy a Site Assessment against any Member, Owner, or Lot if the willful or negligent acts or omissions of the Member, Owner or a Related User cause any violation of the Association Documents or cause any loss or damage to the Association or Association Properties or cause an expenditure of funds in connection with the enforcement powers of the Association. Except for a default consisting solely of a failure to timely pay any Assessment, including, without limitation, Special Assessments or Common Assessments, which shall not require any notice and hearing, a Site Assessment shall be levied only after such notice and hearing as may be required by the Bylaws. The amount of the Site Assessment shall be due and payable to the Association upon notice by the Board that the Site Assessment is owing. Imposition or non-imposition of Site Assessments shall not preclude the Association from pursuing simultaneously or subsequently all other legal or equitable rights and remedies.

Section 11.12 Costs of Enforcement, Late Charges and Interest. If any Assessment is not paid within ten days after it is due, the Member, Owner or other Person obligated to pay the Assessment may be additionally required to pay all costs of enforcement, including without limitation, reasonable attorneys' fees, court costs, witness expenses, and all related expenses, and to pay a reasonable late charge to be determined by the Board. Any Assessment which is not paid within ten days after the date of any notice of default given under Section 11.14 shall bear interest from the due date at a rate determined by the Board, not to exceed the lower of twenty-one percent per annum, or the maximum rate permitted by law, h m the due date until paid.

Section 11.13 Attribution of Payments. If any Assessment payment is less than the amount assessed, the sums received by the Association from that Owner shall be credited in such order of priority as the Board of Directors, in its discretion, determines.

Section 11.14 Notice of Default and Acceleration of Assessments. If any Assessment is not paid within thirty days after its due date, the Board of Directors may mail a notice of default to the Owner and to each First Mortgagee of the Lot who has requested a copy of such notice. The notice shall substantially set forth (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date not less than twenty days from the date of mailing of the notice by which such default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in the foreclosure of the lien for the Assessment against the Lot of the Owner. A default shall not be considered cured unless the past due sums, collection expenses, and all sums coming due through the date of payment are paid to the Association. If the delinquent Assessment and any collection expenses, late charges or interest thereon, plus any other sums due as of the date of payment, are not paid in full on or before the date specified in the notice, the Board, at its option, may enforce the collection of the Assessment and all charges and interest thereon in any manner authorized by law or in the Association Documents.

Section 11.15 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed. In the event of a default in payment of any Assessment, the Board may, in addition to any other remedies provided under the Association Documents or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided. Each Owner, by acceptance of a deed to a Lot, whether or not it is expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments, together with interest, late charges, and expenses of collection, and this covenant shall be a charge on the land and a continuing lien upon the Residential Site against which the Assessment is made. The lien created hereby shall exist from the date of each Assessment until all sums are paid, whether or not a Notice of Lien is filed in accordance with Section 1 1.17.

Section 11.16 Lawsuit to Enforce Assessments. The Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charge, interest, and other costs of enforcement against the defaulting Owner, including, without limitation, reasonable attorneys' fees.

Section 11.17 Lien to Enforce Assessments. The Association shall have a lien for Assessments (the "Lien") as provided in Section 3 16 of the Colorado Common Interest Ownership Act, Section 38-33.3-316, Colorado Revised Statutes. In addition to or in lieu of bringing suit to collect Assessments, the Association may foreclose its Lien as provided by law and in this section. The Board may elect (but is not required to) to file a claim of lien against the Lot of the defaulting Owner by recording a notice ("Notice of Lien") substantially setting forth: (a) the amount of the claimed delinquency, (b) the interest and expenses of collection which has accrued thereon, (c) the legal description and street address of the Lot against which the lien is claimed, and (d) the name of the record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The Lien shall have the priority provided by the Colorado Common Interest Ownership Act and shall be prior to any declaration of homestead rights recorded after the time that the Lot becomes part of the Community Arm. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver by the Owner of the homestead exemption as against said Lien. The Lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Lien, including, without limitation, all court costs, recording costs and filing fees, have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien, if recorded, upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the cost of preparing and recording the release of the Notice of Lien. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including deeds of trust), or in any other manner permitted by law. The Association shall have the right and power to bid on the Lot at the sale and to acquire and hold, lease, mortgage, and convey the same. The lien under this section shall be subject to the provisions and restrictions of Section 14.7 hereof.

Section 11.18 Estoppel Certificates. Upon the payment of such reasonable fee as may be determined from time to time by the Board of Directors, and upon the written request of any Member or Owner and any Person which has, or intends to acquire, right,

title or interest in the Lot of such Member or Owner, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the Owner thereof, and setting forth the amount of any Assessment levied against such Site which is not yet due and payable. Such statement shall, with respect to the Person whom it is issued, if relied thereupon in good faith and without actual knowledge to the contrary, be conclusive against the Association.

Section 11.19 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offset, abatement or reduction thereof shall be permitted for any reason whatsoever, including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration, or for inconvenience or discomfort arising from any activity of the Association, including the making of repairs or Improvements to Association Properties, or because an Owner claims that a particular function funded by the Assessment does not benefit that Owner directly, or for any other reason.

ARTICLE 12

MULTIFAMILY AND NONRESIDENTIAL PROPERTIES

Section 12.1 Additional Properties. As provided in Section 10.2 of this Declaration, Declarant has the right, from time to time, to add real property to the Community Area. As of the date this Declaration was first recorded, all of the Lots within the Community Area were zoned and platted for single-family residential use. Some of the real property subsequently added to the Community Area may be used for purposes other than single-family residential use. The provisions of this Article 12 shall apply with respect to any such property.

Section 12.2 Special Definitions. The following definitions shall apply with respect to any real property added to the Community Area that is used for any purpose other than single-family residential use:

(a) "Commercial Lot" shall mean a Lot that is designated as (or as part of) a commercial and/or office parcel on the Master Plan or which has been zoned by the City of Colorado Springs to permit commercial or office uses and which is not an Industrial Lot as defined below.

(b) "Industrial Lot" shall mean a Lot that is designated as (or as part of) an industrial, research and development and/or employment parcel on the Master Plan or which has been zoned by the City of Colorado Springs to permit industrial or research and development uses.

(c) "Master Plan" shall mean the Springs Ranch Master Plan approved by the City of Colorado Springs, as it may be amended from time to time.

(d) "Multifamily Lot" shall mean a Lot that is designated as (or as part of) a multifamily parcel on the blaster Plan or which has been zoned by the City of Colorado Springs to permit multifamily uses, whether condominiums or apartments. A Lot on which a town home, or other attached single-family Dwelling Unit that is not a

condominium, is constructed shall not be considered a Multifamily Lot but for purposes of this Declaration shall be considered and treated the same as any other single-family residential Lot.

Section 12.3 Rate of Assessments. If any Commercial Lot, Industrial Lot or Multifamily Lot is added to the Community Area, the amount of any Common Assessment or Special Assessment payable with respect to each Lot shall be determined as follows:

- (a) one "Assessment Unit" shall be attributed to each single-family residential Lot;
- (b) the number of Assessment Units attributable to a Commercial Lot shall be equal to the number of acres of land within the Commercial Lot (computed to the nearest thousandth of an acre) multiplied by four;
- (c) the number of Assessment Units attributable to an Industrial Lot shall be equal to the number of acres of land within the Industrial Lot (computed to the nearest thousandth of an acre) multiplied by two; and
- (d) the number of Assessment Units attributable to a Multifamily Lot shall be equal to the number of apartment units and/or be constructed on the Multifamily Lot divided by four.

The rates for Common Assessments or Special Assessments condominium units constructed or to shall be determined by dividing the total Common Assessments or Special Assessments, as the case may be, payable for any Assessment period, as determined by the ratified budget, by the total number of Assessment Units attributable to all Lots, calculated as provided above. The resulting quotient shall be the amount of each Assessment Unit, and the amount of the Common Assessment or Special Assessment for a Lot shall be equal to the amount of each Assessment Unit multiplied by the number of Assessment Units attributable to that Lot.

Section 12.4 Agreement to Pay Expenses. Declarant may, but is not obligated to, elect not to add real property that would be a Commercial Lot, an Industrial Lot, or a Multifamily Lot to the Community Area, and instead cause the purchaser of such a Lot to enter into an agreement with the Association to pay a fee to the Association to help pay the costs of maintaining Association Properties. Any such contractual fees shall be taken into account in determining the Association's budget and the total amount of Common Assessments required to be collected from the Members.

Section 12.5 Inapplicable Provisions; Supplemental Covenants. The provisions of Article 3, Article 4 and Article 5 of this Declaration shall not apply to any Commercial Lot, Industrial Lot or Multifamily Lot that is added to the Community Area, and in lieu of such Articles, Declarant may impose other covenants, conditions, restrictions and easements upon any such Lot added to the Community Area. All other provisions of this Declaration shall be applicable to all Commercial Lots, Industrial Lots and Multifamily Lots added to the Community Area.

ARTICLE 13

EASEMENTS

Section 13.1 Easement for Encroachments. If any portion of an Improvement encroaches upon the Association Property, including any future encroachments arising or resulting from erosion or subsidence, or from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, the Board may grant a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, for so long as such encroachment exists, but subject to any conditions or restrictions imposed by the Board.

Section 13.2 Association Easement. An easement to perform its maintenance or other rights or obligations pursuant to this Declaration is hereby granted to the Association, its officers, agents, employees and assigns, upon, across, over, in and under the Community Area (excluding Dwelling Units), together with the right to make such use of the Community Area as may be necessary or appropriate in carrying out such maintenance or other rights or obligations.

Section 13.3 Utilities. Declarant hereby creates and reserves to itself until Declarant has sold the last Lot in the Community Area to an Owner other than Declarant, and, thereafter, to the Association:

(a) perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the seven foot strips along and adjoining each rear Lot Line of each Lot, and each of the five foot strips along and adjoining each side Lot Line of each Lot, and each of the five foot strips along and adjoining each front Lot Line of each Lot abutting a fifty-foot right of way (which the Lot Owners have the sole responsibility to maintain), for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for water lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes; and

(b) a blanket easement across, over and under the Association Properties for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, gas, telephone, and electricity.

If any utility or quasi-utility company furnishing a service covered by the easements created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement. The Association shall succeed to such right and authority upon conveyance by Declarant of the last Lot in the Community Area to the first Owner thereof, other than Declarant. The easement provided for in this section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Community Area.

Section 13.4 Easements Deemed Created. All conveyance of Lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 13, whether or not specific reference to such easements or to this Article appears in the instrument of such conveyance.

Section 13.5 Easements of Record. In addition to the easements created in this Article 13, the Community Area is subject to those easements and other matters currently of record in El Paso County, Colorado and identified on the attached Exhibit D.

Section 13.6 Completion of Improvements. Declarant expressly reserves to its benefit the right and easement to enter the Association Property to complete any improvement which the Declarant deems desirable to complete the Declarant's development plan.

ARTICLE 14

MISCELLANEOUS

Section 14.1 Term of Declaration. Unless amended as herein provided, all provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective for thirty years after the date when this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of ten years each unless terminated by agreement of the Owners with at least two-thirds of the voting power of the Association, in the manner provided in Section 218 of the Colorado Common Interest Ownership Act, Section 38-33.3-2 1 8, Colorado Revised Statutes.

Section 14.2 Amendment of Declaration by Declarant or the Association.

(a) Until the first Lot subject to this Declaration has been conveyed by Declarant by recorded deed, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.

(b) Declarant may amend the Declaration to the extent it is permitted to do so by the Colorado Common Merest Ownership Act.

(c) The Association may amend the Declaration as permitted by the Colorado Common Interest Ownership Act.

Section 14.3 Amendment of Declaration by Members. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, 'covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members with at least sixty-seven percent of the voting power of the Association, in accordance with the

requirements of Section 217 of the Colorado Common Interest Ownership Act, Section 38-33.3-217, Colorado Revised Statutes.

Section 14.4 Agency Amendments. Notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the Agencies, then, subject to the following sentence of this section, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments, subject to approval of Members with at least sixty-seven percent of the voting power of the Association in accordance with Section 217 of the Colorado Common Interest Ownership Act, Section 38-33.3-217, Colorado Revised Statutes. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to the conveyance of the last Lot in the Community Area owned by Declarant to the first Owner (other than Declarant), and each such amendment must contain thereon the written approval of the VA or FHA.

Section 14.5 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate at such time as the last Lot in the Community Area has been conveyed by Declarant to the first Owner other than Declarant.

Section 14.6 Special Rights of First Mortgagees. Any First Mortgagee, upon filing a written request therefor with the Association, shall be entitled to (a) receive written notice from the Association of any default by the Owner indebted to such First Mortgagee in the performance of the Owner's obligations under the Association Documents, which default is not cured within sixty days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) upon request, receive a copy of financial statements of the Association, including any annual financial statement, with ninety days following the end of any fiscal year of the Association; (d) receive written notice of all meetings of Members; (e) designate a representative to attend any meeting of Members; (f) receive written notice of abandonment or termination of the Association or of this Declaration; (g) receive notice of any amendment to this Declaration, the Articles of Incorporation or the Bylaws; (h) receive written notice of termination of any agreement for professional management of the Association or the Association Properties following a decision of the Association to assume self-management of the Association Properties; and (i) receive written notice of any damage to the Association Properties if the cost of reconstruction exceeds \$10,000.00, and of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Association Properties.

Section 14.7 Priority of First Mortgagee Over Assessments. Each First Mortgagee, who recorded its First Mortgage before Assessments have become delinquent and who obtains title to the Lot encumbered by the First Mortgage, whether pursuant to the remedies provided in the mortgage, by judicial foreclosure, or by deed or assignment in

lieu of foreclosure, shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such First Mortgagee acquires title, except to the extent that such Assessments are made prior to the First Mortgage by virtue of the provisions of Section 3.16(2)(b)(I) of the Colorado Common Interest Ownership Act, Section 38-33.3-3 16(2)(b)(I), Colorado Revised Statutes. A First Mortgagee shall be deemed to have acquired title to a Lot on the date of receipt of a deed in lieu of foreclosure, or on the date of receipt of a Certificate of Purchase from the Public Trustee, or on the date of sale pursuant to a judicial foreclosure and receipt of the Sheriff's Certificate of Purchase, as the case may be.

Section 14.8 First Mortgagee Right to Pay Taxes and Insurance Premiums. Any one or more First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may become or have become a charge against any of the Association Properties, and may pay any overdue premiums on hazard insurance policies for any Association Properties, or may secure new coverage if the insurance policy on any Association Properties lapses, and the First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 14.9 FHA/VA Approval. Until the termination of Declarant's reserved rights under Section 7.5, and provided further that the FHA or the VA is insuring or guaranteeing or has agreed to insure or guarantee loans in any portion of the Community Area with respect to initial sales of Lots by Declarant, the following actions shall require the prior review of the FHA or the VA, in accordance with the procedure set forth herein: (a) dedication of any of the Association Properties owned by the Association; or (b) annexation of any additional real property to the Community Area; or (c) material amendments of the Articles of Incorporation or the Bylaws of the Association; or (d) any merger or consolidation of the Association.

Section 14.10 Evidence of Required Approvals. Whenever the validity of any amendment to or revocation of this Declaration is conditioned upon voting by a stated percentage of Members and approval by First Mortgagees or Agencies, or both, the recorded document implementing the amendment or revocation shall contain a certification by an officer of the Association that the approvals of the required percentages of Members, First Mortgagees and Agencies were obtained. The Association shall keep on file in its offices such proxies, letters, minutes of meetings or other documentation as may be required to evidence compliance with applicable approval requirements, but the officer's certificate on the recorded instrument shall be sufficient public notice of compliance.

Section 14.11 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, telephone or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Lot of such Person if no address has been given to the Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

Section 14.12 Persons Entitled to Enforce Declaration. The Association, acting by authority of the Board, or any Member, shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Association Documents. The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provision of the Association Documents, and all other rights and remedies provided in the Association Documents and at law or in equity.

Section 14.13 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 14.14 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Community Area, is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 14.15 Remedies Cumulative. Each remedy provided under the Association Documents is cumulative and not exclusive.

Section 14.16 Costs and Attorneys' Fees. In any action or proceeding under the Association Documents, the party which seeks to enforce the Association Documents and prevails, shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fee and expert witness fees.

Section 14.17 Limitation on Liability. The Association, the Board of Directors, the Architectural Committee, Declarant, and any member, agent or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice, and shall be indemnified by the Association to the fullest extent permissible by the laws of Colorado, including without limitation, circumstances in which indemnification is otherwise discretionary under Colorado law, in accordance with and subject to the terms and limitations contained in the Bylaws.

Section 14.18 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Community Area, or any improvements thereon, as to its or their physical condition, zoning, compliance with applicable laws, or fitness for intended use; or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in a writing signed by Declarant.

Section 14.19 Liberal Interpretation. The provisions of the Association Documents shall be liberally construed as a whole to effectuate the purposes of the Association Documents. The use herein of the word "including," when following any general statement, term

or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

Section 14.20 Governing Law. The Association Documents shall be construed and governed under the laws of the State of Colorado.

Section 14.21 Severability. Each of the provisions of the Association documents shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial enforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 14.22 Number and Gender. Unless the context requires a contrary construction, as used in the Association documents, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.

Section 14.23 Captions for Convenience. The titles, headings and captions used in the Association Documents are intended solely for convenience of reference and are not intended to affect the meaning of any provisions of this Declaration.

Section 14.24 Mergers or Consolidation. The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community Area together with the covenants and restrictions established upon any other property, as one plan.

Section 14.25 Conflicts in Documents. In case of any conflict between this Declaration and the Articles of Incorporation or the Bylaws of the Association, this Declaration shall control. If there is a conflict between the Aides of Incorporation and the Bylaws of the Association, the Articles of incorporation shall control.