

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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THE HAMLET SUBDIVISION  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth, by The Hamlet, Ltd. hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the Douglas County, State of Colorado, which is more particularly described as follows in Exhibit A attached hereto and by reference made a part hereof, and;

WHEREAS, a Limited Partnership is to be the developer of the Properties entitled The Hamlet Subdivision, and ;

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Colorado, The Hamlet at Castle Pines North Homeowner's Association, a non-profit corporation for the purpose of exercising the functions as herein set forth, and;

WHEREAS, this development is a residential planned community development, in which there will be common areas owned by the Homeowner's Association.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit A shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I - DEFINITIONS

Section 1. "Association" shall mean and refer to The Hamlet at Castle Pines North Homeowner's Association, its successors and assigns. "Board of Directors" or "Directors" shall refer to the Board of Directors of the Association.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee or undivided fee interest in any Lot, as defined herein, which is part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property herin before described in Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association, as described in Exhibit C.

Section 4. "Plat" shall mean the Plat of The Hamlet Subdivision, that has been recorded with the Clerk and Recorder's Office of Douglas County, State of Colorado, on July 23, 1987.

Section 5. "Residence of Unit" shall mean and refer to the residential dwelling unit constructed upon any of the Lots shown on the Plat, title to which is or will be conveyed in fee simple by reference to the numbered plat of land shown upon any recorded subdivision map of the properties.

Section 6. "Common Area" shall mean all property that may be owned by the Association and used for the common use and enjoyment of the Owners. Common Areas are designated as Tracts A, B, C, D, and E on the plat of Hamlet Subdivision. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described on Exhibit B.

Section 7. "Yard" shall mean and refer to any portion of a Lot which is not occupied by an individual residence or is not part of the common area. The "Divided Yard" shall mean and refer to the portion of the yard enclosed by a fence provided by Declarant as part of the original construction. The "Divided Yard" shall mean and refer to that portion of the "Yard" that is outside the "Fenced Yard."

Section 8. "Declarant" shall mean and refer to Hamill Homes, Inc., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 9. "Lot" shall mean the individual parcel of land upon which each individual residence is constructed and referred to by number on The Hamlet Subdivision plat.

Section 10. "Mortgage" shall mean any mortgage, deeds of trust, contract of sale, or other legal entity which takes, holds, owns, or is secured by a mortgage.

Section 12. "Member" shall mean and refer to every person or entity who has membership in the Association.

Section 13. "FHA" shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development, including such department or agency of the United States government as shall succeed to the FHA in insuring notes secured by mortgages and deeds of trust on residential real estate.

Section 14. "VA" shall mean the Veterans Administration of the United States of America, including such department or agency of the United States government as shall succeed to the VA in its present function of issuing guarantees with respect to notes secured by mortgages on residential sites.

Section 15. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation or The Mortgage Corporation created by Title III of the Emergency Home Finance Act of 1970, including any successors thereto.

Section 16. "FNMA" shall mean the Federal National Mortgage Association, a government-sponsored private corporation established as such pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto.

Section 17. "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, including any successor thereto.

Section 18. "Government Mortgage Agencies" shall mean the FHA, VA, FHLMC, GNMA, FNMA, or any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase mortgage loans.

## ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a Lot which is subject to assessment, including contract purchasers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. When more than one person holds a membership interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 2. Voting Rights. There shall be two (2) classes of voting membership:

A. Class A Members will be all those Members other than the Declarant. Class A Members will be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves, provided that in no event shall more than one vote be cast with respect to any Lot.

B. Class B members shall be Declarant, or its successor or assigns, and shall be entitled to twenty votes for each Lot owned, provided that the Unit on the lot owned by Declarant is neither leased nor rented nor otherwise occupied as a residence. Leasing, renting or allowing entry for residential occupancy shall terminate the Declarant's weighted voting advantage in relation to any lot on which a Unit is leased, rented or occupied as a residence, and will limit Declarant in relation to any such Lots to the same voting rights as a Class A member. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(i) one hundred twenty (120) days after that date on which the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(ii) one hundred twenty (120) days after 75% of the Lots in the Properties have been conveyed to Lot purchasers; or

(iii) December 31, 1992; or

(iv) when voluntarily terminated by Declarant by a writing delivered to the secretary of the Association.

#### ARTICLE III - ADMINISTRATION AND MANAGEMENT

Section 1. The administration of the Properties shall be governed by these Covenants, the Articles of Incorporation, Bylaws and published rules and regulations of the Association.

Section 2. The Association shall manage, supervise, maintain, repair and pay all taxes and assessments on the Common Area, and shall provide maintenance to individual lots as described hereinbelow:

A. Common Area. The Association shall provide exterior maintenance upon the Common Areas as follows: (1) painting, maintenance, repair and replacement of common area fencing, common area utility systems, and any other common area; (2) maintenance and repair of all common area paving, including private streets, walks and common parking area; (3) landscape care; and (4) snow removal.

B. Individual Lots. The Association shall provide exterior maintenance upon each Lot and Residence which is subject to assessment hereunder, as follows: (1) landscape care for the portion of the Lot outside the divided yard (Landscape care includes maintenance of grass, trees and shrubs, and maintenance and repair of sprinkler systems); and (2) snow removal, including private walks, porches, and driveways. All other maintenance, repair, or replacement required upon an individual Lot and/or Residence shall be the responsibility of the Owner. Front entry doors shall be repainted the same color as originally provided by the Declarant unless approval to paint a different color is obtained from the Board of Directors or its designated representative. In the event an Owner replaces the roof, the same roofing materials and colors, or equivalent, utilized in the original construction shall be used. Samples of said roofing materials must be submitted to the Board of Directors or its designated representative prior to any re-roofing construction.

Control panels for the automatic operation of the sprinkler systems will be located or relocated by the Declarant. Each Owner shall be responsible for protecting the control panels and underground wiring that are located on his Residence or within his Lot. Since these systems use a very small amount of power, there will be no reimbursement for sale of electricity, and these will be hooked up to the homes most conveniently located.

Section 3. Association's Right to Provide Additional Maintenance. Notwithstanding the provisions of Sections 1 and 2 of this Article, the Board of Directors of the Association may, at any time and from time to time, determine that the Association shall provide additional exterior maintenance upon the structure and/or other improvements located on each Lot which is subject to assessment hereunder. In the event that the Association elects to provide such additional maintenance, the costs thereof shall be common expense of the Association as provided in Article V hereof, and the amount of the actual assessments levied by the Association pursuant to Article V shall be adjusted accordingly, with regard to the anticipated costs of providing such maintenance and any reserve therefor. Any such additional maintenance services provided in accordance with this Section may also be revoked, at any time and from time to time, by the Board of Directors of the Association.

Section 4. Association's Right to Repair, Maintain and Restore. The Owner of each Lot hereby grants to the Association, its agents, employees and independent contractors, an easement over and across his or her Lot for the purpose of performing such maintenance and repair work. In the event any Owner shall fail to perform his maintenance or repair obligations as provided herein in a manner satisfactory to the Board of Directors of the Association, the Association shall, if said notice of said failure continues for a thirty (30) day period after written notice to said Owner by the Board, enter upon said Lot within a reasonable time period to repair, maintain and restore the Lot, the exterior of the structure and other improvements erected thereon. The cost of such maintenance, repair, or restoration shall be the personal obligation of the Owner of the Lot on which such work is performed, shall be added to and become part of the assessment of which such Lot is subject, and shall become a lien against such Lot as provided in Article V hereof.

Section 5. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance or repair of the Common Area, a Lot, or any improvement located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any Member of such Owner's family or by a guest, or invitee of such Owner, or any tenant or tenant's family, the cost of such repair or maintenance shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article V of this Declaration. A determination of the negligence or willful act or omission of any Owner or any Member of an Owner's family or a guest or invitee of any Owner, or tenant or tenant's family, and the amount of the Owner's liability therefore, shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

Section 6. The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon thirty (30) days prior notice. Any such management contracts entered into by the Association with a manager shall be subject to review and approval by the FHA or VA.

Section 7. Any contracts, licenses or leases entered into by the Association while there is a Class B membership shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of the Class B membership, upon ninety (90) days prior written notice; provided, however, that any contract entered into at any time by the Association providing for services of the Declarant shall provide for termination at any time by either party thereto without cause and without payment of a termination fee upon ninety (90) days prior written notice.

Section 8. Private Road Inspection. The Association will contract with a consultant experienced in road maintenance and inspection. Consultant is directed to make a minimum of two inspections per year. Consultant is required to draft a report on what action The Association needs to take in regards to road maintenance and repairs.

#### ARTICLE IV - PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Dedication of Common Area. Declarant hereby dedicates the Common Area to the common use and enjoyment of the Members, as provided herein, but not for use by the general public.

Section 2. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights and rights to use the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations.

C. The right of the Association to dedicate or transfer all or any part of the Common Area 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 an instrument signed by two-thirds of each class of membership hereunder has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Owner at least thirty (30) days in advance of any action taken; and provided further that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause.

D. The right of the Association to close or limit the use of the Common Area while maintaining, repairing, and making replacements in the Common Area.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his Lot.

Section 4. Title to the Common Area. Declarant hereby covenants for itself, its successors and assigns, that it will convey title to

the Association, free and clear of all liens and encumbrances, except for easements, rights of way, and restrictive covenants of record, prior to the conveyance of the first lot within the properties.

#### ARTICLE V - COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments and Special Assessments. Declarant for each Lot owned within the Properties shall be deemed to covenant and agree, and each Owner of any Lot, except those exempt under Section 14 of this Article, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to the Association annual common expense assessments, insurance assessments and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided. Said assessments, interest and costs of collection, including reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Such assessments, reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for any delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association through its Board of Directors shall be used exclusively for the purposes of promoting the health, safety, and repair and upkeep of the common area and for the painting, landscape care and snow removal and any other maintenance obligations which may be deemed necessary by the Association for the common benefit of the Owners, or the maintenance of property values, or for the payment of expenses which may be incurred by virtue of agreement with or requirement of the City, County or other government authorities. The assessments shall further be used to provide adequate insurance of all types, and in such amounts deemed necessary by the Board of Directors with respect to private and public ways. Also, a portion of the assessments shall be used to provide an adequate reserve fund for the property which must be replaced on a periodic basis, and the Board of Directors shall be obligated to establish such reserve fund.

Section 3. Annual Assessment. The total annual assessments against all Units shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year, which estimates may include, among other things: (a) expense of management; (b) taxes and special assessments until the Units are separately assessed; (c) premiums for all insurance which the Association is required or permitted to maintain as provided in Article VI hereof; repairs and maintenance including painting, landscape maintenance, snow removal; (e) wages for Association employees; (f) legal and accounting fees; (g) any deficit remaining from a previous assessment year; (h) the creation of reasonable contingency reserves, working capital and/or sinking funds; and (i) any other costs, expenses, and fees, which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Declaration. Annual assessments may be collected in monthly, quarterly, or annual installments, or in any other manner as determined by the Board of Directors. Annual assessments may be revised at any time by the Board of Directors.

Section 4. Special Assessments. In addition to the assessments authorized above, the Association, may at any time, and from time to time,

determine, levy and assess, a special assessment for the purpose of defraying, in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement or maintenance of the common elements, specifically including without limitation any fixtures and personal property related thereto; provided however, no special assessment shall be used for such purposes so long as Declarant has an obligation to pay a subsidy to the Association to meet any such shortfall. Any such special assessment made by the Board of Directors must be approved by sixty-seven percent (67%) of the members who are voting in person or by proxy at a meeting duly called for that purpose. No special assessment for legal action pursued by the Association shall be required of the Declarant without written approval by the Declarant.

The amounts determined, levied and assessed pursuant hereto shall be assessed equally against each Residence. "Capital Improvements," as used herein, shall mean the construction, erection or installation of substantial structure(s) or other substantial improvement(s) on the Property, but shall not include the construction, reconstruction, erection, installation, maintenance, repair or replacement of Common Areas presently located on the Property by Declarant in its development of the Project. Notice in writing setting forth the amount of such special assessment per Residence and the due date for payment thereof shall be given to the Owners not less than thirty (30) days prior to such due date.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4. shall be sent to all members not less than five (5) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies, if permitted, entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, the meeting shall be continued to another date to be decided by the voting members at the first meeting, and it will be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of all the votes of the membership. No such subsequent meeting shall be held more than sixty (60) days following the preceeding meeting.

Section 6. Rate of Assessment. Both annual common expense and special assessments shall be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association, provided that, notwithstanding anything to the contrary contained in this Declaration, the annual common expense and special assessment rate set for each Lot on which a Unit is completed and owned by Declarant and which is neither leased, nor rented, nor otherwise occupied as a residence, shall be fixed at twenty-five percent (25% of the assessment rate for other Lots. Lots which are owned by Declarant and which are leased, rented, or otherwise occupied as a residence shall, commencing on the date of residential occupancy thereof, be assessed at the same rate as other Lots. In the event all assessed fees, including, but not limited to all other income from whatever source (except reserves), due to the Association failure to equal or exceed the actual expenses incurred by the Association during any annual common expense assessment period because of such partial Declarant assessment, then Declarant shall, upon written notice from the Association, pay a sufficient amount, as a subsidy and not as an assessment, but not exceeding that amount which the Declarant would have had to pay as assessments but for the aforesaid reduced

assessment rate, to the Association to meet any such shortfall so long as (a) such notice must be given within one (1) year after the end of each annual common expense assessment period and is waived if not made in such timely manner (such final one (1) year period to terminate one (1) year after the date the Class B membership is converted to Class A membership, as set forth in Article I hereof) and (b) Declarant shall have no obligation for any such shortfall caused by any decrease in assessments, including without limitation the levying of any common expense assessment in an amount less than the maximum for that annual common expense assessment period, or by expenditures for capital improvements, unless the same has been previously approved in writing by Declarant; provided, however, that in the event there is more than one Declarant, as defined in this Declaration, each such subsidy, as hereinabove provided, such proportional share to be based on the amount of the Property owned by each Declarant compared to the total amount of the Property owned by all Declarants.

The amount, if any, shall be determined by the results of a financial review performed at the direction of the Association. Said financial review shall reflect the financial condition of the Association as of December 31st of each year. (Provided, however, that if the first fiscal year of operation of the Association is less than six (6) months, the first such financial review shall not be required until after the December 31st following at least one year's operation.) The operating surplus or deficit shall be determined after providing for replacement reserves (that portion of the monthly assessments allocated for replacements, less any funds expensed for such replacements) and the working capital account. The Declarant shall pay over to the Association any such funds required within sixty (60) days of receiving the financial review.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the first lot by the Declarant. The first assessment shall be prorated according to the number of days remaining in the assessment period established by the Board of Directors. The Board of Directors shall fix the amount of the assessment against each Lot at least thirty (30) days in advance of the assessment period. Written notice of the assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or a designated representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. The omission or failure to fix an assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or release of an Owner from his obligation to pay the same.

Section 8. Effect of Non-Payment of Assessments. The assessments, charges, and fees, as well as any monthly or other installments thereof, provided for in this Declaration (together with any and all interest, costs, late charges, expenses and reasonable attorney's fees which may arise under the provisions of this Declaration), shall be burdens running with, and perpetual liens in favor of the Association, upon the specific Residence to which such assessments apply. To evidence such lien upon a Residence, the Association may prepare a written lien notice setting forth a description of the Residence, the amount of assessments thereon which

are unpaid as of the date of such lien notice, the name of the Owner or Owners thereof and any and all other information that the Association may deem proper. The lien notice shall be signed by a Member of the Board of Directors of the Association, by an Officer of the Association, or by an agent as authorized by the Board of Directors and shall be recorded in the Office of the Clerk and Recorder of the City and County of Douglas, State of Colorado. The recording of any written lien notice shall not constitute a condition precedent nor delay the attachment of the lien, but such lien is a perpetual lien upon each Residence and attached without notice at the beginning of the first day of any period for which any assessment is levied or assessed. Any assessment charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate of eighteen percent (18%) or the United Bank of Denver's or its successor's prime interest rate, whichever is greater, per annum from the due date, and the Association may assess a monthly charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor. In the event that any such assessment, charge or fee, or monthly or other installment thereof, is not fully paid when due and the Association shall commence such an action (or shall counterclaim or crossclaim for such relief in any action) against any Owner personally obligated to pay the same, or shall proceed to foreclose its lien against the particular Residence, then all unpaid assessments, charges and fees, and all unpaid monthly or other installments thereof, any and all late charges and accrued interest under this Section, the Association's costs of suit, expenses, and reasonable attorney's fees incurred for any such action and/or foreclosure proceedings, shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Residence. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any residence at foreclosure or other legal sale; and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same.

Section 9. Subordination of the Lien to Mortgages. Except as provided below, the lien of the assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a first mortgage of record (including deed of trust) and to any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not. Sale or transfer of any Lot shall not affect the lien for said assessment charges except that sale or transfer of any Lot pursuant to foreclosure, or cancellation or forfeiture of any such executory land sales contract shall only extinguish the lien of assessment charges which became due more than

six months prior to a first mortgagee's acquisition of title as a result of any such sale or transfer, or foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture of any such executory land sales contract. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture of any such executory land sales contract shall relieve any Lot from Liability for any assessment charges thereafter becoming due, nor from the lien thereof.

Section 10. Records of Receipts and Expenditures. The Association shall keep detailed and accurate records in chronological order of all of its receipts and expenditures, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available on request for examination by the Owners and others with an interest such as encumbrancers or prospective lenders.

Section 11. Notice to Mortgagee. Upon request of a First mortgagee of any Lot, and upon payment of reasonable compensation therefore, the Association shall report to such First mortgagee any unpaid assessment or other defaults under the terms of this Declaration which are not cured by said mortgagee's mortgagor within thirty (30) days.

Section 12. Certificate of Status of Assessments. Within ten days of receipt of a written request from any Owner, any First Mortgagee of a Residence or any other person, and upon payment of a reasonable fee, but in no event less than ten dollars (\$10.00), the Association, through its Board of Directors or by its managing agent, shall issue a written statement setting forth the amount of any unpaid Association assessments, charges, fees, or portions thereof, if any, with respect to the subject Residence, the amount of the current annual common expense assessment and the date that such assessment becomes due, the due date of any special assessment then existing against the Residence, the amount of any credit for any advanced payments of assessments and for prepaid items (such as insurance premiums), and other information deemed appropriate by the Association. Said written statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

Section 13. Homestead. The lien of the Association assessments shall be superior to any homestead exemption as is now or may hereafter be provided by Colorado or federal law. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

Section 14. Working Fund. The Association or Declarant shall require the first Owner of each Lot (other than Declarant) to make a non-refundable payment to the Association in an amount equal to one-fourth of the annual common expense assessment against that Lot in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Lot, an Owner shall be entitled to a credit from his transferee for the aforesaid payment to working fund. This account shall be updated annually as of December 31st, and notice shall be given to all owners whose individual account does not equal one-fourth of the current annual income does not equal one-sixth of the current annual assessment. Payment of any shortage shall be due with the next

regular assessment payment, following written notice.

Section 15. Exempt Property. The following property subject to the Declaration shall be exempt from the Assessments, charges and liens created herein;

A. All properties to the extent of any easement or other interest therein dedicated and accepted by a municipal or quasi-authority and devoted to public use.

B. All Common Area.

#### ARTICLE VI - INSURANCE

Section 1. Insurance Requirements Generally. The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be underwritten, to the extent possible, with companies licensed to do business in Colorado having a Best's Insurance Report rating of R/VI or better covering the risks below.

To the extent possible, the casualty, property and liability insurance shall:

A. Provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents and members;

B. Contain a "severability of interest" clause that the insurance cannot be cancelled, invalidated or suspended on account of the negligent or intentional acts of the Association, its officers, directors, employees and agents; and

C. Provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least thirty (30) days prior written notice to the Association.

Any insurance policy may contain deductible provisions not to exceed the lower of \$10,000 or 1% of the applicable amount of coverage. Any loss falling within the deductible portion of a policy shall be borne by the Association and funds for such deductibles must be included in the Association's reserves and be so designated. The cost and expense of all insurance obtained by the Association shall be paid for out of Association funds collected by insurance assessments, as provided in this Declaration.

Section 2. Casualty Insurance. The Association or its agents shall obtain and maintain at all times insurance coverage providing all risk coverage or the nearest equivalent available for the full replacement cost of the Common Area improvements and personal property of the Association. The insurance shall be carried in blanket policy form naming the Association the insured, and shall provide that it cannot be cancelled by either the insured or the insurance company until after at least thirty (30) days prior written notice is given to each Owner and each first mortgagee. The Association shall furnish a certified copy of such blanket policy and the certificate identifying the interest of the mortgagor, to any party in interest at his request. All policies of insurance shall provide that the insurance covering the interest of a particular Owner shall be invalidated or suspended only if such Owner is guilty of a breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including nonpayment of the insurance premium applicable to his interest, or if he permits or fails to prevent the happening of any event, either before or after a loss which under the provision of such policy would invalidate or suspend the entire policy, by insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission shall not be invalidated or suspended and shall remain in full force and effect.

The insurance described in this paragraph shall be inflation coverage insurance, if such insurance is available, in which insurance at all times represents one hundred percent (100%) of the replacement value. All facilities in the Common Area except land, and other items normally excluded from coverage and except for any deductible provisions as permitted under Section 1 hereof.

Section 3. Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability insurance including non-owned and hired automobile liability coverage, owned automobile liability coverage if there are any owned automobiles, personal injury liability coverage, products coverage covering liabilities of the Association, its officers, directors, employees, agents and members arising in connection with ownership, operation, maintenance, occupancy, or use of the Common Area and any other area the Association is required to restore, repair or maintain pursuant to this Declaration with a minimum single limit or per occurrence limit of One Million Dollars.

Section 4. Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

Section 5. Insurance by Owners. Insurance coverage on the home, home furnishings, including carpet, draperies, oven, range, refrigerator, wallpaper and other items of personality, or other property belonging to an Owner, and public liability coverage within each Lot, shall be the sole and direct responsibility of the Owner(s) thereof, and the Association, its Board of Directors and/or the managing agent of the Association shall have no responsibility therefor. Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that no liability of the carriers issuing insurance obtained by the Association shall be affected or diminished by reason of any such additional insurance carried by any Owner.

Section 6. Fidelity Insurance. The Association shall also maintain adequate fidelity coverage, if available, to protect against dishonest acts on the part of directors, officers, trustees and employees and managing agents of the Association and all others who handle, or are responsible for handling, funds of all others who handle, or are responsible for handling, funds of the Association. Such fidelity bonds shall (i) name the Association as an obligee; (ii) be written in an amount equal to at least one and one-half times the estimated annual operating expenses of the Association, including reserves; (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expressions; and (iv) provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least fifteen (15) days written notice to the first mortgagees and the Association.

Section 7. Flood Insurance. If the Properties are located in an area identified by the Secretary of the US Department of Housing and Urban Development as an area having special flood hazards and the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1968, the Association shall obtain a "blanket" policy of flood insurance on the Properties in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the current market value of the developed Lots in the Properties.

Section 8. Other Insurance. The Association may obtain such additional insurance coverage against such additional risks as it shall determine to be appropriate.

#### ARTICLE VII - INDEMNIFICATION AND AUDIT

Section 1. Indemnification. To the full extent permitted by law, each officer and director of the Association shall be and are hereby indemnified by the Owners and the Association against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed upon him in any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an officer or director of the Association, or any settlements thereof, whether or not he is an officer or director of the Association at the time such expenses are incurred, except in such cases wherein such officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association.

Section 2. Audit. The Association shall provide an audited financial statement for the immediately preceding fiscal year, free of charge to any Owner, First Mortgagee of a Unit, or any insurer or guarantor of such a First Mortgage, within a reasonable time if written request therefor is given within 30 days after the end of any fiscal year for the Association by any such Owner, First Mortgagee, or any insurer or guarantor of such a First Mortgage. Otherwise, the Association shall deliver free of charge on request to each Owner and any First Mortgagee, insurer or guarantor of a first mortgage an unaudited financial statement for the Association for the preceding fiscal year.

#### ARTICLE VIII - PARTY WALLS, FENCES, AND DIVIDED YARDS

Section 1. General Rules of Law to Apply. Each wall, fence, or divided yard which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall, fence, or divided yard shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Damage to Property. Notwithstanding any other provisions of the Article, an Owner, who by his negligent or willful act causes any adjacent property to be exposed to damage, shall bear the whole cost of furnishing the necessary repairs as a result of such damage.

Section 4. Right to Contribution Runs With Land. The right of any owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of a dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators. The decision and judgment of the arbitrators shall be enforceable according to the Colorado rules of civil procedure pertaining to arbitration.

#### ARTICLE IX - EASEMENTS

Section 1. Easements for Encroachments. Each Lot and the Common Area shall be subject to an easement for encroachment of Residences onto adjoining Lots or the Common Area or encroachment of the Common Area onto any Lot; or encroachment of any driveway or portion thereof, fence or any other similar encroachment designated or constructed by Declarant; overhangs, as designated or constructed, by the Declarant; and for any encroachment occurring thereafter as a result of settling or shifting of any structure. A valid easement shall exist for said encroachments and overhangs and for their maintenance, repair and replacement. If any structure is partially or totally destroyed and then rebuilt, the Owners of Lots agree that minor encroachments onto adjacent Lots or the Common Area due to the reconstruction shall be permitted and that a valid easement for such overhangs and encroachments and the maintenance thereof shall exist. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances.

Section 2. Maintenance Easement. An easement is hereby granted each Owner and each member of the Board of Directors, or their representatives, to enter any Lot for the purpose of performing installations, alterations or repairs to the party walls, mechanical, electrical or utility services which, if not performed, would affect the use of other residences(s) provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of an emergency, such right of entry shall be immediate.

Section 3. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Area for installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephone, electricity, and master television antenna or cable system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility companies or municipalitites supplying such utility service or the Association to erect and maintain the necessary equipment on the Property and to affix, repair and maintain water and sewer pipes, gas, electric, and telephone wires, circuits, conduits, and meters.

Section 4. Drainage Easements. There is hereby created by Declarant to maintain proper flow of surface drainage around structures. Said improvement survey will indicate drainage flows. As shown on the plat, drainage easements where originally located by Declarant on some Lots shall be easements for the benefit of all Owners and shall not be blocked, changed, altered or destroyed without the consent of the Association and the Owners adjoining the easements. Each Owner of a Lot on which any such drainage easement is located shall be responsible for maintaining and repairing such easement, including the improvements located on or in such easement at such Owner's sole expense. The Association and its agents may enter each Lot to inspect the condition of and repair, if necessary, such drainage easements.

Section 5. Construction Easement. If any portion of an exterior wall of a Unit is situated within six feet of any adjoining Lot line, a valid easement shall and does exist over such adjoining Lot of sufficient width not to exceed six feet to reasonably permit the construction, reconstruction and maintenance of said exterior wall of the Unit so situated.

Section 6. Landscape, Parking, and Drives Maintenance. There is hereby created an easement for the maintenance and care of the front yards of each home. The easement is created for the Association, or their representatives.

In general, the landscape maintenance easement runs parallel to the front plain of each home to the adjoining home.

The Design Review Committee (DRC) will meet prior to closing, adjust the final easement line based on final house layout and site configuration, and plan type.

Section 7. Exclusive Right To Use Easements. There is hereby created an easement for the enjoyment and use of each side yard of all homes. An exclusive right to use easement also exists where a drive is to be shared by two or more homeowners. Access through these drives cannot be denied. The easement is created to individual homeowners for property adjacent to theirs.

Definitions:

Side Yard: Property located adjacent to the active side of Homeowners home. Side yard is defined as running parallel to adjoining homeowners passive wall. The easement would be granted from the front yard (as defined in Section 6) to the rear property yard. IN ALL CASES, the Design Review Committee (DRC) will review all side yard easements and will make the final determination of said easement based on final house layout, site configuration, privacy, and plan type.

#### ARTICLE X - DECLARANT'S EXCEPTIONS, EXCLUSIONS AND RESERVATIONS

So long as Declarant owns a Lot in the Properties, Declarant, its successors and assigns, excepts, excludes and reserves the following from each and every deed and instrument of conveyance executed and delivered by it to a Lot Owner:

a. The right to maintain a sales office, construction office and model homes on the Properties, and to repair and maintain the Common Area. In connection therewith, Declarant reserves (a) the right to use and excavate the surface and subsurface of the ground for the erection, construction and installation of said improvements and foundations, footings, floorings and basements. Declarant reserves the right to extend the drives, lanes and roads located or to be located on the Properties; (b) the right to lease and rent such Units and the right to sell, grant and convey title to purchasers of such subsequently constructed Units; (c) the right to use and occupy so much of the Properties as may be necessary for the construction, reconstruction, maintenance and operation of any of said Units, Lots, and Common Area and other improvements including, but not limited to the right to locate, install, maintain and repair all utilities and utility lines necessary for such construction, reconstruction, maintenance and operation. Prior to December 31, 1992, Declarant reserves the right to convey to any municipality, water district, sanitary sewer district or other municipal or quasi-municipal corporation all sewer lines and mains and water mains and trailers, campers, motor homes, pickup coaches, tents or boats which can be and are stored completely within a Garage and are not used for living purposes will not be in violation of these restrictions. Garage doors shall be kept closed when not in use. The Board of the Association may adopt rules and regulations restricting the use and parking of vehicles on Common Area and may request that certain portions of the Common Area be designated for use only by authorized vehicles and may take such other necessary action to enforce parking restrictions as provided in C.R.S. S42-4-1111 as amended.

#### ARTICLE XI - ARCHITECTURAL CONTROL

Section 1. No building, fences, roof, wall, exterior lighting, flag pole, hot tub, swimming pool, window or roof cooler, window or roof air conditioner, solar panels or systems, basketball backboard, dog house or dog run or other structure shall be erected, placed or altered on any Lot and no alteration or repainting to the exterior of a structure shall be made until the construction plans and specifications and a plot plan showing the exterior design, height, building material and color scheme thereof, the location of the structure plotted horizontally and vertically, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved by a Design Review Committee as set forth herein. Exterior paint colors may be of like or equal color and quality and must be separated by a minimum of two homes.

##### Body color:

- All siding
  - All corner boards on main body and dormers.
  - All overhead surfaces: porch and entry ceilings.
- USE CABOT SEMI-TRANSPARENT OR SEMI-SOLID STAIN

##### Trim Color:

- All Fascia
- All gutters and downspouts.
- All window and door trim (surrounds).
- All gable vents-frames and louvres.
- Porch balustrade (rails and spindles) & post caps.
- Ground level belt courses (horizontal trim).
- Porch base trim and supporting lintels.
- Porch support posts.
- Entry door and window surrounds.
- Flower boxes below windows.
- Corbels below flower boxes and bays and elsewhere.

- All stairs.
  - Garage doors and surrounding trim.
  - Chimney flue cap (if painted).
- USE KELLEY-MOORE SATIN PAINT.

Colors for Brown Stone include:

Body	Trim
0342 Beechwood Gray**	N19-3 Nobel House
0194 Beige*	H19-3 Teasel
0347 Dark Gray**	B19-3 Morocco

Colors for Gray Stone include:

Body	Trim
0144 Driftwood Gray*	X38-2 Dark Cloud
0167 Dune Gray*	N39-3 Guinevere
0143 Cape Cod Gray*	N18-2 Old Manse

STAIN COLORS ARE CABOT STAINS:

\* Semi-solid stain                      \*\* Semi-transparent stain  
PAINT COLORS ARE KELLEY-MOORE PAINTS

Section 2. Design Review Committee (DRC). The DRC is composed of Patrick H. Hamill, Mike Palomba, Lee Iverson, and Lois Brink. The majority of the committee may designate a representative to act for it in all or a portion of the Committee's duties and on such terms and conditions as the Committee in its discretion may set forth in writing. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for the services performed under this covenant. It shall not be necessary for the Declarant to submit plans or specifications or other exhibits to the Design Review Committee for approval. When Declarant no longer owns a Lot in the Properties, the Board of Directors of the Association shall thereafter act as the Committee, or may appoint three or more representatives to act as the Committee on its behalf.

A. The DRC shall review submittals as to the quality of the workmanship and materials, harmony of external design and color with existing structures, and as to location with respect to topography and finished grade elevation and relationship to other residences. The Committee shall have the right to refuse to approve any such plans, specifications or grading plans which are not suitable or desirable in its opinion, and shall not be liable in damage to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

B. The DRC's approval or disapproval as required in these Covenants shall be in writing and a final approved plan shall be lodged permanently with said Committee. In the event the DRC, or this designated representative, fails to respond in writing within thirty (30) days after plans and specifications have been submitted to it, approval will not be required and these Covenants shall be deemed to have been fully complied with.

Section 3. Right of Entry of Association Representative. Any agent or officer of the Association may at any reasonable hour or hours during construction or remodeling, enter and inspect the Common Area and the exterior of any Unit as to its maintenance or improvements to determine if there has been compliance with the provisions hereof. The Association, and any agent, or officer thereof, shall not thereby be deemed guilty of any manner of trespass for such entry or inspection. The Association may issue a certificate of completion and compliance as to any property so inspected.

#### ARTICLE XII - OWNERS MAINTENANCE RESPONSIBILITY

Each Owner shall maintain, replace and keep in good repair, all portions of the structure which is not the obligation of the Association to maintain, replace, and keep in good repair. As soon as the growing season reasonably permits, the grounds in the side yard of each Lot shall be seeded, sodded or otherwise planted by the Owner thereof with grass or other ground cover or hardscape and maintained in a clean and attractive manner free of dust and weeds. Each Owner is also responsible for maintaining any landscaping within the side yard of his Lot and to insure positive drainage. Landscape plans must be submitted to the (DRC) for approval.

#### ARTICLE XIII - SOLAR PLANE RESTRICTION

It is hereby prohibited to permit any part of any object, natural or manmade, to project up through a plane extending southerly over each individual Lot at an angle of 26.5 degrees with respect to the horizontal (a pitch of one foot vertical for each two feet horizontal) which plane starts as a horizontal line which is co-directional with a line parallel to and five (5) feet south of the north property line of said Lot and passes through a point ten (10) feet above the midpoint of such parallel line. This restriction and prohibition shall not apply to chimneys or first-built structures built by the Declarant or the replacement of such structures should they be destroyed by fire, wind, or otherwise. Any offending object on any Homeowner's Lot, if not removed within ten (10) days of written notification from the Homeowners Association, shall be removed (or partially removed so as to achieve compliance) by the Homeowners Association. The cost of such removal shall be charged to the Homewoner on whose property the offending object lies. By adopting this covenant, the landowners within this development recognize the desirability of creating and maintaining the common plan to assure access to direct sunlight on all parcels of the development for public health and aesthetic purposes, specifically including access to sunlight for solar energy utilization.

#### ARTICLE XIV- DAMAGE OR DESTRUCTION

Section 1. Damage to Common Area. In the event of damage or destruction to all or a portion of the Common Area due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destroyed Common Areas are insufficient to effect a complete repair, the Association shall present to the members a notice of a special assessment for approval by the membership in accordance with Article V, Section 4. If such assessment is approved, the Association shall make such assessment and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by the written consent of sixty-seven percent (67%) of the Owners other than Declarant, except that the proceeds shall not be distributed to the Owners, their respective Lots, if any. The assessment as to each Owner and Lot shall be equal to the assessment against every other Owner and Lot. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than sixty (60) days after written notice thereof. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon, and may be enforced and collected in the same manner as any assessment lien provided for in this Declaration.

#### ARTICLE XV - CONDEMNATION

Section 1. Condemnation. If at any time or times during the continuance of ownership pursuant to this Declaration, all or any part of the Common Areas shall be taken or condemned by any public authority, sold or otherwise disposed of in lieu of, the following provisions shall apply:

A. Notice. If the estimated value of the taking (including loss of value to the balance), as reasonably determined by the Association, is in excess of \$10,000, the Association shall give prompt notice thereof, including a description of the part of or interest in the Common Area or improvement thereon sought to be so condemned, to all Owners and first mortgagees who have given the Association prior notice of their interest in any Lot. The Association shall have full power and authority as attorney in fact to defend in said proceedings; provided that the Association shall not enter into any settlement or other nonadversary disposition of said proceeding pursuant to which the Common Area or any part thereof or any interest therein, or any improvement without giving all Owners at least fifteen (15) days prior written notice thereof.

B. Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Association.

C. Complete Taking.

(1) In the event that all of the Common Areas are taken or condemned, or sold or otherwise disposed of, in lieu of or in avoidance thereof, the Condemnation Award shall be apportioned among Owners equally and payment of said apportioned amounts shall be made payable to the Owner and the first mortgagee of his Lot, jointly.

(2) On the basis of the principle set forth in the preceding paragraph, the Association shall as soon as practical determine the share of the Condemnation Award to which each Owner is entitled.

D. Partial Taking. In the event that less than the entire Common Area is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first be applied by the Association to the rebuilding and replacement of those improvements on the Common Area damaged or taken by the condemning

public authority, unless seventy-five percent (75%) of the Owners and the first mortgagees of each Lot agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be used by the Association for the future maintenance of the Common Area and exterior maintenance of the Residences situated on each Lot.

#### ARTICLE XVI - GENERAL PROVISIONS

Section 1. Public Utility Tariffs. All Lots shall be subject to and bound by Public Service Company and/or Innermountain Rural Electric Association of Colorado's or its successors and assigns tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this Subdivision, if any, together with rates, rules, and regulations therein provided and subject to all future amendments and changes thereto. Any and all Owners shall pay as billed a portion of the cost of public street lighting, if any, in any, in the Properties in accordance with rates, rules and regulations now in effect and as hereafter amended by the Public Service Company of Colorado.

Section 2. Enforcement. The Association or the Owner or Owners of any of the Lots may enforce the restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration or any rules or regulations promulgated by the Association which are consistent with this Declaration by proceedings at law or in equity against any person or persons or against the Association violating or attempting to violate any of the said rules, regulations, restrictions and limitations, either to recover damages for such violation, including reasonable attorneys fees incurred in enforcing these covenants, or to restrain such violation or attempted violation or to modify or remove structures fully or partially completed in violation hereof, or both. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall not be liable to reimburse any Owner for attorneys fees or costs incurred in any suit brought by an Owner to enforce or attempt to enforce these covenants.

Section 3. Posting. The Board of Directors may post on a bulletin board at a conspicuous place on the Common Area notices of any covenant violations by members and copies of any recorded lien statements. Failure to post shall not affect the validity of any lien or covenant violation.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of perpetual from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. Unless amended as herein provided, all other provisions, covenants, conditions, restrictions and equitable servitudes contained in the Declaration shall be effective.

Section 6. Amendment of Declaration by Declarant. Until the first Lot has been conveyed by Declarant by deed recorded in the office of the County Clerk and Recorder of the City and County of Douglas,

Colorado, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination. Thereafter, if Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order to make non-material changes, such as the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section 6, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of any Owners. Each such amendment of this Declaration or of the articles of Incorporation or Bylaws of the Association shall be made, if at all, by Declarant prior to (a) conveyance of the last Lot by Declarant to the first Owner thereof (other than Declarant) or (b) December 31, 1992, whichever shall first occur; and each such amendment must contain thereon the written approval of the Veterans Administration or the Federal Housing Administration of the U.S. Department of Housing and Urban Development. Any such non-material changes shall conclusively be deemed approved by each such mortgagee who fails to submit a response to any written proposal by Declarant for an amendment within thirty days after the proposal by Declarant is made. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each Owner and Mortgagee. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to make, execute and record Special Amendments.

Section 7. Amendment of Declaration by Members. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time, from time to time, upon approval of the amendment or repeal by Members of the Association holding at least sixty-seven percent (67%) of the voting power of the Association present in person or proxy at a duly constituted meeting of the Members. The approval of any such amendment or repeal shall be evidenced by the certification by the Board of Directors of the Association of the vote of Members. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the City and County of Douglas, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the Members and certified by the Board of Directors of the Association of the vote of Members. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the City and County of Douglas, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the Members and certified by the Board of Directors as set forth above.

Section 8. Amendment Required by Government Mortgage Agencies. Prior to December 31, 1992, and notwithstanding the provisions of Section 3 of this Article XVII, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Government Mortgage Agency requires to be amended or repealed may be amended or repealed by vote of a majority of the Board of Directors of the Association at a duly constituted meeting of the Board of Directors of the Association at a duly constituted meeting of the Board. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the City and County of Douglas, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full with the written approval of FHA or VA and certifying that the amendment or repeal has been approved by the vote of the Board of Directors as herein provided.

Section 9. Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of Articles V and X of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate at such time as the last Lot within the Properties has been sold and conveyed by Declarant.

Lot Hamill  
or his  
Successors,

Section 10. Power of Attorney Granted for Amendment of Planned Building Group (P.B.G.) and/or Subdivision Plat. Declarant hereby reserves and is granted the right and power to amend at any time prior to the sale of the last Lot by Declarant to the first Owner thereof (other than Declarant), and from time to time, the P.G.B. and/or Subdivision Plat affecting the Property. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to such amendment on behalf of each Owner. Each Owner hereby designates Declarant, its successors and/or assigns, to be his attorney-in-fact for any and all purposes relating to the amendment of the P.B.G. and/or Subdivision Plat as set forth in this Section, including but not limited to, the execution of any and all instruments which need to be executed by the Owners in order to fully effectuate any such amendment. Said power of attorney does not give Declarant the right to modify property lines of Lots that have been previously deeded to Owners, and is limited to modifying only the lots owned by the Declarant. The power of attorney granted herein is a durable power of attorney which shall not terminate upon the death or disability of any Owner. This power of attorney shall be binding upon all assignees, successors, heirs, and owners.

Section 11. Special Rights of First Mortgagees. Any First Mortgagee (meaning a mortgage with first priority over other mortgages) of a mortgage encumbering any Lot, upon filing a written request therefor with the Association, shall be entitled to (a) written notice from the Association of any default by the Mortgagor of such Lot in the performance of the Mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written

notice of all meetings of the Board of Directors or Members of the Association; (e) designate a representative to attend any such meeting; (f) receive written notice of abandonment or termination of the Association of the plan contemplated under this Declaration; (g) receive thirty (30) days written notice prior to the effective date of any proposed, material ammendment to this Declaration, the Articles of Incorporation, or the Bylaws; (h) receive thirty (30) days written notice prior to the effective date of termination of any agreement for professional management of the Association or the Common Area following a decision of the Association to assume the Common Area following a decision of the Association to assume self-management of the Common Area; and (i) receive immediate written notice as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Area.

Section 12. Priority of First Mortgage over Assessments. Each First Mortgagee of a mortgage encumbering a Lot who obtains title to such Lot pursuant to the remedies provided in the mortgage or by judicial foreclosure shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such holder acquires title to such Lot, other than allocation of any deficiency prorated among all Members of the Association.

Section 13. First Mortgagee Right to Pay Taxes and Insurance Premiums. Any such First Mortgagee or any such First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against any of the Common Area and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Area or Units and the First Mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

Section 14. Agreements with Government Mortgage Agencies. The Association may enter into such contracts or agreements on behalf of the Association as may be required in order to satisfy the requirements or guidelines of any Government Mortgage Agency so as to allow for the purchase, guarantee or insurance, as the case may be, by a Government Mortgage Agency of First Mortgages encumbering Lots. Each Owner hereby agrees that it will benefit the Association and the Members thereof, as a class of potential mortgage borrowers and potential sellers of Lots, if Government Mortgage Agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations as adopted from time to time.

Section 15. Association Right to Mortgage Information. Each owner hereby authorizes any First Mortgagee holding a Mortgage on such Owner's lot to furnish information to the Association concerning the status of such First Mortgage and the loan which it secures.

Section 16. Special Approvals by First Mortgagees. Unless at least sixty-seven percent (67%) of the First Mortgagees (based on one vote for each mortgage owned) of Lots in the Association have given their written approval, neither the Association nor any Member shall (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area or any improvements thereon which are owned, directly or indirectly, by the Association (except that the granting of Access Easements, Utility Easements, Drainage Easements and Water Facilities Easements or easements for other public purposes consistent with the intended use of such property by the Association shall not be deemed within the meaning of this

provision); (b) change the method of determining the obligations, Assessments or other charges which may be levied against Members or the method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (c) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof, pertaining to architectural approval of improvement of Lots including the architectural design of the exterior appearance of the Units, or the upkeep of lawns and plantings on the Common Area; (d) fail to maintain the casualty, fire and extended coverage insurance on insurable Association Properties or Units, as elsewhere provided in this Declaration; (e) use hazard insurance proceeds for losses to any Association Properties for other than proceeds for losses to any Association Properties for other than the repair, replacement or reconstruction of the improvements which were damaged or destroyed; (f) amend any material provision of this Declaration; and (g) establish self-management by the Association when professional management has previously been required by any first mortgagee or insurer or guarantor of a first mortgage on a Lot. An amendment shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. If a First Mortgagee who receives a written request for approval of the proposed act, omission, change or amendment does not deliver or post to the requesting party a negative response within 30 days, it shall be deemed to have approved such request. To be eligible either to approve or object to any such written request for approval, a First Mortgagee must have previously given the Association written notice of the existence of its mortgage. Eligible insurers and guarantors of a First Mortgagee shall have the same rights as eligible First Mortgagees.

Section 17. FHA/VA Approval. As long as there is a Class B Member, and provided further that the FHA or the VA is insuring or guaranteeing or has agreed to insure or guarantee loans with respect to initial sales of Lots by Declarant, the following action shall require the prior approval of the FHA or the VA, in accordance with the procedure set forth herein: (a) dedication of any of the Common Area; (b) granting of a mortgage covering any portion of the Common Area; (c) establishment of additional reservations by Declarant in the Common Area; (d) amendment of this Declaration; and (e) any merger or consolidation of the Association with any other entity. Declarant shall give prior written notice of veto is received by Declarant within such thirty (30) day period, then such approval shall be deemed given and Declarant may proceed as if such approval was obtained with respect to the request contained in such notice. Any certificate of amendment or repeal shall state whether or not any such consent is required and, if required, shall state whether or not such consent has been obtained, and the statements in the certificate shall be binding and conclusive on all persons.

Section 18. Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, each notice shall be sent postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Lot of such person if no address has been given to the Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

ARTICLE XVII - SUBJECTING ADDITIONAL  
PROPERTY TO THIS DECLARATION

Section 1. Addition to the Properties. At any time before December 31, 1992, Declarant, its successors and assigns, in future stages of development, shall have the right to annex to and bring within the scheme of this Declaration additional properties located in the Hamlet R-13 Subdivision in Douglas County, Colorado, according to the recorded plat thereof, without the assent of the Class A Members, and said lands on the date of annexation shall be deemed a part of the Properties.

Section 2. Method of Making Additions. Additions authorized under this Article shall be made by filing for record a Supplemental Declaration of covenants and restrictions with respect to the additional property. Such Supplemental Declaration may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character of the added properties in the sole discretion of the Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Properties subject to this Declaration just prior to such Supplemental Declarations being filed for record.

Section 3. Additions by Others. Additions may be made upon approval of the Association pursuant to a vote of its members, as provided in its Articles of Incorporation, and approval of two-thirds of the holders of first mortgages on Lots who have previously given written notice to the Association of the existence of their mortgages. Mortgagees shall be entitled to one vote for each Lot on which they hold a first mortgage. Such approval by the Membership and first mortgagees shall be evidenced by a certified copy of such resolution of approval and a Supplemental Declaration, both recorded in the City and County of Denver, Colorado.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 5<sup>th</sup> day of

April, 1988.  
The Hamlet, Ltd., a Colorado Limited Partnership  
BY: Hamill Homes, Inc., General Partner  
BY: [Signature]  
President

STATE OF COLORADO)  
                                  ) SS.  
COUNTY OF DOUGLAS

SEAL

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me by Patrick H. Hamill as President of Hamill Homes, Inc., \*the 5<sup>th</sup> day of April, 1988.

WITNESS my hand and official seal.  
My Commission Expires: 4-21-90

[Signature]  
Notary Public

5300 DTC Parkway  
Address  
Englewood, CO 80111

\*General Partner of The Hamlet, Ltd., a Colorado Limited Partnership