

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF FOX RUN

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- Exhibit A - The Community
- Exhibit B - Common Elements
- Exhibit C - Certain Title Exceptions
- Exhibit D - Annexable Area

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF FOX RUN

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FOX RUN is made and entered into by Melody Homes, Inc., a Delaware corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property located in the County of Weld, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the Declarant desires to subject and place upon the above-described property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions; and

WHEREAS, a common interest community may be created pursuant to the Act (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

NOW, THEREFORE, Declarant hereby declares that all of the real property described on the attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE I.
DEFINITIONS

1. "Act" means the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101, et seq., as amended.

2. "Agencies" means the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

3. "Allocated Interests" means the share of annual and special assessments, after assessments have commenced, and votes in the Association allocated to each Lot. The Allocated Interest of each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time.

4. "Association" means Melody Homes at Fox Run Homeowners Association, Inc., a community association as provided for in the Act.

5. "Board of Directors" or "Board" means the body, regardless of name, designated in this Declaration, the Articles of Incorporation and the Bylaws of the Association to act on behalf of the Association.

6. "Common Elements" means any property owned or leased by the Association other than a Lot. The Common Elements at the time of recordation of this Declaration are described on Exhibit B attached hereto and incorporated herein by this reference.

7. "Community" means real estate, and Improvements thereon, described in this Declaration, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Lot, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in this Declaration. The Community is a planned community under the Act.

8. "Declarant" means Melody Homes, Inc., a Delaware corporation, and any other Person(s) acting in concert, to whom Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds), and who:

(a) As part of a common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Lot not previously disposed of to a purchaser; or

(b) Reserves or succeeds to any Special Declarant Right.

9. "Declaration" means this Declaration of Covenants, Conditions and Restrictions of Fox Run and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, plats and maps.

10. "Design Review Committee" means the committee appointed by the Declarant or by the Board of Directors to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

11. "Development Rights" means the following rights or combination of rights hereby reserved by the Declarant, as such Development Rights may be further described in this Declaration, to:

(a) Add real estate to the Community and create Lots or Common Elements in the Community, as provided in Article XII, Section 5;

(b) Subdivide or replat Lots, as provided in Article XII, Section 7; or

(c) Withdraw real estate from this Community, as provided in Article XII, Section 5.

The Declarant may exercise its Development Rights in all or any portion of the property owned by Declarant within the Community, over which such rights have not already been exercised, and no assurances are made as to the boundaries or order of exercise of any such development rights. The Declarant's rights to exercise Development Rights shall terminate automatically as provided in Article I, Section 21 hereof.

12. "Improvements" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles basketball backboards and hoops, whether fixed or movable, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment, if any.

13. "Lot" means each platted lot shown upon any recorded subdivision map of the real property described on the attached Exhibit A, as the same may be resubdivided or replatted from time to time (and "Lot" shall include all lots created as a result of such subdivision or replatting), or any other real property as may hereafter be brought within the jurisdiction of the Association, with the exception of the Common Elements and any publicly dedicated property. Each Lot shall constitute a "unit" under the Act, and it shall not be necessary to use the term "unit" as part of a legally sufficient description of a Lot.

14. "Lots that May Be Included" means four hundred (400) Lots, which shall be the maximum number of Lots that may be subject to this Declaration, including the Lots within the property described on the attached Exhibit A and those Lots which may be included if all of the property provided for in Article XII, Section 5 hereof, is annexed to this Declaration. However, the aforesaid number of Lots that May Be Included is not a representation or a guarantee as to the actual number of Lots that will ultimately be included in the Community.

15. "Member" means all Owners of a Lot collectively; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. There is only one Member per Lot, even if the Lot is owned by multiple Owners.

16. "Owner" means each fee simple title holder of a Lot, including without limitation, the Declarant or other Person who owns a Lot, but does not include a person having an interest in a Lot solely as security for an obligation. There may be more than one Owner of a Lot.

17. "Period of Declarant Control" means a length of time expiring seven (7) years after initial recording of this Declaration in Weld County, Colorado; provided, that the Period of Declarant Control shall terminate no later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that May Be Included to Owners other than a Declarant, two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business, or two (2) years after any right to add new Lots to the Declaration was last exercised.

18. "Person" means a natural person, a corporation, a partnership, an association, a trust, a limited liability company, a joint venture, or any other entity recognized under the laws of the State of Colorado or any combination thereof.

19. "Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Article IV, Section 11, hereof, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2, hereof, "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of Weld County, Colorado, show the Administrator as having the record title to the Lot.

20. "Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Article IV, Section 11 hereof, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2 hereof, the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of Weld County, Colorado, show the said Administrator as having the record title to the Lot), or any successor to the interest of any such Person under such Security Interest.

21. "Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements within the Community; to exercise any Development Right; to maintain sales offices, construction offices, management offices, signs advertising the Community, and models; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to merge or consolidate a common interest community of the same form of ownership; or to appoint or remove any officer of the Association or any Board of Directors member during any Period of Declarant Control. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events: (a) conveyance of the last Lot by Declarant to an Owner other than the Declarant; or (b) seven (7) years from the date of recordation of this Declaration; except that such rights shall not terminate automatically with respect to the appointment of officers and directors which may only be exercised in accordance with Article III hereof.

ARTICLE II.
MEMBERSHIP; VOTING RIGHTS

1. Association. The Association has been or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration and in its Articles of Incorporation and Bylaws. 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 the Members.

2. Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Association's Articles of Incorporation and Bylaws. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to offices of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association.

3. Membership. The membership in the Association at all times shall consist exclusively of all Owners or, following termination of the Community, of all former Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

4. One Class of Membership. The Association shall have one class of voting membership. Each Owner shall be entitled to one (1) vote for each Lot owned, except that no votes allocated to a Lot owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Lots then existing within the Association. Except as otherwise provided in Article III of this Declaration, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE III.
ASSOCIATION

1. Authority of Board of Directors. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent or employee without a vote of the Members, except as otherwise specifically provided in this Declaration, the Articles of Incorporation or Bylaws of the Association.

2. Election of Part of Board of Directors During Period of Declarant Control. No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that May Be Included to Owners other than a Declarant, at least one (1) member and not less than twenty-five

percent (25%) of the members of the Board of Directors must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that May Be Included to Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by owners other than the Declarant.

3. Authority of Declarant During Period of Declarant Control. Except as otherwise provided in this Article, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and remove all officers and directors of the Board of Directors appointed by it.

4. Termination of Period of Declarant Control. Not later than the termination of the Period of Declarant Control, the Owners shall elect a Board of Directors, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers. Such Board of Directors members and officers shall take office upon election.

5. Delivery of Property by Declarant. After the Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by the Act.

6. Budget. Within thirty (30) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by the vote or agreement of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, then 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 of Directors.

7. Association Books and Records. The Association shall make available to Owners, prospective purchasers, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of this Declaration, and the Articles of Incorporation, Bylaws, rules and regulations, books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

8. Information Regarding Security Interests. Each Member shall, within twenty (20) days of encumbering such Member's Lot with a Security Interest, and at other times upon request of the Association, provide the Association with the name and address of the Security Interest Holder, a copy of the instrument creating the Security Interest, and the loan number (or other identifying number of such Security Interest). Within twenty (20) days after any change in the name or address of the Security Interest Holder on a Member's Lot, and at other times upon

request of the Association, such Member shall provide the aforesaid information to the Association with respect to the Security Interest held by such Security Interest Holder.

9. Cooperation with Any Other Community Association and/or any Districts. The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other community associations and/or any districts, to share the costs and/or responsibility for any maintenance, repair, reconstruction, or other matters, to perform maintenance, repair or reconstruction for any Person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers, or others who may perform services for the Association and/or any other community associations and/or any districts, or to otherwise cooperate with any other community associations, or any districts, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or any other community associations and/or any districts, as the Board of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with one or more community associations to collect assessments, other charges, or other amounts which may be due to any other community association(s) and to permit any other community association(s) to collect assessments, other charges, or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such community association(s) of any amounts collected by the Association or to the Association of any amounts collected by such community association(s).

10. Rules and Regulations. Rules and regulations concerning and governing the Lots, Common Elements, this Community and/or rights of way, may be adopted, amended or repealed from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such Rules and Regulations, this Declaration, or the Articles of Incorporation or Bylaws of the Association. The rules and regulations may state procedural requirements, interpretations and applications of the provisions of this Declaration, including without limitation, blanket requirements, blanket interpretations, and blanket applications. By way of example, and not by way of limitation, the Rules and Regulations may state that "reasonable" as used in Article X, Section 4 means a specified number of pets.

11. Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the Period of Declarant Control shall be subject to review and approval by FHA or VA, if at the time such agreement is entered into, VA has a guarantee(s) or FHA has insurance on one or more first Security Interests, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.



12. Merger. The Declarant hereby reserves the right to merge the Association with one or more other community associations without the approval of any Owner or any other Person. This right shall terminate automatically as provided in Article I, Section 21 hereof.

ARTICLE IV.
COVENANT FOR ASSESSMENTS

1. Personal Obligation for Assessments. Each Owner of a Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration, with such assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each amount, together with interest, late charges, costs, and reasonable attorney's fees, shall be the personal obligation of the Person who was the Owner of such Lot at the time when the amount became due. The personal obligation for delinquent amounts (including assessments) shall not pass to such Owner's successors in title unless expressly assumed by them.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

3. Initial Annual Assessment. Until the effective date of a Association budget ratified by the Owners with a different amount for the annual assessments, as provided above, the amount of the annual assessment against each Lot shall not exceed Nineteen and 00/100 Dollars (\$19.00) per Lot per month. However, the rate of assessments paid by Unfinished Lots (as defined below) shall be less than those paid by the other Lots, as provided in the next Section.

4. Rate of Assessment.

(a) Annual and special assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned among the Lots in accordance with their Allocated Interests. Notwithstanding the foregoing, however, the amount of the annual assessment against those Lots on which a certificate of occupancy has not been issued for the residence now or hereafter located on such Lot (herein the "Unfinished Lots") shall be set at a lower rate than the rate of annual assessments against those Lots on which a certificate of occupancy has been issued, as provided in the following sentence. Specifically, the rate of annual assessments against the Unfinished Lots shall be less than the rate of annual assessments against the other Lots, pursuant to C.R.S. §38-

33.3-315(3)(b), as amended, since the Unfinished Lots do not receive certain benefits, including without limitation the following: the Unfinished Lots do not receive the same services as the other Lots; and the Unfinished Lots do not receive benefit from the items for which reserves are collected. The annual assessments, except as to the Unfinished Lots (as provided in this Section), shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. The rate of assessment against the Unfinished Lots shall be determined by the Board of Directors based on the costs and expenses of the services actually provided to the Unfinished Lots.

(b) During the Period of Declarant Control, the Declarant may, but shall not be required to, cover certain costs of the Association by payment of any amount(s), which may be treated, in the discretion of the Declarant as (i) an advance against future assessments due from the Declarant; and/or (ii) a loan at the then current prime rate of interest as set forth in the Wall Street Journal and on such other terms as the Declarant may determine in its discretion. Any such amount(s) shall be conspicuously disclosed in the Association books. Under no circumstances shall Declarant be obligated to continue payment or funding of any such amount(s) in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

5. Date of Commencement of Annual Assessment. The annual assessments shall commence at such time as the Board of Directors may determine in its discretion. After any annual assessment has been made by the Association, annual assessments shall initially not be greater than the amount set forth in Section 3 of this Article, and thereafter shall be based on a budget adopted by the Association as provided above. A budget shall be so adopted by the Association no less frequently than annually. The annual assessments shall be due and payable in quarterly installments, in advance, or on such other dates, and with such frequency (which may be other than quarterly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

6. Special Assessments. In addition to the annual assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of the votes of two-thirds (2/3) of a quorum of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests set forth in this Declaration. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 7 of this Article. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

7. Notice and Quorum for Any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article shall be sent to all Members not less than 30 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Association votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

8. Assessments/Charges for Services to Less Than All Lots. The Association may, at any time from time to time, provide services to less than all of the Lot(s) in the Community. If such services are not funded by the Association's annual or special assessments, then such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service is to be provided, with such agreement to include a statement and terms for payment of the costs, fees and expenses that are to be paid by such Owners for such services, and which amounts shall include overhead expenses of the Association. Services which may be provided by the Association pursuant to this Section (and which are not to be provided to all of the Lots) may include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to such Lot(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners.

9. Lien for Assessments.

(a) The Association has a statutory lien on a Lot for any amount levied against that Lot or fines imposed against its Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in Weld County, Colorado, a written notice setting for the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments become due.

(d) Unless the Declaration otherwise provides, if two (2) or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

10. Priority of Association Lien.

(a) A lien under this Article IV is prior to all other liens and encumbrances on a Lot except:

(i) Liens and encumbrances recorded before the recordation of the Declaration;

(ii) A Security Interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent; and

(iii) Liens for real estate taxes and other governmental assessments or charges against the Lot.

(b) A lien under this Section is also prior to the Security Interests described in the preceding subsection (a)(ii) to the extent of an amount equal to the annual assessments based on a periodic budget adopted by the Association as provided above, which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this Section of an action or non-judicial foreclosure either to enforce or extinguish the lien.

(c) This Section does not affect the priority of mechanics' or materialmens' liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S. 1973, as amended, or to the provisions of Section 15-11-201, C.R.S. 1973, as amended.

(d) The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Association lien.

11. Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or a Security Interest Holder or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the

Lot for unpaid assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

12. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors, and the Board of Directors may charge a late charge thereon in an amount not in excess of Fifty and No/100 Dollars (\$50.00) per month. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include interest and late charges, as above provided. No Owner may be exempt from liability for payment of any assessment by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Lot against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

13. Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Association expenses and any prepayment of or provision for reserves shall be retained by the Association and need not be paid to the Owners or credited to them to reduce their future assessments.

14. Working Capital Fund. The Association shall require the first Owner (other than Declarant) of any Lot who purchases that Lot from Declarant to make a non-refundable contribution to the Association in an amount equal to Two Hundred and 00/100 Dollars (\$200.00) (regardless of whether or not annual assessments have commenced as provided in Section 5 of this Article). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall be for the use and benefit of the Association, including, without limitation, to meet expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Lot, an Owner shall not be entitled to a reimbursement by the Association of any portion of his payment to the Working Capital Fund.

15. Other Charges. The Association may levy and assess charges, costs and fees for matters such as, but not limited to, the following, in such reasonable amount(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement of charges that are made to the Association by its managing agent or other Person(s): copying of Association or other documents; return checks; telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Lot; notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.



16. Assessments for Misconduct. If any Association expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner and his Lot.

ARTICLE V.
DESIGN REVIEW COMMITTEE

1. Composition of Committee. The Design Review Committee shall consist of two (2) or more persons appointed by the Board of Directors; provided, however, that until twenty (20) years after recording of this Declaration or until all of the Lots that May Be Included have been conveyed to the first Owner thereof (other than the Declarant), whichever occurs first, the Declarant may appoint the Design Review Committee. The power to "appoint" as provided herein, shall include without limitation the power to: constitute the initial membership of the Design Review Committee; appoint member(s) to the Design Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Design Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

2. Requirement for Approval by Governmental Entities. In addition to the required approvals by the Design Review Committee, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permits by the City or County in which the Lot is located, as applicable, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement.

3. Review by Committee. No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Design Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Design Review Committee approval during the Declarant's development of, construction on, or sales of any Lot or residence on any Lot. The Design Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and that such Improvements are consistent with the Design Guidelines referenced in Section 5 of this Article. In its review of such plans, specifications and other materials and information, the Design Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the assessment against the Lot for which the request for Design Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

4. Procedures. The Design Review Committee shall decide each request for approval within forty-five (45) days after the complete submission of all plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Design Review Committee fails to decide any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then approval shall not be required and this Article shall be deemed to have been fully complied with.

5. Design Guidelines. The Design Review Committee, with the advice of the Board of Directors, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce, design guidelines ("Design Guidelines") for the Community, or other design or architectural guidelines, to interpret and implement the provisions of this Article and the Declaration, including, without limitation, those relating to procedures, materials to be submitted, specifications of items, types or kinds of Improvements, and other matters. The Design Guidelines may contain blanket approvals, interpretations, or restrictions on Improvements. By way of example, and not by way of limitation, the Design Guidelines may state that a certain type of screen door will be acceptable and will not require approval, or the Design Guidelines may state that only one type of fence is acceptable and no other type will be approved by the Committee. Any architectural or design guidelines so adopted by the Committee shall be consistent, and not in conflict, with this Article and the Declaration.

6. Vote and Appeal. A majority vote of the Design Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Design Review Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Committee, upon a written request therefor submitted to the Committee within thirty (30) days after such decision by the Committee's representative.

7. Prosecution of Work After Approval. After approval of a request for architectural approval, the work to complete the same shall be accomplished as promptly and diligently as possible and in complete conformity with the approval. Failure to complete the proposed Improvement within (1) year after the date of approval of the application therefor, or to complete the Improvement in accordance with the description and materials furnished to the committee and the conditions imposed with such approval, shall constitute a violation of this Article; provided, however, the Design Review Committee may grant extensions of time for completion of any proposed Improvements.

8. Inspection of Work. The Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement prior to, during or after completion of the same, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with this Article and any approval therefor granted by the Committee. However, unless the Committee expressly states, in a written document, that an Improvement is being completed or has been completed in conformance with the approval therefor, no such conformance shall be implied from inspection of the Improvement either during the work or after completion thereof.

9. Records. The Design Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

10. Liability. Neither the Design Review Committee, nor any members thereof, shall be liable in equity or damages to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within their jurisdiction hereunder.

11. Variance. The Design Review Committee, in its sole discretion, may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article X hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

12. Waivers; No Precedent. The approval or consent of the Design Review Committee or any representative thereof to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee or any representative thereof as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

ARTICLE VI. INSURANCE

1. Insurance. The Association shall maintain insurance in connection with the Common Elements. The Association shall maintain insurance as required by applicable law or applicable regulation, including the Act, which insurance shall include, without limitation, property insurance and commercial general liability insurance. In addition, the Association may maintain insurance against such other risks as the Board of Directors may elect from time to time, including, but not limited to, personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association and may maintain insurance on such other property as the Board of Directors may elect in its discretion from time to time.

2. General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard noncontributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled, materially altered or not renewed until thirty (30) days' prior written notice thereof is given to the insured and each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the

Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation by the insurer against any Owner or member of his household. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association. No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void any policy or be a condition to recovery under the policy.

3. Deductibles. The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. Any loss to any Lot, to the Common Elements or to any other property for which the Association has insurance may be borne by one or more Persons, and/or may be borne by the Association, and/or may be shared by any such Persons and the Association, as determined by the Board of Directors in its discretion. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question and the Association may collect the amount from said Owner(s) in the same manner as any assessment.

4. Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Section 1 of this Article must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a Security Interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 1 of Article VII of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and holders of Security Interests are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored or the Community is terminated.

5. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any assessment.

6. Acceptable Insurance Companies. Each insurance policy purchased by the Association must be written by an insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board of Directors,

policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

7. Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on all Improvements located on a Lot, as well as on all the furnishings and personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot. Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Lot other than the purchase by the initial Owner from the Declarant.

ARTICLE VII. DAMAGE OR DESTRUCTION

1. Damage or Destruction.

(a) Any portion of the Community for which casualty insurance is required under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(i) The Community is terminated;

(ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(iii) Sixty-seven percent (67%) of the Owners, including every Owner of a Lot that will not be rebuilt, vote not to rebuild; or

(iv) Prior to conveyance of any Lot to a Person other than the Declarant, a Security Interest Holder of a Security Interest on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves is an Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Lots. If the Owners vote not to rebuild any Lot, that Lot's Allocated Interests are automatically reallocated upon the vote as if the Lot had been condemned as provided in Article XII, Section 14 hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

2. Lots. Any damage to or destruction of any structure located on a Lot shall be promptly repaired and reconstructed by the Owner thereof using insurance proceeds and personal



funds of such Owner. "Repaired and reconstructed", as used in this Section 2, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. If the Owner of a Lot does not commence repair or reconstruction within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Design Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Article VIII, Section 3 hereof, enter upon the Lot and complete such repair or reconstruction.

ARTICLE VIII.
EXTERIOR MAINTENANCE

1. General.

(a) Maintenance, repair and replacement of all Common Elements, Improvements located thereon, and of all drainage structures and facilities, detention ponds, and other public Improvements required by the local governmental entity as a condition of development of the Community, or any part thereof, shall be the responsibility of the Association unless such Improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair and replacement or unless such maintenance, repair and replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Further, the Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated property and Improvements located thereon. The costs, expenses, fees, and other amounts to be expended for the maintenance and repair provided for in this subsection (a) shall, subject to Section 4 of this Article, be collected by the Association as assessments and paid as Association expenses.

(b) Without limiting the generality of subsection (a) above, the Association shall provide maintenance, repair and replacement of; (i) the main lines (not including the service connector line(s) to any of the Lots) of the underdrain system in the Community, whether such main lines are located on Lots, Common Elements, and/or on publicly-dedicated property; and/or (ii) the fences along and adjacent to Outlots A, B, C, D, E, F, G and H (whether such fences are located on a Lot, Common Elements, and/or publicly-dedicated Outlots). Additionally, the Association shall maintain any water transportation pipes installed by the Declarant or the Association in that portion of Berger Ditch which is on or adjacent to Lots 20 through 28, inclusive, in Block 7, or in Outlot C. The costs to be expended for such maintenance, repair and replacement shall, subject to Section 4 of this Article, be collected by the Association as assessments and paid as expenses of the Association.

(c) Except as provided in the preceding subsections (a) and (b), the maintenance, repair and replacement of each Lot, and the Improvements thereon (including without limitation, any service connector line(s) for the underdrain system located on such Lot), shall be performed by the Owner thereof at such Owner's sole costs and expense. However, the foregoing is subject to the provisions of Section 4 of this Article.

2. Maintenance of and Non-Interference with Grade and Drainage. Each Owner shall maintain the grading upon his Lot, and the Association shall maintain the grading upon such real property which the Association has a duty to maintain, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Lot or other real property which an Owner or the Association has a duty to maintain, then the party responsible for the maintenance of such real property shall submit a plan to the Design Review Committee for its review, in accordance with the provisions of Article V of this Declaration. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot is completed.

3. Association's Right to Perform Landscaping, Maintenance, Repair, and/or Reconstruction. In the event any Owner shall fail to perform his landscaping, maintenance, repair and/or reconstruction obligations in a manner satisfactory to the Board of Directors of the Association, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such landscaping, maintenance, repair and/or reconstruction. The cost of such landscaping, maintenance, repair and/or reconstruction shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to "assessments" as provided in Article IV hereof, including, without limitation, interest, late charges and lien rights.

4. Owner's Misconduct. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for landscaping, maintenance, repair and/or reconstruction of any Common Elements, any Lot, or any Improvements located thereon, is caused by the misconduct of any Owner, or by the misconduct of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such landscaping, maintenance, repair and/or reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such landscaping, maintenance, repair and/or reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the misconduct of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE IX.
EASEMENTS

1. Other Easements. In addition to any other easements which may be granted or reserved elsewhere in this Declaration, the following sections describe easements to which the Community is or may be subject.

2. Access Easement. Each Owner shall afford to the Association and the other Owners, and to their agents and employees, access through such Owner's Lot reasonably necessary for maintenance, repair and replacement of any Common Elements and any other property or Improvements maintained, repaired or replaced by the Association or the other Owner(s). If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Lot through which access is taken, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot; except that no such notice shall be required in connection with any exterior, non-intrusive maintenance; and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants of each affected Lot shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to such easements as provided for in this Section.

3. Easement for Encroachments. To the extent that any Lot or Common Element encroaches on any other Lot or Common Element, a valid easement for the encroachment exists.

4. Easements for Drainage and Utilities. Easements for the installation and maintenance of utilities, drainage facilities, public or private improvements and access thereto are reserved as shown on the recorded plats affecting the Lots and any amendments to such plats or as established by any other instrument of record. Declarant hereby reserves, to itself and to the Association, easements for drainage or drainage facilities across the five (5) rear and five (5) side feet of each Lot. As more fully provided in Article VIII, Section 2, no Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each five foot rear and side yard drainage easements, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time.

5. Easement for Unannexed Property. The Declarant hereby reserves, for the use and benefit of the property described on Exhibit D attached hereto and incorporated herein by this reference (said area, plus the 10% referred to in Article XII, 5(a) hereof, is herein referred to as the "Annexable Area"), a non-exclusive, perpetual easement and right-of-way for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Elements, now or hereafter constructed, erected,

installed or located in or on the Community, and on, over, across and under the Common Elements for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services, to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community pursuant to Article XII, Section 5 hereof. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE X. RESTRICTIONS

1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots.

2. Restrictions Imposed. This Community is subject to the recorded easements, licenses and other matters listed on Exhibit C, attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

3. Residential Use. Subject to Article XII, Section 8, Lots shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Lot for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, the amount of traffic or the number of persons in the community is not increased as a result of such usage, and no unreasonable inconvenience to other residents of the Lots is created thereby.

4. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of any of the Lots. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action or actions as it deems appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be

subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article IV hereof.

5. Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed (except as otherwise provided in Section 6(h) of this Article), or outbuilding shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a street or from any other Lot.

6. Miscellaneous Improvements.

(a) No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent" or security sign(s) of not more than a total of five (5) square feet. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Lots, or otherwise in connection with development of or construction on the Lots, shall be permissible.

(b) No wood piles or storage areas shall be so located on any Lot as to be visible from a street or from the ground level of any other Lot.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Design Review Committee.

(d) Except as may otherwise be permitted by the Design Review Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction upon the Lots; and provided further, however, that the requirements of this subsection (d) shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. As to "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996, as amended, the Association shall be empowered to adopt rules and regulations governing the types of "antenna" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

(e) No fences shall be permitted except with the prior, written approval of the Design Review Committee and except such fences as may be constructed, installed or located by the Declarant in its development of, or construction of Improvements in, the Community. None of the fences which were installed by the Declarant and are to be maintained by the Association shall be modified in any way without the prior approval of the Committee.

(f) No wind generators, clotheslines, drying yards, or service yards, shall be constructed, installed, erected or maintained on any Lot.

(g) Dog runs shall be permitted only with the prior approval of the Design Review Committee.

(h) Notwithstanding Section 5 of this Article, permanent storage sheds shall be permitted but only with the prior approval of the Design Review Committee.

7. Vehicular Parking, Storage and Repairs.

(a) No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (excluding pickup trucks that are 1 ton or less), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored on the Lots unless such parking or storage is entirely within the garage area of any Lot or will be suitably screened from view by a fence in accordance with the requirements, and prior written approval of, the Design Review Committee, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

(b) Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of forty-eight (48) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently registered and licensed; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

(c) In the event the Association shall determine that a vehicle is parked or stored on any Lot in violation of subsections (a) or (b) of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

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

8. Nuisances. No nuisance shall be permitted in the Community nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs the resident of any Lot or which interferes with the peaceful enjoyment or possession and proper use of any Lot, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Community; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, or with any Owner's ingress and egress to or from his Lot and a public way. No noxious or offensive activity shall be carried on in the Community nor shall anything be done or placed in the Community which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no immoral, improper, offensive or unlawful use shall be permitted in the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community, or any portion thereof, shall be observed.

9. No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted on any Lot or within Improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace, or except such campfires or picnic fires on property which may be designated for such use by the Association. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

10. No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others. Any exterior lighting installed or maintained on a Lot or Improvements(s) shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby property.

11. Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot nor shall any such items be deposited on a street, unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

12. Lots to Be Maintained. Each Lot shall at all times be kept in a clean, sightly and wholesome condition by the Owner(s) of the Lot. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Section 11 of this Article.

13. Leases. The term "lease", as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Lot, or any portion thereof, under the following conditions:

(a) All leases shall be in writing; and

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

14. Landscaping. Within the time frame hereinafter provided, the Owner (other than Declarant) of each Lot shall install landscaping on all unlandscaped portions of such Lot which are not covered by a building or other Improvements. The Owner shall thereafter maintain all landscaping on his Lot in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping. The Owner of each Lot (other than Declarant) shall completely landscape such Lot, as aforesaid, within twelve (12) months after conveyance of such Lot to the first Owner thereof (other than the Declarant). Landscaping plans and other required documents shall be professionally done in accordance with this Declaration and applicable Design Guidelines (as defined in Article V), and shall be submitted to the Design Review Committee for review and approval, and such approval shall be obtained prior to the installation of any landscaping by or for such Owner. If any Owner fails or refuses to install or maintain landscaping, as hereinabove provided, then the Association may, at the direction of the Board of Directors, enter upon such Lot and install or maintain landscaping on such Lot and the Owner thereof shall be obligated to pay for the same, in accordance with and subject to the provisions of Article VIII, Section 3 hereof.

ARTICLE XI.

PROPERTY RIGHTS IN THE COMMON ELEMENTS

1. Owners' Easements. Subject to this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Lots and for use for all other purposes, in and to the Common Elements, and such easement shall be appurtenant to and shall pass with the title to every Lot.

2. Extent of Owners' Easements. The rights and easements created hereby shall be subject to the following rights of the Association, which rights are hereby granted:

(a) The right of the Association to borrow money for the purpose of improving the Common Elements and to mortgage said property as security for any such loan;

provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest except in accordance with the Act; and

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

(c) The right of the Association to promulgate and publish rules and regulations, as more fully provided in Article III hereof, with which each Member shall strictly comply; and

(d) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Association Bylaws or the rules and regulations of the Association; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners, provided that no such dedication or transfer shall be effective unless the same is done in accordance with the Act. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection (e); and

(f) The right of the Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other persons, their family members, guests and invitees, for any purpose(s) the Board may deem to be useful, beneficial or otherwise appropriate; and

(g) The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

3. Use of Common Elements by Declarant. An easement is hereby granted to the Declarant on, over and through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights. Subject to the immediately preceding sentence:

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

(b) No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements to all Members, nor shall any Owner place any structure whatsoever upon the Common Elements.

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

(d) No use shall ever be made of the Common Elements which will deny ingress and egress to those Owners having access to their Lots only over Common Elements, and the right of ingress and egress to said Lots is hereby expressly granted.

4. Delegation of Use. Any Owner may delegate his rights of use of and access over the Common Elements to the members of his family, his tenants, or contract purchasers who reside on his Lot.

5. Payment of Taxes or Insurance by Security Interest Holders. Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may be or have become a lien against the Common Elements and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Elements, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

6. Conveyance or Encumbrance of Common Elements. Portions of the Common Elements may be conveyed or subject to a Security Interest by the Association only in accordance with the Act or this Declaration.

7. Designation of Common Elements. Declarant in recording this Declaration may have designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Declaration and other applicable documents. The Common Elements owned by the Association, if any, is not dedicated for use by the general public.

8. Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to all Common Elements, including Improvements thereon, as well as personal property, equipment, and easements, if any, transferred to the Association by the Declarant, together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association (as long as such does not require the Association to perform in a manner that is inconsistent with the duties and functions of the Association as provided in this Declaration or the Articles of Incorporation or Bylaws of the Association). As of the date of recording of this Declaration, interests which are planned to be transferred by the Declarant to the Association are planned to consist only of fee simple title to Common Elements to be located in the property described on the attached Exhibit A and/or the property which is annexable to this Declaration as provided in Article XII, Section 5 hereof, and/or easements.

ARTICLE XII. GENERAL PROVISIONS

1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be

by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the aforesaid documents. For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of the Act or of the Declaration, Articles of Incorporation, Bylaws or rules and regulations of the Association, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

2. Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

3. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

4. Conflict with Act. In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act, the terms or provisions of the Act shall control and govern. In case of any such conflict or inconsistency, the applicable terms and provisions contained in this Declaration shall, to the extent possible, be construed in accordance with the Act, and any conflict with or violation of the Act by any terms or provisions of this Declaration shall not affect, void, or render unenforceable any other term or provision of this Declaration (which shall be in full force and effect in accordance with their terms).

5. Annexation; Withdrawal.

(a) Additional property may be annexed to this Declaration with the consent of two-thirds of the Members. Notwithstanding the foregoing, the Declarant may annex to this Declaration additional property within the lands described on Exhibit D, without consent of any other Owners, Security Interest Holders, or any other Person; however, such annexation is subject to a determination by FHA or VA (if the Declarant desires to attempt to obtain VA or FHA approval of the property being annexed) that the annexation is in accord with the general plan approved by them and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Each such annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the Clerk and Recorder of Weld County, Colorado, which document shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land, shall identify who is the owner(s) of the Lots thereby created, shall assign an identifying number to each new Lot, shall describe any Common Elements within the property being annexed, shall reallocate the Allocated Interests among all Lots, and may include such other provisions as the Declarant deems

appropriate. Other provisions that may be included in an Annexation of Additional Land include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions that apply or will apply to some or all of the property that is thereby being annexed to this Declaration. Except as otherwise specifically stated in the Annexation of Additional Land, all provisions of this Declaration, including, but not limited to, those provisions regarding obligations to pay assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon the effective date of the Annexation of Additional Land (which shall constitute the date of recording of the Annexation of Additional Land unless otherwise stated therein). In addition to the foregoing, the Declarant (without the approval or consent of any other Person) may amend this Declaration at any time, until termination of the right to annex, as provided below, in order to add additional real estate to the Community from such locations as the Declarant may elect in its sole discretion, so long as the total additional real estate so annexed to the Community pursuant to this sentence, and not described in the attached Exhibit D, does not exceed ten percent (10%) of the total area described in the attached Exhibits A and D. The Declarant's right to annex the Annexable Area without approval shall terminate automatically as provided in Article I, Section 21 of this Declaration.

(b) Pursuant to applicable documents, the purchase of the property described on the attached Exhibit D, or any portion thereof ("Parcel"), has agreed that such Parcel will be governed by this Declaration. The Declarant therefore reserves the right to annex the Parcel to the Declaration without further authorization from the purchaser of such Parcel, even if such annexation occurs subsequent to conveyance of the Parcel.

(c) The property which is described on the attached Exhibit A and each portion of the Community which is annexed to this Declaration as provided in the preceding subsection (a), shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with the Act. However, the Declarant's right to withdraw each such portion of the Community shall expire and terminate, as to each portion of the Community which is subject to this right of withdrawal, upon the first conveyance of any Lot in such portion of the Community to any Person other than the Declarant but in any event, no later than the automatic termination provided in Article I, Section 21 of this Declaration.

6. Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation", for the purpose of this Section, is a violation of not more than four (4) feet beyond the required setback lines or Lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

7. Subdivision or Replatting of Lots. The Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Declarant in the Community. Without limiting the

generality of the foregoing, the Declarant reserves the right to move any Lot lines(s) on Lot(s) owned by the Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed; provided that such Lot line adjustments, if any, shall not change the number of Lots in the Community at the time each such Lot line adjustment is approved by the applicable governmental entity. The rights provided for in this Section shall terminate automatically as provided in Article I, Section 21 of this Declaration.

8. Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors to perform such reasonable activities, and to maintain upon portions of the Lots and the Common Elements such facilities as Declarant deems reasonably necessary or incidental to the development, construction and sale of Lots, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, locating, maintaining and relocating management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its reasonable discretion from time to time. Further, nothing contained in this Declaration shall limit the rights of Declarant or require the Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements; (b) to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office in connection with the development, construction or sale of any property; and/or (c) to require Declarant to seek or obtain any approvals under this Declaration for any such activity. Any real estate used as a sales office, management office, or a model, shall be a Lot.

9. Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided in this Declaration, and except as provided below, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Owners holding more than fifty percent (50%) of the Allocated Interests.

(b) Every amendment, if any, to the Declaration must be done in compliance with the Act.

(c) Notwithstanding anything to the contrary contained in this Declaration, the Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirements, standards, or guidelines of any of the Agencies or of recognized secondary mortgage markets. Such right of amendment shall expire and terminate as provided in Article I, Section 21 hereof.

(d) Notwithstanding anything to the contrary contained in this Declaration, this Declaration, or any map or plat, may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner,

any Security Interest Holder, or any other Person, in order to correct clerical, typographical, or technical errors. Such right of amendment shall expire and terminate as provided in Article I, Section 21 hereof.

(e) Except as to amendments which may be made by the Declarant, amendments to the Declaration may be prepared, executed, recorded, and certified by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Such certification shall, in the case of an amendment requiring the approval of Owners, certify that the Association has received the requisite approvals. Amendments to this Declaration which may be made by the Declarant pursuant to this Declaration or as permitted by the Act, may be signed by the Declarant and shall require no other signatory.

10. Registration of Mailing Address. Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, whether by the Association or any Owner, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such person or entity at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the Period of Declarant Control shall be sent by registered or certified mail, postage prepaid, c/o Melody Homes, Inc., 11031 Sheridan Blvd., Westminster, Colorado 80020, unless such address is changed by the Association during the Period of Declarant Control; subsequent to termination of the Period of Declarant Control, the Association shall notify the Owners of a different address for notices.

11. FHA or VA Approval. During the Period of Declarant Control, the following actions shall require the prior approval of FHA or VA if, at the time any such action is taken, FHA has insurance or VA has a guarantee(s) on one or more first Security Interests: amendment of this Declaration; termination of this Community; or merger or consolidation of the Association.

12. Termination of Community. The Community may be terminated only in accordance with the Act.

13. Transfer of Special Declarant Rights. A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Community is located, and in accordance with the Act.

14. Eminent Domain. The taking by eminent domain of a Lot(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation the Act.

15. Limitation on Liability. The Association, the Board of Directors, the Design Review Committee, Declarant, and the officers, directors, members, partners, agents and employees

of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice.

16. No Representations, Guarantees or Warranties. No representations, guarantees or warranties, of any kind, express or implied, shall be deemed to have been given or made by Declarant, the Association, the Board of Directors, the Design Review Committee, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement thereon, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, 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 writing.

17. Disclaimer Regarding Safety. DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

18. Headings. The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

19. Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

20. Run with Land; Binding Upon Successors. The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Community and all real property and Improvements which are now or hereafter become a part of the Community. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of, the Declarant, the Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF FOX RUN

(Community)

All of the following property located in Fox Run Subdivision Filing No. 1, according to the plat thereof recorded on May 3, 1999, at Reception No. 2691171, in the office of the Clerk and Recorder of Weld County, Colorado, as amended and supplemented from time to time:

Lots 1 through 7, inclusive, Block 1;
Lots 1 through 6, inclusive, Block 2;
Lots 1 through 26, inclusive, Block 3;
Lots 1 through 12, inclusive, Block 4;
Lots 1 through 6, inclusive, Block 7; and
Tracts E, F, and H.

EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF FOX RUN

(Common Elements)

Tract E, F, and H as shown on the plat of Fox Run Subdivision Filing No. 1, recorded May 3, 1999, at Reception No. 2691171, in the office of the Clerk and Recorder of Weld County, Colorado, as amended and supplemented from time to time.

ASSIGNMENTS THEREOF OR INTERESTS THEREIN (PRIMARY TERM: 5 YEARS).

11. TERMS, CONDITIONS AND PROVISIONS OF MEMORANDUM OF AGREEMENT RECORDED OCTOBER 01, 1985 UNDER RECEPTION NO. 2026818 IN BOOK 1086.
12. TERMS, CONDITIONS AND PROVISIONS OF ANNEXATION AGREEMENT RECORDED OCTOBER 17, 1995 UNDER RECEPTION NO. 2459858 IN BOOK 1516.
13. TERMS, CONDITIONS AND PROVISIONS OF SUBDIVISION IMPROVEMENTS AGREEMENT RECORDED FEBRUARY 29, 1996 UNDER RECEPTION NO. 2478442 IN BOOK 1534.
14. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF EASEMENT RECORDED APRIL 27, 1998 UNDER RECEPTION NO. 2608680.
15. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED APRIL 23, 1999 AT RECEPTION NO. 2688988.
16. TERMS, CONDITIONS AND PROVISIONS OF SUBDIVISION AGREEMENT RECORDED MAY 03, 1999 AT RECEPTION NO. 2691170.
17. EASEMENTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS ON THE PLAT OF FOX RUN SUBDIVISION FILING NO. 1, RECORDED MAY 3, 1999, UNDER RECEPTION NO. 2691171.

EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF FOX RUN

(Annexable Area)

All of the property shown on the plat of Fox Run Subdivision Filing No. 1, recorded May 3, 1999, at Reception No. 2691171, in the office of the Clerk and Recorder of Weld County, Colorado, as amended and supplemented from time to time;

AND

All other property located in the NW ¼ of Section 24, Township 2 North, Range 68 West of the 6th principal meridian,

EXCEPTING AND EXCLUDING the property described on Exhibit A to this Declaration.