

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
OF SOUTH POINTE

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Exhibit A - The Property
Exhibit B - Common Elements
Exhibit C - Title Exceptions
Exhibit D - Annexable Property

DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
SOUTH POINTE

THIS DECLARATION is made and entered into by COMMUNITY DEVELOPMENT GROUP OF LAFAYETTE LLC, a Colorado limited liability company ("Declarant"), with the consent of Kent's Partnership, Ltd., a Colorado limited partnership ("KPL").

WITNESSETH:

WHEREAS, KPL is the owner of the real property situated in the County of Boulder, State of Colorado, which is described in Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant and KPL desire to subject and place upon the property described on Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvement, sale and ownership of said property, to the end that a harmonious and attractive development of said property may be accomplished and the health, comfort, safety, convenience and general welfare of owners in said property, or any portion thereof, may be promoted and safeguarded.

NOW, THEREFORE, Declarant and KPL hereby declare that all of the real property described in 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, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

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

2. "Agencies" shall mean and collectively refer to the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage

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Corporation (FHLMC), the Department of Housing and Urban Development (HUD), 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 Common Expense Liability and votes in the Association allocated to each Unit. The Allocated Interest for each Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units then within the Common Interest Community; provided that the Allocated Interest for each Unit is subject to decrease with the annexation of additional property to this Common Interest Community as provided in Article XIII, Section 4 hereof.

4. "Architectural Review Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

5. "Association" means South Pointe Homeowners Association, Inc., a unit owners' association organized under section 38-33.3-301 of the Act.

6. "Builder" means any Member other than Declarant who acquires (or has acquired prior to annexation to this Declaration) one or more Units for the purpose of constructing a residence thereon, and who is designated as a Builder by Declarant in its sole discretion from time to time (including the right to withdraw such designation), with such designation to be made by a written instrument duly recorded in the office of the Clerk and Recorder of the County of Boulder, Colorado.

7. "Common Elements" means any real estate owned, leased or maintained by the Association other than a Unit. The Common Elements initially owned, leased or maintained by the Association upon recordation of this Declaration, are described on Exhibit B attached hereto and incorporated herein by this reference.

8. "Common Expense Liability" means the liability for Common Expenses allocated to each Unit and which Common Expense Liability for each Unit shall be equal to the Allocated Interests of such Unit.

9. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

10. "Common Interest Community" means real estate described in this Declaration, as supplemented and amended from

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time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in this Declaration.

11. "Declarant" means Community Development Group of Lafayette LLC, and any other Person or group of Persons acting in concert, to whom the 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 Unit not previously disposed of to a purchaser; or

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

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

13. "Development Rights" means any right or combination of rights reserved by a Declarant in this Declaration to add real estate to this Common Interest Community and to create Units or Common Elements within this Common Interest Community in connection with the addition of such real estate.

14. "Executive Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

15. "First Security Interest" means a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

16. "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, signs, exterior

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tanks, and exterior air conditioning, cooling, heating and water softening equipment.

17. "Member" means each Unit Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

18. "Period of Declarant Control" means a length of time expiring ten (10) years after initial recording of this Declaration in the county in which the Common Interest Community is located; 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 Units that May Be Created to Unit Owners other than a Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two (2) years after any right to add new Units to the Declaration was last exercised.

19. "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.

20. "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 leases 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 12 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 each county in which any portion of the Common Interest Community is located, show the Administrator as having the record title to the Unit.

21. "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 12 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

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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 each county in which any portion of the Common Interest Community is located, show the said Administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

22. "Special Declarant Rights" means rights reserved for the benefit of a Declarant to perform the following acts: to build and complete Improvements on the Property; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the Common Interest Community and sale of Units; to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community or within real estate which may be added to the Common Interest Community; to make the Common Interest Community subject to a master association; 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 Executive Board member during any Period of Declarant Control. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Common Interest Community. 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 Unit by Declarant to a Unit Owner other than Declarant; (b) ten (10) years from the date of recordation of this Declaration, except with respect to the appointment of officers and directors which may only be exercised in accordance with Article III hereof.

23. "Unit" 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, 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.

24. "Unit Owner" means the Declarant or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation.

25. "Units that May Be Created" means 595 units, which shall be the maximum number of Units that may be subject to this Declaration, including those Units which may be included if all of the property provided for in Article XIII, Section 4 hereof is annexed to this Declaration. However, the aforesaid number of Units that May be Created is not a representation as to the actual

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number of Units that may be included or constructed in the Common Interest Community.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS

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

2. One Class of Membership. The Association shall have one class of voting membership. Each Unit Owner shall be entitled to one (1) vote for each Unit owned in accordance with the Allocated Interest attributable to each Unit, except that no votes allocated to a Unit 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 Units 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 Executive Board, and may remove all officers and members of the Executive Board which have been appointed by such Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE III
EXECUTIVE BOARD MEMBERS AND OFFICERS

1. Authority of Executive Board. Except as provided in this Declaration or the Association Bylaws, the Executive Board may act in all instances on behalf of the Association.

2. Election of Unit Owners During Period of Declarant Control. No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that May Be Created to Unit Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that May Be Created to Unit Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the

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members of the Executive Board must be elected by Unit Owners other than the Declarant.

3. Authority of Declarant. 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 may remove all officers and directors of the Executive Board appointed by it.

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

5. Delivery of Documents by Declarant. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including, without limitation, the following items:

(a) The original or a certified copy of the recorded Declaration, as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends;

(c) The Association funds or control thereof;

(d) All of the tangible personal property that has been represented by the Declarant to be the property of the Association and has been used exclusively in the operation and enjoyment of the Common Elements, and inventories of these properties;

(e) A copy, for the nonexclusive use by the Association, of the plans and specifications used in the construction of the Improvements in the Common Interest Community;

(f) All insurance policies then in force in which the Unit Owners, the Association, or its directors and officers are named as insured persons;

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(g) Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one (1) year prior to the date on which Unit Owners other than the Declarant took control of the Association;

(h) Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective;

(i) A roster of Unit Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(j) Employment contracts in which the Association is a contracting party; and

(k) Any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

6. Budget. Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) days nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the Unit Owners casting at least sixty-seven percent (67%) of the Association votes reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Unit Owners must be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation for Assessments. Each Unit Owner, 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 annual and special assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall

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be a continuing lien upon the Unit against which each such assessment is made. The obligation for such payments by each Unit 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 Unit Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Unit. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Unit Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Unit Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessment 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 assessment lien.

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 Units, 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 an Association budget ratified by the Unit Owners with a different amount for the Common Expense assessment, as provided above, the amount of the annual Common Expense assessment against each Unit shall not exceed Twenty-five and no/100 Dollars (\$25.00) per Unit per month.

4. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Units sufficient to meet the expected needs of the Association. The Common Expense assessments 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. All Common Expenses shall be assessed against all the Units in accordance with the Allocated Interests set forth in this Declaration. If the Common Expense Liability is reallocated, Common Expense Assessments and any installment thereof

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not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

5. Date of Commencement of Annual Assessments. Until the Association makes a Common Expense assessment, the Declarant shall pay all Common Expenses. After any assessment has been made by the Association, 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 in this Declaration. 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 Executive Board 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 Unit Owner purchasing a Unit between annual due dates shall pay a pro rata share of the last payment due.

6. Special Assessments. In addition to the annual Common Expense assessments authorized in this Article, the Association, with the approval of the votes of two-thirds (2/3) of its Members voting in person or by proxy at a meeting duly called for this purpose, may levy, in any fiscal year, 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 operating deficit incurred by the Association. Any such special assessment shall be set against each Unit 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 IV. 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 60 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

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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. Lien for Assessments

(a) The Association has a statutory lien on a Unit for any assessment levied against that Unit or fines imposed against its Unit 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 Executive Board or managing agent of the Association may prepare, and record in the county in which the applicable Unit is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Unit Owner of the Unit, and a description of the Unit. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Unit 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.

9. Priority of Association Lien. A lien under this Article IV is prior to all other liens and encumbrances on a Unit except:

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

(b) A First Security Interest on the Unit, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and

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

10. Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from the Unit Owner prior to or during the

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pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's common expense assessments.

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

12. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof shall be subject to a monthly late charge in a reasonable amount not to exceed \$5.00 per month (provided that the Executive Board may at any time, from time to time, increase the monthly late charge to an amount that the Executive Board then determines to be reasonable). Said late charge may be assessed by the Executive Board on a monthly basis for each month, or portion thereof, during which any assessment(s) or other amount(s) owed to the Association remain unpaid. The Association may bring an action at law against the Unit Owner personally obligated to pay the same, or foreclose the lien against such Unit Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include late charge(s) and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Unit Owner may be exempt from liability for payment of the common expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or 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 Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as unallocated reserves and need not be paid to the Unit Owners in proportion to their Common Expense Liability or credited to them to reduce their future Common Expense Assessments.

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14. Working Capital Fund. The Association, Declarant or a Builder shall require the first Unit Owner of any Unit who purchases that Unit from Declarant or a Builder to make a non-refundable contribution to the Association in the amount of Fifty and no/100 Dollars (\$50.00) (regardless of whether or not 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 or a Builder of each Unit and shall, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve a Unit Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, a Unit Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

ARTICLE V
ARCHITECTURAL REVIEW COMMITTEE

1. Composition of Committee. The Architectural Review Committee shall consist of two (2) or more persons appointed by the Executive Board; provided, however, that until all of the Units have been conveyed to the first Unit Owner thereof (other than Declarant or a Builder), Declarant shall appoint the Architectural Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural 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. Review by Committee. No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Unit 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, fencing, 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 Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of any Unit or residences on any Unit. The Architectural Review Committee shall exercise its reasonable

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judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the Architectural 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 Common Expense assessment against the Unit for which the request for Architectural 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.

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

4. Vote and Appeal. A majority vote of the Architectural 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 Architectural Review Committee approves or denies a request for architectural approval, any Unit Owner shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such approval or denial by the Committee's representative.

5. Records. The Architectural 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.

6. Liability. The Architectural Review Committee and the members thereof, as well as any representative of the Committee appointed to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any Unit Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

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7. Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article IX 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.

8. Waivers. The approval or consent of the Architectural Review Committee, any representative thereof, or the Executive Board, 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, any representative thereof, or the Executive Board, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

ARTICLE VI INSURANCE

1. Insurance. The Association may maintain insurance in connection with parcels of real property which the Association has an obligation to maintain, repair and/or reconstruct. The Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

(a) A policy of property insurance covering all parcels of real property for which the Association has the duty to repair and/or reconstruct, except for land, foundation, excavation and other matters normally excluded from coverage, in an amount not less than necessary to comply with any co-insurance percentage stipulated in the insurance policy. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and include an "Inflation Guard Endorsement" and an "Agreed Amount Endorsement." Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

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(1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

(b) A comprehensive policy of public liability insurance covering parcels of real property which the Association has the obligation to maintain, repair and/or reconstruct, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of all parcels of real property for which the Association has the obligation to maintain, repair and/or reconstruct, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles. Such coverage may also include, if applicable, comprehensive automobile liability insurance, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and such other risks as shall customarily be required by private institutional mortgage investors with respect to projects similar in construction, location and use. Such insurance shall insure the Executive Board, Association, any managing agent, and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and member of the Executive Board. The Unit Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements or other property insured by the Association from time to time. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Common Interest Community, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate assessments on the Units, plus such reserve funds as calculated from the current budget of the

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Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Common Interest Community to carry more fidelity insurance coverage than required hereinabove. Such fidelity coverage or bonds shall meet the following requirements:

(1) all such fidelity coverage or bonds shall name the Association as an obligee;

(2) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subparagraph (c).

(d) If any parcels of real property which the Association has an obligation to repair or reconstruct is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(1) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

(2) one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, 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.

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 Unit Owners, and

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each Unit Owner shall be an insured person under such policies with respect to liability arising out of any Unit Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each holder of a First Security Interest and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder of a First Security Interest, insurer or guarantor of a First 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 Unit Owner in question, to any party in interest, including Security Interest Holders of First Security Interests, upon request. Any such Unit Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of a Unit Owner where such Unit Owner is not under the control of the Association.

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. No policy of insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the face amount of the policy.

(a) To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Unit Owner a pro rata share of any deductible paid by the Association.

(b) Any loss to any Unit or to any parcels of real property for which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the parties sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Executive Board. 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 a Unit Owner. Upon said determination by the Association, any such loss or portion

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thereof may be assessed to the Unit Owner in question and the Association may collect the amount from said Unit Owner 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 Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Unit 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, Unit Owners and Security Interest Holders 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 Common Interest 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 Unit Owner and such Unit 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. A Unit 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 a Unit Owner, and the Association may collect the amount from said Unit Owner in the same manner as any assessment. Any such Unit Owner's policy shall also contain waivers of subrogation.

6. Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/VI or better, or a financial rating of Class V provided it has a general policy holder's rating of at least A, and 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 Unit Owner from collecting insurance proceeds.

7. Insurance to be Maintained by Unit Owners. An insurance policy issued to the Association does not obviate the

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need for Unit Owners to obtain insurance for their own benefit. Insurance coverage on each Unit and the Improvements thereon, and the furnishings and other items of personal property belonging to a Unit Owner, and public liability insurance coverage on each Unit, shall be the responsibility of the Unit Owner of such Unit. Unit Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Unit other than the purchase by the initial Unit Owner from the Declarant or a Builder.

8. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Executive Board to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to obtaining any policy of fire insurance or renewal thereof, the Executive Board or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or other person knowledgeable as to replacement costs, which appraiser shall reasonably estimate the full replacement value of the Improvements to the insured for the purpose of determining the amount of insurance required pursuant to the provisions of this Article. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

9. Notice of Cancellation; Other Insurance. If the insurance described in Section 1 of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Unit Owners. The Association in any event may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Unit Owners.

ARTICLE VII DAMAGE OR DESTRUCTION

1. Damage or Destruction

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

(1) The Common Interest Community is terminated;

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

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(3) Eighty percent (80%) of the Unit Owners, including every Unit Owner of a Unit that will not be rebuilt, vote not to rebuild.

(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 a Common Expense. If the entire Common Interest 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 Common Interest Community, and except to the extent that other Persons will be distributees, and the remainder of the proceeds must be distributed to all the Unit Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned as provided in Article XIII, Section 11 hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

2. Units. Any damage to or destruction of any structure located on a Unit shall, except as hereafter provided, be promptly repaired and reconstructed by the Unit Owner thereof using insurance proceeds and personal funds of such Unit 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. However, if a residence located on a Unit shall be destroyed or so damaged that the residence is no longer habitable, then the Unit Owner of such Unit shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction of the residence or demolish the same. Demolition of a residence shall include removal of any foundation slab, basement walls and floors, regrading of the Unit to a level condition, and the installation of such landscaping as may be required by the Architectural Review Committee pursuant to a plan submitted to said Committee by the Unit Owner of said Unit. If the Unit Owner of a Unit does not either commence repair, reconstruction or demolition activities within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Architectural Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Article VIII, Section 2 hereof, enter upon the Unit for the purpose of demolishing the residence and then landscape the Unit in conformance with approved plans. The cost related to such demolition and landscaping shall be the personal obligation of the Unit Owner of the Unit on which such work is performed and shall be subject to all the terms and provisions

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applicable to assessments as provided in Article IV hereof, including without limitation, interest, late charges and lien rights.

ARTICLE VIII
EXTERIOR MAINTENANCE

1. General

(a) Maintenance, repair or replacement of the Common Elements and all Improvements located thereon, and of any drainage structure or facilities, or other public Improvements required by the local governmental entity as a condition of development of the Common Interest 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 or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Without limiting the generality of the foregoing, the Association shall maintain and repair the Common Elements described on the attached Exhibit B. Further, the Association may provide such other maintenance and repair as the Executive Board deems appropriate from time to time. The costs to be expended for such maintenance and repair shall, subject to Section 4 of this Article, be collected by the Association as Common Expenses pursuant to Article IV hereof.

(b) The maintenance, repair and replacement of each Unit, including, but not limited to, the interior and exterior of the residence and the other Improvements constructed thereon, shall be the responsibility of the Unit Owner thereof. The Association and each Unit Owner, and their agents and contractors, are hereby granted an easement for the purpose of maintenance and repair of the Unit Owner's Unit on, over, across, under and through any adjacent Unit upon reasonable notice to the Unit Owner thereof. Any damage occurring to such adjacent Unit or the Improvements thereon in performing such repairs or maintenance shall be the responsibility of the party performing or authorizing such repairs or maintenance.

2. Association's Right to Repair, Maintain, Restore and Demolish. In the event any Unit Owner shall fail to perform his 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 Unit Owners by the Board, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or restoration or, pursuant to Article VII, Section 2 hereof, to demolish a residence. The cost of such maintenance, repair,

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reconstruction and/or demolition shall be the personal obligation of the Unit Owner of the Unit 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.

3. Access Easement. Each Unit Owner shall afford to the Association and the other Unit Owners, and to their agents or employees, access through such Unit Owner's Unit reasonably necessary for maintenance, repair and replacement of any Common Elements and any other property or Improvements maintained, repaired or replaced by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit through which access is taken, the Unit 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 Unit 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 during reasonable hours after reasonable notice to the Unit Owners or occupants of any affected Unit, except that in emergency situations entry upon a Unit may be made at any time provided that the Unit Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence located on a Unit shall not be subject to such easements as provided for in this Section 3.

4. Unit Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of or within any right-of-way for which the Association has an obligation to maintain, repair or reconstruct, a Unit, or any Improvements located thereon, is caused by the willful or negligent act or omission of any Unit Owner, or by the willful or negligent act or omission of any member of such Unit Owner's family or by a guest or invitee of such Unit Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Unit Owner to the extent that said Unit 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 maintenance, repair or reconstruction shall be added to the assessment to which such Unit Owner's Unit is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the negligence or willful act or omission of any Unit Owner, or any member of a Unit Owner's family or a guest or invitee of any Unit Owner, and the amount of the Unit Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Unit Owner, provided that any such determination which assigns liability

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to any Unit Owner pursuant to the terms of this Section may be appealed by said Unit Owner to a court of law.

5. Expenses for Property Subject to Development Rights. In addition to the liability that a Declarant as a Unit Owner has under the Act, the Declarant alone is liable for all expenses in connection with real estate subject to Development Rights until expiration of all Development Rights with respect to such real estate. No other Unit Owner and no other portion of the Common Interest Community is subject to a claim for payment of those expenses. Any income or proceeds from real estate subject to Development Rights inures to the Declarant.

ARTICLE IX 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 Units, all in order to enhance the value, desirability, and attractiveness of the Units and subserve and promote the sale thereof.

2. Restrictions Imposed. This Common Interest 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 Units 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 Section 4 of this Article IX, Units 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 a Unit Owner may use his Unit for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Units is created thereby.

4. Declarant's and Builder's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and a Builder, their respective employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Units such facilities as Declarant or such Builder deems reasonably necessary or incidental to the development, construction and sale of Units, and development and construction of Improvements,

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specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant determines in its reasonable discretion from time to time.

5. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Unit Owners of each Unit 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 the Units. A Unit 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.

6. 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, or outbuilding shall be placed or erected upon any Unit; 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 a Builder or a 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.

7. Miscellaneous Improvements

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

(b) No clotheslines, drying yards, service yards, wood piles or storage areas shall be so located on any Unit as to be visible from a street. No wood piles nor any other materials or any Improvements other than a boundary fence approved by the Architectural Review Committee shall be located on any Unit so as to be adjacent to any fence maintained by the Association.

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(c) No types of refrigerating, cooling or heating apparatus shall be permitted, except when appropriately screened and approved by the Architectural Review Committee.

(d) Except as may otherwise be permitted by the Architectural 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 the any Unit, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant or Builder during its sales or construction upon the Units.

(e) No wind generators of any kind shall be constructed, installed, erected or maintained on the Units.

(f) No fences or other exterior Improvements shall be constructed, installed, erected or maintained on any Unit unless approved by the Architectural Review Committee and except such fences, in such locations, as were installed or permitted to be installed by the Declarant or a Builder in its construction of Improvements on the Units.

8. Vehicular Parking, Storage and Repairs

(a) No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored on the Units unless such parking or storage is within the garage area of any Unit or suitably screened from view in accordance with the requirements of the Architectural 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 for the maintenance of the Units 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 on any Unit. 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 one (1) week or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Unit 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 Unit in violation of

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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 on any Unit 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.

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

10. No Hazardous Activities. No activities shall be conducted on any Unit or within Improvements constructed on any Unit 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 Unit and no open fires shall be lighted or permitted on any Unit except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace.

11. No Annoying Sounds or Odors. No sound shall be emitted from any Unit which is unreasonably loud or annoying; and

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no odor shall be permitted from any Unit which is noxious or offensive to others.

12. 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 on any Unit 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.

13. 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 Unit immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Unit 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 Unit 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.

14. Rules and Regulations. Rules and Regulations concerning and governing the Units, Common Elements, and/or this Common Interest Community may be adopted, amended or repealed from time to time by the Executive Board, and the Executive Board 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.

15. Units to be Maintained. Each Unit shall at all times be kept in a clean and slightly condition by the Unit Owner of the Unit. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Unit except as necessary during the period of construction or as provided in Section 4 of this Article.

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

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(a) All leases shall be in writing, and a copy of the lease delivered to the Executive Board or the Association's managing agent, if any; 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; and

(c) No lease shall be for less than thirty (30) days.

17. Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for the 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 HUD or VA, if at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) 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.

18. Maintenance of Grade and Drainage. Each Unit Owner shall maintain the grading upon his Unit, 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 Unit 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 Unit or other real property which a Unit 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 Architectural Review Committee for its review and approval, 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 Unit is completed.

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19. Use of Common Elements. An easement is hereby granted to the Declarant 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 Unit 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 Unit 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 Executive Board.

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

20. Landscaping. The first Unit Owner of each Unit (other than Declarant or a Builder), shall install landscaping on all of his Unit that is not covered by a building or building Improvement within the following applicable time period: if conveyance of the Unit from the Declarant or a Builder to the First Unit Owner thereof (other than Declarant or a Builder) occurs between March 1 and September 30, inclusive, then within ninety (90) days after such conveyance; or if conveyance of the Unit from the Declarant or a Builder to the First Unit Owner thereof (other than Declarant or a Builder) occurs between October 1 and the last day of February, inclusive, then by the next April 30. Such Unit Owner shall thereafter maintain such landscaping in a neat and attractive condition, including periodic and horticulturally correct watering, fertilizing, trimming, pruning, removal of weeds, and replacement of landscaping when necessary. Landscaping plans and other required documents shall be submitted to the Architectural Review Committee for approval prior to installation of landscaping, and the Architectural Review Committee may, from time to time, establish and change landscaping requirements which may include, without limitation, the minimum size, amount, location and number of trees, shrubs, grass, rock or bark, and any and all other landscaping materials and plantings. If any Unit Owner fails to comply with this Section, or with the requirements of the Architectural Review Committee, the Association may enter upon such Unit and install or maintain landscaping for which the Unit Owner

shall be obligated to pay, all of which shall be done in accordance with and subject to the provisions of Article VIII, Section 2 hereof.

ARTICLE X OTHER EASEMENTS

1. Easement for Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, a valid easement for the encroachment exists. The easement does not relieve a Unit Owner of liability in case of willful misconduct nor relieve a Declarant or any other Person of liability for failure to adhere to the plans and maps.

2. 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 Units 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 Unit. As more fully provided in Article IX, Section 18 of this Declaration, no Improvements shall be placed or permitted to remain on any Unit 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 and 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.

3. Easements Deemed Created. All conveyances of any Unit hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article even though no specific reference to such easements or to this Article appears in the instrument of such conveyance.

ARTICLE XI PROPERTY RIGHTS IN THE COMMON ELEMENTS

1. Unit Owners' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article XI, every Unit Owner shall have a non-exclusive right and easement for the purpose of access to their Units 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 Unit.

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2. Extent of Unit Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and Bylaws, 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 unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant or a Builder; or

(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 with which each Member shall strictly comply, including, but not limited to, the right of the Association to regulate and/or restrict vehicular parking and Improvements; and

(d) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Unit 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 Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant or a Builder, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. 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 Property shall not be deemed a transfer within the meaning of this subsection (e); and

(f) The right of the Association, through its Executive Board, 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 Unit 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. Delegation of Use. Any Unit Owner may delegate his right of enjoyment to the Common Elements and facilities to the members of his family, his tenants, or contract purchasers who reside on his Unit.

4. Payment of Taxes or Insurance by Security Interest Holders of First Security Interests. Security Interest Holders of First Security Interests shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may 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 of First Security Interests making any such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XII

SECURITY INTEREST HOLDERS OF FIRST SECURITY INTERESTS

1. Approval by Members and Security Interest Holders of First Security Interests. Subject to Article XIII, Section 5(f) hereof, but notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

(a) unless it has obtained the prior written consent of the Members casting at least sixty-seven percent (67%) of the votes in the Association and of those Security Interest Holders holding at least sixty-seven percent (67%) of the First Security Interests (based upon one vote for each First Security Interest owned):

(1) by act or omission, change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of residences, exterior maintenance of Units or residences, the maintenance of the Common Elements, and the upkeep of lawns and plantings in the Common Interest Community;

(2) fail to maintain fire and extended coverage insurance on insurable Common Elements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

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(3) use hazard insurance proceeds for property losses in the Common Elements for purposes other than to repair, replace, or reconstruct such property;

(4) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer any Common Elements owned, directly or indirectly, by the Association for the benefit of the Unit Owners (excluding the granting of permits, licenses and easements for public utilities, roads, or other purposes reasonably necessary or useful for the proper maintenance or operation of the Common Interest Community or the Association); or

(5) change the method of determining the obligations, assessments, dues, or other charges which may be levied against a Unit Owner.

(b) Unless it has obtained the prior written consent of at least sixty-seven percent (67%) of the total allocated votes in the Association, and fifty-one percent (51%) of the Security Interest Holders holding First Security Interests (based on one vote for each First Security Interest owned), add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which establish, provide for, govern or regulate any of the following, provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for clarification only and, provided further, that the implied approval of any Security Interest Holder of a First Security Interest shall be assumed if such Security Interest Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after such Security Interest Holder receives proper notice of the proposal delivered by certified or registered mail with a "return receipt" requested:

(1) voting rights;

(2) assessments, assessment liens or subordination of such liens;

(3) reserves for maintenance, repair and replacement of those Common Elements which must be maintained, repaired or replaced on a periodic basis;

(4) responsibility for maintenance and repair of any portion of the Common Interest Community;

(5) rights to use of the Common Elements;

(6) boundaries of any Unit;

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(7) convertibility of Units into Common Elements or of Common Elements into Units;

(8) expansion or contraction of the Common Interest Community or the addition, annexation or withdrawal of property to or from the Common Interest Community;

(9) insurance, including, but not limited to, fidelity bonds;

(10) leasing of Units or dwellings constructed thereon;

(11) imposition of any restriction on the right of any Unit Owner to sell or transfer his Unit;

(12) any decision by the Association to assume self-management of the Association, when professional management has previously been required by any Security Interest Holder of a First Security Interest or any insurer or guarantor of a First Security Interest;

(13) any restoration or repair of the Common Interest Community after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration, the Articles of Incorporation and Bylaws of the Association;

(14) any action to terminate the legal status of the Common Interest Community after substantial destruction or condemnation; or

(15) any provisions which are for the express benefit of Security Interest Holders of First Security Interests, or insurers or guarantors of First Security Interests.

2. Notice of Action. Upon written request to the Association, identifying the name and address of the Security Interest Holder of a First Security Interest or insurer or guarantor of the First Security Interest and the residence address of the property which is subject to such First Security Interest, each Security Interest Holder of a First Security Interest, or insurer or guarantor of a First Security Interest, shall be entitled to timely written notice of:

(a) any condemnation loss or casualty loss which affects a material portion of the Common Interest Community or any Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor of a First Security Interest;

(b) any delinquency in the payment of assessments or charges owed to the Association by the Unit Owner of the Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor, or any default by such Unit Owner in any obligation under the Declaration, Articles of Incorporation or Bylaws of the Association if and when the Executive Board of the Association has actual knowledge of such default, and such delinquency or default remains uncured for a period of sixty (60) days;

(c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of a specified percentage of Security Interest Holders of First Security Interests as provided in this Article.

ARTICLE XIII 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) (including, without limitation, the Association) violating or attempting to violate any such provision. The Association, the City of Lafayette, Colorado, and any aggrieved Unit 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. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association, the City of Lafayette, Colorado, or any Unit 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. 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. Annexation

(a) Additional residential 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, attached hereto and incorporated herein by this reference, until that date which is ten (10) years after the date of recording of this Declaration in the county in which the Common Interest Community is located, without consent of any other Unit Owners, Security Interest Holders, or any other Person, subject to a determination by HUD or VA (if the Declarant desires to attempt to obtain HUD or VA 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 and Declaration Amendment in the Office of the Clerk and Recorder of the county in which this Common Interest Community is located, which document shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land and Declaration Amendment, shall state that the Declarant (or other Person) is the owner of the Units thereby created, shall assign an identifying number to each new Unit, shall describe any Common Elements within the property being annexed, shall reallocate the Allocated Interests among all Units, and may include such other provisions as Declarant deems appropriate. 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 recording an Annexation of Additional Land and Declaration Amendment with respect thereto, as aforesaid. In addition to the foregoing, the Declarant may amend this Declaration at any time during the ten (10) year period noted hereinabove, in order to add additional real estate to the Common Interest 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 Common Interest 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.

(b). The Declarant may exercise its development rights in all or any portion of the property described in the attached Exhibit D 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.

5. 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, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a note or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(b) No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

(c) Every amendment to the Declaration must be recorded in every county in which any portion of the Common Interest Community is located, and is effective only upon recordation.

(d) Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, or change the boundaries of any Unit or the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

(e) Amendments to the Declaration that are required by this Declaration to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

(f) Notwithstanding anything to the contrary contained in this Declaration, to the extent not prohibited by the Act:

(1) Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, at any time prior to conveyance by Declarant of the last Unit to the first Unit Owner thereof (other than Declarant or a Builder), or ten (10) years from the date this Declaration is recorded in the County of Boulder, Colorado, whichever occurs first, for the purpose of correcting spelling, grammar, typographical errors, or syntax; and

(2) Declarant hereby reserves and is granted the right and power to record special amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association,

at any time prior to conveyance by Declarant of the last Unit to the first Unit Owner thereof (other than Declarant or a Builder), or ten (10) years from the date this Declaration is recorded in the County of Boulder, Colorado, whichever occurs first, in order to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure or guarantee First Security Interests.

6. Registration of Mailing Address. Each Unit 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 a Unit Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, 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 Unit Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Unit Owner at the address of such Unit Owner's Unit. All notices, demands, or other notices intended to be served upon the Executive Board or the Association shall be sent by registered or certified mail, postage prepaid, c/o South Pointe Associates, 5575 DTC Parkway, Suite 360, Englewood, Colorado 80111, until such address is changed by the Association.

7. HUD or VA Approval. During the Period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more First Security Interests: annexation of additional real property; amendment of this Declaration; termination of this Common Interest Community; or merger or consolidation of the Association.

8. Description of Units. It shall not be necessary to use the term "unit" as a part of a legally sufficient description of a Unit.

9. Termination of Common Interest Community. The Common Interest Community may be terminated only in accordance with the provisions of the Act.

10. 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 Common Interest Community is located.

11. Eminent Domain

(a) If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Unit Owner for that Unit and its Allocated Interests whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Allocated Interests are automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken under this subsection (a) is thereafter Common Elements.

(b) Except as provided in subsection (a) of this Section, if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides:

(1) That Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit or on any other basis specified in this Declaration; and

(2) The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

(c) If part of the Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. For the purposes of acquisition of a part of the Common Elements, service of process on the Association shall constitute sufficient notice to all Unit Owners, and service of process on each individual Unit Owner shall not be necessary.

(d) The court decree shall be recorded in every county in which any portion of the Common Interest Community is located.

(e) The reallocations of Allocated Interests pursuant to this Section shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

12. Association as Trustee. With respect to a third person dealing with the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third person is not bound to inquire whether the Association has the power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

13. Dedication of Common Elements. Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Elements intended for the common use and enjoyment of Unit Owners for recreation and other related activities. The Common Elements owned by the Association are not dedicated hereby for use by the general public but is dedicated to the common use and enjoyment of the Unit Owners as more fully provided in this Declaration.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 13th day of September, 1994.

DECLARANT:

COMMUNITY DEVELOPMENT GROUP OF
LAFAYETTE LLC, a Colorado limited
liability company

By: _____

Member

KENT'S PARTNERSHIP, LTD., a
Colorado limited partnership

By: _____

General Partner

STATE OF COLORADO

COUNTY OF

Boulder

)
) ss.
)

The foregoing instrument was acknowledged before me
this 2nd day of September, 1994, by Chuck Bellack
as Member of COMMUNITY DEVELOPMENT GROUP OF LAFAYETTE LLC, a
Colorado limited liability company.

Witness my hand and official seal.

My commission expires: Jan 3, 1998

Ki L Lytle
Notary Public

STATE OF COLORADO

COUNTY OF

)
) ss.
)

The foregoing instrument was acknowledged before me
this 1st day of September, 1994, by
as General Partner of KENT'S PARTNERSHIP, LTD., a Colorado
limited partnership.

Witness my hand and official seal.

My commission expires: 12-31-97

Tom Smedley
Notary Public

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EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH POINTE

All of the following property, as shown on the plat of South Pointe, recorded in the office Clerk and Recorder of Boulder County, Colorado: Lots 1 through 56, inclusive, Block 1; Outlot C; and Outlot D.

AND

All of the following property, as shown on the plat of South Pointe Filing No. 2, recorded in the office of the Clerk and Recorder of Boulder County, Colorado: Lots 57 through 106, inclusive; and Outlot I.

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EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH POINTE

1. The following Outlots and Tracts are as shown on the plat of South Pointe, recorded in the office of the Clerk and Recorder of Boulder County, Colorado:
 - A. Outlots C and D shall be owned and maintained by the Association.
 - B. Outlot G shall be owned by the City of Lafayette, Colorado, but shall be maintained by the Association until said City places signage on Outlot G.
 - C. Tract 3 shall be owned by the City of Lafayette, Colorado, and/or the applicable School District, but shall be maintained by the Association until Tract 3 is developed as a public park and/or school site.
 - D. Outlots A and B shall be owned and maintained by the City of Lafayette, Colorado. However, the Association may at any time elect to maintain all or any portion of Outlots A and B without having the obligation to provide such maintenance.
2. Outlot I, and the swimming pool, mechanical building, and other improvements constructed or erected thereon, as shown on the plat of South Pointe Filing No. 2, recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

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EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH POINTE

ALL THAT REAL PROPERTY LOCATED IN THE NE 1/4 OF SECTION 15, T1S, R69W OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE E 1/4 CORNER OF SAID SECTION 15, THENCE S89°38'25"W, 27.10 FEET ALONG THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 15 TO THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 287 (FORMERLY STATE HIGHWAY NO. 1) CONVEYED TO THE COUNTY OF BOULDER AS DESCRIBED IN QUIT CLAIM DEED RECORDED IN BOOK 532 AT PAGE 201 OF THE RECORDS OF BOULDER COUNTY, COLORADO, AND THE TRUE POINT OF BEGINNING:

THENCE CONTINUING S89°38'25"W, 2605.18 FEET ALONG THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 15 TO THE CENTER OF SAID SECTION 15;

THENCE N00°00'22"W, 2567.16 FEET ALONG THE WEST LINE OF THE NE 1/4 OF SAID SECTION 15 TO THE SOUTH RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY NO. 42 CONVEYED TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO, AS DESCRIBED IN DEED RECORDED ON FILM 596 AS RECEPTION NO. 840314 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE S90°00'00"E, 2524.93 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID COLORADO STATE HIGHWAY NO. 42;

THENCE S68°13'59"E, 84.73 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID COLORADO STATE HIGHWAY NO 42 TO THE WEST LINE OF THE EAST 30.00 FEET OF THE NE 1/4 OF SAID SECTION 15;

THENCE S00°01'31"W, 1208.99 FEET ALONG THE WEST LINE OF THE EAST 30.00 FEET OF THE NE 1/4 OF SAID SECTION 15 TO THE SOUTH LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 15;

THENCE S89°49'13"W, 755.50 FEET ALONG THE SOUTH LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 15;

THENCE S00°01'31"W, 350.00 FEET;

THENCE N89°49'13"E, 500.50 FEET TO THE WEST LINE OF THAT TRACT OF LAND CONVEYED TO ROBERT F. CHARLES, JR. AND JULIA M. CHARLES AS DESCRIBED IN WARRANTY DEED RECORDED ON FILM 1109 AS RECEPTION NO. 388357 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE S00°01'31"W, 142.65 FEET ALONG THE WEST LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 1109 AS RECEPTION NO. 388357 TO THE SOUTHWEST CORNER THEREOF;

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EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH POINTE

The following items which are recorded are recorded in the office of the Clerk and Recorder of Boulder County, Colorado:

1. Taxes and assessments for the year of recording of this Declaration and for subsequent years, not yet due and payable.
2. ALL COAL AND ANY RIGHT OF WAY OR OTHER GROUNDS AS MAY BE NECESSARY FOR THE PROPER WORKING OF ANY COAL MINES AS RESERVED IN DEED RECORDED AUGUST 15, 1893 IN BOOK 157 AT PAGE 425.
3. ANY AND ALL MINERALS AS RESERVED IN DEEDS RECORDED MAY 27, 1914 IN BOOK 36 AT PAGE 7 AND RECORDED JUNE 4, 1917 IN BOOK 415 AT PAGE 369.

NOTE: OIL AND GAS LEASE BY AND BETWEEN JOHN ROBERT KILKER ET AL AND MARTIN EXPLORATION MANAGEMENT CO. RECORDED SEPTEMBER 6, 1991 AT RECEPTION NO. 1128349 AND 1128350.

4. EASEMENT AND RIGHT OF WAY FOR IRRIGATION DITCH PURPOSES AS SET FORTH IN INSTRUMENT RECORDED FEBRUARY 27, 1967 UNDER RECEPTION NO. 840315.
5. EASEMENT AND RIGHT OF WAY FOR TELEPHONE LINE PURPOSES AS SET FORTH IN INSTRUMENT RECORDED MARCH 7, 1967 UNDER RECEPTION NO. 840977.
6. ANY AND ALL PORTIONS LYING WITHIN COUNTY ROAD #9 AND STATE HIGHWAY 42.
7. TERMS, CONDITIONS AND PROVISIONS OF PARTICIPATION AGREEMENT RECORDED September 28, 1983 UNDER RECEPTION NO. 578350 AND AMENDED BY INSTRUMENT RECORDED JULY 24, 1984 UNDER RECEPTION NO. 635633.
8. TERMS, CONDITIONS AND PROVISIONS OF MASTER PLAN AGREEMENT RECORDED January 10, 1984 UNDER RECEPTION NO. 597951 AND AMENDED BY INSTRUMENT RECORDED JULY 24, 1984 UNDER RECEPTION NO. 635631.
9. EASEMENT AND RIGHT OF WAY FOR ACCESS PURPOSES AS GRANTED BY INSTRUMENT RECORDED JANUARY 31, 1992 UNDER RECEPTION NO. 1158304.

THENCE N89°49'13"E, 255.00 FEET ALONG THE SOUTH LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 1109 AS RECEPTION NO. 388357 TO THE SOUTHEAST CORNER THEREOF;

THENCE S00°10'40"E, 817.28 FEET TO THE TRUE POINT OF BEGINNING.

AND CONTAINING 146.010 ACRES, MORE OR LESS,

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