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BOOK 4893 PAGE 34

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SPRING CREEK MEADOWS

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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

BGCM 4893 39

FOR

SPRING CREEK MEADOWS

ARTICLE I. RECITALS

SPRING CREEK PARTNERSHIP, a Colorado general partnership, (the "Declarant"), as the owner of certain real property subject to this Declaration, located in Arapahoe County, Colorado, and more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (the "Properties"), which Properties consist of 144 individual Lots to be improved and sold, and related Common Areas and Common Area Improvements as set forth on Subdivision Plat filed or to be filed, hereby makes the following grants, submissions, and declarations:

Declarant desires to provide for the preservation and enhancement of property values, and opportunities in the Properties, contributing to the personal and general health, safety and welfare of residents and for the maintenance of the Common Area and Improvements, and to this end desires to subject the Properties, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said Properties and each Owner thereof.

DECLARATION

NOW, THEREFORE, Declarant declares that the Properties and such additions as may hereafter be made, is, are and shall be held, transferred, sold, conveyed and occupied subject to the following uniform covenants, conditions, restrictions, easements, charges and liens which shall run with the real property and be binding on all persons having or acquiring any right, title or interest in the Properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest, each Owner and his successors in interest, and the Spring Creek Meadows Homeowners Association, Inc., and its successors in interest.

ARTICLE II. DEFINITIONS

The following terms shall have the following meanings when used, unless the context otherwise requires:

Section 2.1. Association. "Association" shall mean and include Spring Creek Meadows Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Section 2.2. Board of Directors. "Board of Directors" or "Board" shall mean and include the governing body of the Association as provided in this Declaration, the Articles of Incorporation and the By-Laws thereof.

Section 2.3. Building. "Building" shall mean and include any building constructed on the Properties.

Section 2.4. Common Area. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described in Exhibit B.

Section 2.5. Common Area Improvements. "Common Area Improvements" shall mean and refer to any and all improvements located in, under, or upon the Common Area, as originally developed and constructed by Declarant or as later added by the Association, which Common Area Improvements may include recreational facilities, perimeter fences, any non-dedicated and private roadways, all as may be located upon the Common Area described herein.

Section 2.6. Common Expense. "Common Expense" shall mean and refer to:

A. Expenses of administration, operation or management, repair, maintenance or replacement of the Common Areas of the Project;

B. Expenses declared Common Expenses by the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association;

C. All sums lawfully assessed against the Lots by the Board of Directors of the Association;

D. Expenses determined to be Common Expenses by the Association; and

E. Expenses as are provided in any management agreement applicable to the Properties.

Section 2.7. Declarant. "Declarant" shall mean and include SPRING CREEK PARTNERSHIP, a Colorado general partnership, its successors and assigns, if such successors and assigns should acquire all Lots owned by Declarant for the purpose of development and sale and a notice of assignment of Declarant's rights hereunder is recorded with the Clerk and Recorder of Arapahoe County specifying the assignee of Declarant's rights.

Section 2.8. Declaration. "Declaration" shall mean and include this instrument together with any and all supplements and/or amendments

hereto recorded in the Office of the Clerk and Recorder of the County of Arapahoe, State of Colorado.

Section 2.9. Dwelling Unit. "Dwelling Unit" shall mean and refer to the improvements located upon any Lot built for single family occupancy as a residence.

Section 2.10. First Mortgage. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the office of the Clerk and Recorder of the County of Arapahoe, Colorado, encumbering any Lot having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgage" 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 said 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 the County of Arapahoe, Colorado, show the said Administrator as having the record title to the Lot.

Section 2.11. First Mortgagee. "First Mortgagee" shall mean and include the holder or beneficiary of any recorded First Mortgage.

Section 2.12. Lot. "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision Plat of the Properties, with the exception of the Common Area.

Section 2.13. Lot Improvement. "Lot Improvement" shall mean and refer to any improvements located upon a Lot in addition to a Dwelling Unit, as above defined, as such improvements were originally installed by the Declarant or later approved for installation by the Association and intended for use in connection with the ownership of such Lot.

Section 2.14. Member. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration. "Member" and "Owner" (as hereinafter defined) may be used interchangeably herein, unless the context provides otherwise.

Section 2.15. Mortgage. "Mortgage" shall mean and include any recorded mortgage, deed of trust or other security instrument by which a Lot or any part thereof is encumbered.

Section 2.16. Mortgagee. "Mortgagee" shall mean and include a beneficiary under a Mortgage.

Section 2.17. Owner. "Owner" shall mean and include any person or entity, including the Declarant, at any time owning a Lot. The term "Owner" shall not refer to any Mortgagee as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure, or any proceeding

in lieu of foreclosure. The terms "Owner" and "Member" (as hereinabove defined) may be used interchangeably herein, unless the context provides otherwise.

Section 2.18. Participating Builder. "Participating Builder" shall mean an Owner other than Declarant which acquires a portion of the Properties from Declarant for the purpose of reselling or leasing the Residences or Commercial Areas thereon which is designated in writing by Declarant as a Participating Builder by instrument duly recorded in the Arapahoe County, Colorado land records.

Section 2.19. Properties and Project. "Properties" and "Project" shall mean and refer to that certain real property described on Exhibit A, and any additions thereto pursuant to Article XIV hereof.

Section 2.20. Subdivision Plat. The "Subdivision Plat" or "Plat" shall mean and refer to the Subdivision Plat which was properly submitted to and approved by the county or other governmental entity having jurisdiction over the approval of such Plat, which Plat shall include a survey of the Properties, the Lots, and the Common Area, and shall have been properly recorded in the county in which the Properties are located following the approval thereof by the proper governmental entity.

#### ARTICLE III. PROPERTY RIGHTS

Section 3.1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to limit the number of guests or Members, to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

B. The right of the Association to suspend the voting rights and right to use of any Common Area and Common Area Improvements by a Member for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed 60 days for any and each 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. No such dedication or transfer shall be effective unless an instrument signed by 67% of the membership agreeing to such dedication or transfer has been recorded; and

D. The right of the Association, in accordance with these Declarations and its Articles and By-Laws, to borrow money for the purpose of improving the Common Area, or the existing Common Area Improvements, and in aid thereof, to mortgage or encumber said

property, and the rights of such Mortgagee in said Properties shall be subordinate to the rights of the Owners hereunder.

Section 3.2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and Common Area Improvements to the members of his family, his tenants, invitees, or contract purchasers who reside on the Properties.

Section 3.3. Title to Common Area and Improvements Thereon. The Declarant hereby covenants for itself, its successors and assigns, that upon recordation hereof, it will convey fee simple title in the Common Area and Common Area Improvements to the Association, free and clear of all liens and encumbrances, except general taxes for the current and subsequent years and subject to easements, rights-of-way, covenants, conditions, exceptions and reservations of record. Prior to the conveyance of any Lots included in additional lands, any Common Areas or Common Area Improvements added to the Properties at a later time as provided elsewhere herein shall be transferred to the Association free and clear of all liens and encumbrances except general taxes for the current and subsequent years and subject to easements, rights-of-way, covenants, conditions, exceptions and reservations of record.

#### ARTICLE IV. EASEMENTS

Section 4.1. Easements for Encroachments. If any portion of the Common Area, or Common Area Improvements thereon, now or hereafter, encroaches upon any Lot, or if any Lot or Lot Improvements thereon, now or hereafter, encroaches upon any other Lot or upon any portion of the Common Area, as a result of the construction of the Buildings or other Improvements, or if any such encroachments shall occur hereafter as a result of settling or shifting of any Building or other Improvements or for any other reason, a valid easement shall be deemed to exist for the encroachment and for the maintenance of the same shall exist so long as the Building or other Improvements shall exist. In the event any Dwelling Unit, Lot Improvement, or adjoining Common Area Improvement, shall be partially or totally destroyed or taken as a result of condemnation or eminent domain proceedings and then rebuilt at the same location, encroachments due to this rebuilding shall be permitted, and valid easements for such encroachment and the maintenance thereof shall exist so long as the Building or other Improvements shall stand. The foregoing encroachments shall not be construed to be encumbrances affecting the marketability of title to any Lot.

#### ARTICLE V. THE ASSOCIATION

Section 5.1. The Association. The administration of the Project shall be governed by this Declaration, the Articles of Incorporation, and the By-Laws of the Spring Creek Meadows Homeowners Association, Inc., a Colorado nonprofit corporation.

Section 5.2. Membership. An Owner of a Lot shall automatically become a Member of the Association and shall remain a Member for the



period of the Owner's Lot ownership. If title to a Lot is held by more than one person, the membership related to that Lot shall be shared by all such persons in the same proportion of interests and by the same type of tenancy in which the title of the Lot is held. An Owner shall be entitled to one membership for each Lot owned. Each membership shall be appurtenant to the Lot and shall be transferred automatically by conveyance of the Lot. No person or entity other than an Owner may be a Member of the Association, but the rights of membership may be assigned to a Mortgagee as further security for loans secured by a Mortgage of a Lot.

Section 5.3. Classes of Membership and Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and they shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an 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.

Class B. The Class B Members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The then existing Class B memberships shall be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(i) Within four (4) months after the date the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(ii) December 31, 1993.

(iii) On a date certain set forth in written notice from the Declarant to the Secretary of the Association of its intent to terminate this reserved right as of such date; provided, however, that in the event there is more than one Declarant, such notice must be signed by all such Declarants.

Notwithstanding the foregoing voting rights, Declarant hereby reserves the right to appoint the Board of Directors of the Association for the period of Class B Membership. The Board of Directors shall have such powers and duties and shall serve for such terms of office as are set forth in the Articles of Incorporation and By-Laws of the Association.

Section 5.4. Transfer. Except as otherwise expressly stated herein, any of the rights, interests and obligations of the Association set forth or reserved herein may not be transferred or assigned to any other person or entity. No such transfer or assignment shall relieve the Association of any of the obligations set forth herein. No such



transfer or assignment shall revoke or change any of the rights or obligations of any Owners as set forth herein.

Section 5.5. Powers. The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer, and regulate the Project and to perform all of the duties required of it. Notwithstanding the above, unless 67% of the First Mortgagees of Lots, who have registered pursuant to Section 17.7 below (based upon one (1) vote for each First Mortgage owned or held), have given their prior written approval as provided in Section 17.8 below, and the Owners to which 67% of the votes in each class of membership are allocated have given their prior written approval, the Association shall not be empowered or entitled to:

A. By act or omission, seek to abandon or terminate the Project or dissolve the Association;

B. Partition or subdivide any Lot;

C. By act or omission, seek to abandon, partition, subdivide, encumber, mortgage, sell or transfer the Common Area or any Common Area Improvements thereon (the granting of easements for public utilities including cable television or for other public purposes consistent with the intended uses of such Common Areas by the Association shall not be deemed a transfer within the meaning of this clause);

D. Use hazard insurance proceeds for loss to the Common Area Improvements for other than the repair, replacement, or reconstruction of such Common Area Improvements;

E. Merge or consolidate with another project or association, except for such provisions as may otherwise be provided herein relating to the annexation of additional lands to the Properties;

F. Except as may result from the exercise of the annexation provisions otherwise herein, change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

G. Change the voting rights or the extent of rights and assessments of each Owner in and to the Common Areas and Common Area Improvements thereon;

H. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or exterior appearance of Dwelling Units, or the maintenance or upkeep of the Common Areas; or

I. Fail to maintain fire and extended coverage on insurable Common Area Improvements on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement costs).

Section 5.6. Examination of Books and Records. All Owners, First Mortgagees, insurers or guarantors of a First Mortgage of a Lot in the Project shall, upon request, be entitled to:

A. Inspect the books and records of the Association during normal business hours;

B. Receive a copy of a financial statement of the Association for the preceding fiscal year at no charge;

C. Written notice of all meetings of the Association and be permitted to designate a representative to attend all of such meetings; and

D. Current copies of this Declaration, By-Laws, Articles of Incorporation and any Rules and Regulations concerning the Project, provided that reasonable copying charges are advanced to the Association by the party requesting copies.

If requested by a holder, insurer or guarantor of a First Mortgage in writing, an audited financial statement for the immediately preceding fiscal year will be provided free of charge to the party so requesting, if available. If an unaudited financial statement is unavailable, then one shall be prepared and furnished within a reasonable time following such request.

ARTICLE VI. CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 6.1. Common Areas. The Association, subject to the rights of Owners with respect to their individual Lots, shall be responsible for the exclusive management and control of the Common Areas and Common Area Improvements (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition. The Association shall also be responsible for maintaining the sidewalk, fence and landscaping improvements installed within the following public rights-of-way in the County of Arapahoe: sidewalk, fence, and landscaping north of the north flowline of Quincy Avenue adjacent to the Properties. The cost of such management operation, maintenance, and repair by the Association shall be borne as provided in Article VII. The Association shall be responsible for maintaining the perimeter fences described above, notwithstanding the fact that all or a portion of such fences may be located on or within the boundary line of various Lots. The Association shall have an easement on the Lots for purposes of performing such fence maintenance.

Section 6.2. Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may

obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish lighting, heating, water, trash collection, snow removal, building and grounds maintenance, sewer service, firewood, and other services as appropriate to the Project. During the period Declarant is in control, any contracts or leases entered into shall contain a right of termination, without cause, which is exercisable without penalty at any time after transfer of control, upon not more than 90 days notice to the other party thereto; however, such right of termination need not be present in those contracts and leases wherein the subject matter is an essential service and where long term contracts are required. The cost of such services shall be borne as provided in Article VII.

Section 6.3. Professional Management. The Association may obtain and pay for services of a professional "Management Contractor" to manage its affairs, or any part thereof, to the extent it deems advisable, whether such services are in lieu of, or supplemental to, the services described under Section 6.2 above. During the period when the Declarant is in control, any management contracts entered into by the Association with respect to such professional management of the Properties, and any contracts that such professional management shall enter into on behalf of the Association, may not be for a term not to exceed one (1) year, and must contain a provision allowing either party to cancel the contract with or without cause, and without a payment of a termination fee or penalty, upon 30 days prior written notice. Further, and in connection with the Association's right to contract for management and personnel, whether on-site or off-site in nature, the Association shall have the right to limit the use of portions of the Common Areas for purposes of maintenance and storage facilities, management office facilities, management housing facilities to the extent allowable, and other such purposes as deemed desirable and necessary by the Association for the purposes of management and maintenance of the Properties. Said professional Management Contractor shall be an independent contractor and neither the contractor, nor any of its employees, shall be considered as employees of the Association.

Section 6.4. Common Area Use. All Common Areas and Common Area Improvements described in Sections 2.4 and 2.5 of this Declaration are dedicated to the common use and enjoyment of the Owners for general recreation, pedestrian traffic, vehicular traffic, green area, and other such uses common to all the Owners as determined by the Association, pursuant to the covenants, provisions, and restrictions contained herein, or as further defined in the Association By-Laws and any Rules and Regulations promulgated by the Association.

Section 6.5. Fences and Walls. No fences, hedges or walls shall be erected or maintained upon said Lots except such as are installed in accordance with the initial construction of the Buildings located thereon, or as may be approved by the Association's Architectural Control Committee or its designated representatives, nor may such fences, hedges, or walls which shall be installed as part of the

initial construction be removed, transferred, or altered in any manner, except as approved by the Architectural Control Committee or its designated representative.

Section 6.6. Maintenance of Individual Lots. The ownership of the Lots, together with Dwelling Units in existing Lot Improvements, shall be evidenced by a Deed to such Lot, together with the Improvements thereon. Maintenance, upkeep, and repairs of the Lot shall be the sole responsibility of the individual Owners thereof.

Section 6.7. Identity of Board of Directors. From time to time, but not less than annually, there shall be mailed by the Association to each Owner a notice containing the names and addresses of the members of the Board of Directors, and the Management Contractor, if there is one.

Section 6.8. Rights of Action. The Association, and aggrieved Owner(s), shall have an appropriate right of action against Owner(s) for failure to comply with the provisions of this Declaration or with decisions of the Association made pursuant to this Declaration; and an Owner(s) shall have similar rights of action against the Association.

#### ARTICLE VII. ASSESSMENTS

Section 7.1. Obligation. All Owners (except Declarant and Participating Builders, whose obligation is described below) shall be obligated to pay the estimated assessments imposed by the Board of Directors to meet the Common Expenses of maintenance, operation and management of the Property. The Board may establish any reasonable system for collection periodically of Common Expenses, in advance or arrears as deemed desirable. Initially, the assessment for the estimated Common Expenses on an annual basis shall be payable annually in advance on the first day of each calendar year. In the event a Lot is sold to a non-Declarant purchaser during the year, the annual assessment shall be prorated to the closing date and paid at closing, together with the working capital deposit required by Section 7.12 hereof. Assessments made shall be based upon the estimated cash requirements as the Board shall from time to time determine to be paid by all of the Owners. Estimated expenses shall include the cost of maintenance and operation of the Common Areas, cost of maintenance of the right-of-way, fence and landscaping described in Section 6.1, expenses of management, taxes and special assessments, unless separately assessed, insurance premiums for insurance coverage as required herein or as deemed desirable or necessary by the Board, landscaping, care of grounds, wages, legal and accounting fees, management fees, expenses and liabilities incurred by the Board or Management Contractor under or by reason of this Declaration, payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or other reserve or surplus fund for the maintenance or replacement of those Common Area Improvements which must be maintained or replaced on a periodic basis as well as other costs and expenses relating to the Common Areas and the purposes and responsibilities of the Association.

The omission or failure of the Board to fix the assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Board shall have the right, but not the obligation, to make pro-rata refunds of any assessments in excess of the actual expenses incurred after the end of the fiscal year.

Notwithstanding anything to the contrary contained in this Declaration, the rate of annual and special assessments set for the Lots owned by Declarant and/or Participating Builders which are neither leased, nor rented, nor otherwise residentially occupied shall be fixed at one-quarter (1/4) of the assessment rate for the other Lots. In the event that, prior to the termination of Class B Membership, assessments for annual common expenses, exclusive of those amounts held by the Association for an adequate reserve fund and for working capital, fail to equal or exceed the actual expenses incurred by the Association during any particular annual assessment period because of such partial Declarant and/or Participating Builder assessment, then Declarant and all Participating Builders shall collectively pay a sufficient amount, up to the amount of full parity on such assessment, to the Association to meet any such shortfall so long as (a) written notice must be given by the Association within 60 days following the termination of the then current fiscal year of the Association at the time of the termination of Class B Membership; but in no event more than one (1) year following the termination of such Class B Membership, and (b) Declarant and all Participating Builders shall have no obligation for any such shortfall caused by expenditures for capital improvements, or by any decrease in assessments, including without limitation, the levying of any assessment in an amount less than the maximum for any common expense assessment period, which amount is established subsequent to the termination of Class B Membership, unless the same has previously been approved in writing by Declarant; provided, however, that at the time any Lot owned by Declarant and/or a Participating Builder is leased, rented or otherwise residentially occupied, that Lot shall be assessed at the uniform rate of assessment for privately owned Lots. In the event there are any Participating Builders or there is more than one Declarant, then, subject to the conditions hereinabove stated, each such Declarant and/or Participating Builder shall pay a pro rata share of the amount necessary to meet each such shortfall in Association assessments, up to the amount of full parity on such assessments, such pro rata share to be based on the amount of assessments due at such lesser rate for Lots owned by each Declarant and Participating Builder, compared with the amount of assessments due at such lesser rate from the Declarant and all Participating Builders during the applicable annual assessment period.

Section 7.2. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Fifty Dollars (\$150.00) per Lot.

A. Without a vote of the membership, from and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Board of Directors may only increase the maximum annual assessment by an amount of 10% of the maximum assessment for the previous year.

B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by an amount in excess of 10% by a vote of 67% of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 7.3. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, with the exception of Declarant's and Participating Builder's limited exemption, and may be collected on an annual or more frequent basis, as determined by the Board of Directors.

Section 7.4. Time For Payment of Assessments. Assessments shall be due and payable within 15 days after written notice of the amount thereof shall have been mailed to the registered mailing address of the respective Owner of a Lot. Each assessment shall bear interest at the rate of 1% per annum from the date it becomes due and payable if not paid within 15 days after such date, and there shall be a Twenty Dollar (\$20.00) late charge for each installment of assessment payment that is delinquent. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Lot for such assessment, but the date when payment shall become due in such case shall be deferred to a date 15 days after the due dates indicated in notice properly sent. The Association may elect to have the annual assessments paid monthly, or such other periodic basis deemed desirable by the Association; and a default in the payment of any one installment of the annual assessment shall additionally give the Association the right to accelerate the remaining amount of annual assessment as immediately due and payable, as further referenced hereinafter.

Section 7.5. Special Assessments For Capital Improvements. In addition to the annual assessments authorized by this Article, the Board of Directors may levy in any assessment year a special assessment payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense or purchase incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing the expense authorized by other Sections hereof which shall make specific references to this Article or as set forth in the



preceding sentence. Any amounts assessed pursuant hereto shall be assessed to Owners at a uniform rate. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners and no payment shall be due less than 30 days after such notice shall have been mailed to the registered mailing address of the respective Owner. A special assessment shall bear interest at the rate of 21% per annum from the date it becomes due and payable, if not paid within 30 days after such date, and there shall be a reasonable late charge as set by the Board of Directors.

Section 7.6. Special Assessment Veto. Notwithstanding the provisions contained in Section 7.5 above, written notice of any special assessment approved by the Board of Directors shall be sent to all Owners immediately following such adoption. Such written notice shall be sent to the registered mailing address of each Owner, and shall become effective 30 days from and after the date of certificate of mailing of such notices to Owners by the Secretary of the Association; provided, however, that the Owners shall have the right to veto such special assessment approved by the Board of Directors by proper written notice of 67% of the Class A Members, indicating specific objection to the special assessment and delivered to the Secretary of the Association prior to the end of the 30 day notice period referenced above. In the event such percentage of Owners should specifically object to the special assessment as indicated above and within the time frames required, then such special assessment shall be deemed defeated. Any further adoption of such special assessment by the Board of Directors shall require the same procedure to be followed as referenced above, or pursuant to a special meeting of the Association called for the purpose of approving such special assessment, which approval shall require 67% of the Class A members present in person or by proxy at such meeting, provided a quorum (as defined in the By-Laws) is present. The provision of this Section 7.6 regarding a special assessment veto shall only be in effect if there is a Class B membership as per Section 5.3 hereinabove.

Section 7.7. Assessment Lien. All sums assessed but unpaid for the share of Common Expenses or special assessments chargeable to any Lot, including any fees, late charges, fines or interest, shall constitute a lien on such Lot superior to all other liens and encumbrances except (a) tax and special assessment liens on the Lot in favor of a taxing authority and (b) all sums unpaid on a First Mortgage of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence the lien as herein permitted, the Board of Directors may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Owner, and a description of the Lot and record the same in the Office of the Clerk and Recorder of the County of Arapahoe, Colorado. Such lien for assessment shall attach from the due date of the assessment. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in the manner for foreclosing a mortgage on real property upon recording of a notice for claim thereof. In the event of any such foreclosure, the



Owner shall be liable for the amount of unpaid assessments, any penalties thereon, the costs and expense of such proceedings, the costs and expense for filing the notice of the claim and lien, and all reasonable attorneys' fees in connection therewith.

The Association shall have the power to bind on a Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Any Mortgagee holding a Mortgage on a Lot may pay any unpaid assessment payable with respect to such Lot and any and all costs and expenses with respect thereto, and the lien on such Lot for the amounts paid shall have the same priority as the lien of the Mortgage. The lien for assessments referred to herein shall be at all times subordinate to the lien of any First Mortgage held by a First Mortgagee. By accepting a deed to a Lot, each Owner shall thereby waive and release any and all rights and claims said Owner may have in and to the Lot as a homestead exemption or any other exemption.

Section 7.8. Personal Obligation. The amount of any assessment chargeable against any Lot shall be a personal and individual debt of the Owner thereof. No owner may become exempt from liability for the assessment by abandonment or waiver of the use or enjoyment of any of the Common Areas or Common Area Improvements. Suit to recover a money judgment for unpaid Common Expenses plus interest and expenses, including attorney fees, shall be maintainable without foreclosing or waiving the assessment lien provided herein.

Section 7.9. Notice to First Mortgagee. If requested in writing, the Association shall report to the First Mortgagee of a Lot any default hereunder or unpaid assessments remaining in default or unpaid or uncured for longer than 60 days.

Section 7.10. Statement of Status of Assessment Payment. Upon payment of a reasonable fee of not less than Twenty-five Dollars (\$25.00) (except for First Mortgagees who shall be exempt from such fee) and upon the written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Lots. Unless such request shall be complied with within 20 days after receipt of said request by the Association, and if the request was properly addressed and sent by certified or registered mail, then all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. If the request is made by a prospective purchaser, the lien for the unpaid assessment shall be released automatically if the statement is not furnished within the 20 day period herein; provided thereafter, an additional written request is made by such purchaser, and the submission of the additional request is properly addressed and evidenced by a certified or registered mail receipt and the request is not complied with within ten (10) days and the purchaser subsequently acquires the Lot.

Section 7.11. Personal Liability of Purchaser For Assessments. A purchaser of a Lot shall not be personally liable for unpaid assessments against the Lot up to the time of conveyance to purchaser.

Section 7.12. Working Capital and Assessment Reserves. Each Owner originally purchasing a Lot from the Declarant shall be required to deposit and maintain continuously with the Association an amount equal to one-sixth (1/6) of the amount of the first annual assessment, such reserve amount to be held without interest accruing to the Owner, which sum shall be used by the Association or Management Contractor as a working capital fund. This amount may be recovered by a Seller from a purchase at the time of resale. After the expiration of Class B membership, in the event the Board decides there is and will be sufficient working capital without this fund, and the reserve for repair and replacement of the Common Elements is equal to or greater than the amount of the working capital fund, then this amount may be returned to each current owner. Such advance payment shall not relieve an Owner from making the regular monthly installment payment of the Annual Common Assessment as the same becomes due, nor shall the Association be required to deduct from such advance payment sums due for Common Assessments by an Owner prior to instituting any proceedings against the Lot owner for delinquent Common Assessments.

The Association shall establish an adequate reserve fund for the maintenance, repair and replacement of the Common Areas and Common Area Improvements maintained by the Association. This reserve fund shall be maintained through regular installments of Common Assessments.

Section 7.13. First Mortgagee-Foreclosure-Liability for Unpaid Assessments. Each First Mortgagee of a Lot within the Project who obtains title to the Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage, or any purchaser at foreclosure sale, will take the Lot free of any claims for unpaid assessments and charges against the Lot which accrue prior to the time such First Mortgagee or purchaser at foreclosure sale obtains title to the Lot, but shall not relieve the First Mortgagee or purchaser from liability for, or lien from, any assessments made thereafter. Any unpaid assessment, which was rendered uncollectible by the effect of this Section, may be reallocated and assessed to all Lots as a Common Expense.

Section 7.14. Association's Right of Acceleration Upon Default. In addition to the other remedies provided for the Association upon the default of an Owner in the payment of an annual assessment, special assessment, or any installment thereof, and in the event an Owner shall default in the payment of any installment of an annual or special assessment, then the Association shall have the immediate right of acceleration of the total amount of such annual or special assessment as remains outstanding at the time of such installment default. This right of acceleration in the event of installment default shall apply whether the Association pursues the obligation personally against the Owner or through foreclosure of the Owner's Lot, as provided hereinabove.

ARTICLE VIII. RESTRICTIVE COVENANTS AND OBLIGATIONS  
USE OF DWELLING UNITS

Section 8.1. Residential. The Lots are hereby restricted to residential use and uses related to the convenience and enjoyment of such residential use. No Buildings or structures shall be moved from other locations onto the Lots or Common Area; and no Common Area Improvements other than those originally planned and/or installed by Declarant shall be erected or constructed on the Common Area upon any Lot unless approved by the Architectural Control Committee or designated representative. No garage, barn, or other out-building shall be used or permitted to be kept or stored on any portion of the Lots or Common Areas at any time, either temporarily or permanently, unless otherwise provided for herein.

Section 8.2. Sales Facilities of Declarant. Notwithstanding any provision in Section 8.1, Declarant and Participating Builders, their agents, employees and contractors shall be permitted to maintain during the period of construction and sale of the buildings in the Project upon such portion of the Property as Declarant or Participating Builders may choose, such facilities as in the sole opinion of the Declarant or Participating Builders may be reasonably required, convenient, or incidental to the construction, sale or rental of Lots and Dwelling Units including, but without limitation, a business office, construction and storage area, signs, model Dwelling Units, sales offices, construction and sales trailers, parking areas and lighting, and temporary parking facilities for all employees of Declarant and Participating Builders and all prospective tenants or purchasers of Declarant and Participating Builders; provided, however, said right shall terminate no later than December 31, 1993 and provided further, that such use shall not interfere in any way with the right of ingress or egress to any privately owned Dwelling Unit and the use and enjoyment thereof as a private residence, nor the right of ingress or egress to the Common Area and Improvements thereon, nor the use thereof for recreation or other proper purposes by the Owners and the Members, agents and officers of the Association.

Section 8.3. Right of Association to Own Units and to Use Common Areas. Notwithstanding any provision contained herein to the contrary, the Association shall have the right, but not the obligation, to purchase and own any Dwelling Unit for the purpose of maintaining an office for the Association, for storage, recreation, or conference area or any other use which the Association determines is reasonable.

Section 8.4. Compliance With Law. No improper or unlawful use shall be permitted or made of the Properties or any part thereof. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction over the Project shall be observed.

Section 8.5. Rules and Regulations. Rules and Regulations may be adopted by the Board of Directors concerning and governing the use of the Common Areas and Common Area Improvements, provided such Rules and Regulations shall be furnished to Owners prior to the time they are adopted and that Owners be notified as provided in the By-Laws of the

Association that the Board of Directors will consider adoption of the Rules and Regulations so that Owners will have an opportunity to be heard or furnish input regarding the adoption and so that such Rules and Regulations shall be uniform and nondiscriminatory. After adoption, a copy of such Rules and Regulations shall be provided to all Owners. The Association may also adopt a fine system to impose monetary penalties for such infractions, or take judicial action against any Owner to enforce compliance with such Rules, Regulations, or other obligations including injunctive relief or to obtain damages for noncompliance, all to the extent permitted by law. The Board of Directors may adopt and publish a fine schedule which shall list fines which shall be imposed for violations of this Declaration, By-Laws, Articles and any Rules and Regulations.

Section 8.6. No Other Business. No other business activity of any kind shall be conducted in any Dwelling Unit or on the Project, except that permitted by the Association or otherwise provided herein.

Section 8.7. Miscellaneous Use Restrictions:

A. Antennas. Except for any which may, at Declarant's option, be erected by Declarant's designated representative, no exterior radio or television antenna, aerial, satellite dish, or other type of radio or television receiving system shall be erected or maintained without the prior written approval of the Architectural Committee.

B. Transmitters. No electronic or radio transmitter of any kind other than garage door openers shall be located or operated in or on any Improvements or on any Lot without the prior written approval of the Architectural Committee.

C. Repair of Buildings. No Improvement upon any Lot shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner before the surfacing becomes weatherbeaten or worn off. Materials which are customarily left unfinished, such as cedar stockade fences, are permitted so long as in the opinion of the Architectural Committee they have not become unsightly.

D. Reconstruction of Buildings. Any improvement which may be destroyed in whole or in part by fire, hail, windstorm or any other cause or act of God, shall be rebuilt or all debris removed so as not to render any such property or any portion thereof, in the opinion of the Board, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

E. Nuisances. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be, in the opinion of the Board, offensive or detrimental to any other property or its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other

than security devices used exclusively for security purposes) shall be located, used or placed on any Lot without the prior written approval of the Board. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof, in the opinion of the Board, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

F. Unsightly Articles. No unsightly article shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, mobile homes, recreation vehicles, graders, trucks other than pickups used solely for the private and non-business use of the residents of a dwelling, boats, tractors, campers, wagons, buses, sleighs, motorcycles, motor scooters, snowmobiles, snow removal equipment, garden and maintenance equipment, and all commercial and business vehicles shall be kept at all times, except when in actual use, in the garage. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on any property.

G. Signs. No sign of any kind shall be displayed to the public view on any Lot; provided, however, that signs of reasonable size not to exceed five square feet may be displayed on or from a residence advertising the residence for sale or lease. Signs used for sale, administration and directional purposes by Declarant during development of Spring Creek Meadows will be permitted.

H. Single-Family Use Only. No lot and no residence on any Lot shall be used for any purpose other than for one single-family residence. However, nothing in this Declaration shall prevent the rental of a Lot by the Owner thereof for residential purposes. No commune, co-operative or similar type living arrangement shall be permitted on any Lot.

I. Hazardous Activities. No activities shall be conducted on any Lot and no improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot, and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

J. Garage Sales. No garage, patio, porch or lawn sale shall be held on any Lot, except that the Owner of any Lot may conduct such a sale if the items sold are only his own furniture and furnishings, not acquired for purposes of resale; if such sale is held at such time and in such manner as not to disturb any other resident of the area; and if such sale is held in full compliance with all applicable governmental ordinances, statutes, resolutions, rules and regulations, on an infrequent, occasional basis.

K. New Construction. All Dwelling Units shall be of new construction and no existing or prefabricated Dwelling Unit shall be moved onto any Lot. No other building (including but not limited to playhouses and storage sheds) may be moved onto a Lot without the prior written approval of the Architectural Committee.

L. Storage of Building Materials. No building materials shall be stored on any Lot except temporarily during continuous construction of an improvement or its approved alteration or improvement.

M. Temporary Structures. No trailer, mobile home, tent or shack or other temporary building, improvement or structure shall be placed upon any property, except that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained by Declarant, or by an Owner with the prior approval of Architectural Control Committee, such approval to include the nature, size and location of such structure.

N. Landscaping on Lots. Lots within the Properties, or any additions thereto, shall be fully landscaped (front, side, and rear) by the Owner within six months after the initial occupancy of the residents on the Lot. The Lot Owner shall maintain such landscaping in an attractive condition. [For purposes of this subsection, initial occupancy shall mean the date of conveyance of the Lot from the builder to a third party purchaser.]

#### ARTICLE IX. ARCHITECTURAL CONTROL COMMITTEE

##### Section 9.1. Membership.

A. The Board of Directors may appoint an Architectural Control Committee (hereinafter referred to as the "Committee") which may be composed of three (3) or more members. In the event no such appointment is made, then the Board of Directors shall constitute the Architectural Control Committee and shall have all of the duties and responsibilities of said Committee as set forth herein.

B. In the event of death, disability, or resignation of any member of the Committee, the Board of Directors shall have full authority to designate a successor or successors.

C. An affidavit executed by a majority of the members of the Committee, and recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado shall be sufficient evidence of the membership and of the other recitals therein contained.

Section 9.2. Evidence of Action. The Committee's approval or disapproval as required in these covenants shall be in writing, as indicated by the signatures of a majority of the Committee. The Committee shall not be required to maintain records of plans submitted. Approval by the Committee shall be conclusive evidence of compliance



with these covenants provided that the improvements are constructed in substantial compliance with the plans as approved. In the event the Committee fails to approve or disapprove a proposal within 30 days after plans and specifications have been submitted to it and the submission is evidenced by a certified or registered mail receipt; or, in any event, if no suit to enjoin the proposed construction has been commenced within one (!) year after the proposed construction had begun and became apparent, such approval will not be required, and the related covenants shall be deemed to have been complied with fully.

Section 9.3. Duties. The Committee shall act upon and approve or disapprove any and all matters to be submitted to the Committee pursuant to any of the provisions of this Declaration and shall have all duties and powers as are hereinafter provided and set forth. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed, nor shall the Committee or any member thereof be liable, in any manner, for any action or failure of action done in good faith arising out of their service on the Committee.

Section 9.4. Approval of Plans.

A. All plans and specifications in connection with the construction of any residence, fence, wall, driveway, or other structure, and in connection with any exterior maintenance and remodeling of any residence or other structure, including, but not limited to, changing the initial color of the residence, or any alteration of any wall, fence, or driveway shall be submitted to the Committee or its designee, and prior written approval shall be required.

B. Before any construction or alteration begins, plans and specifications showing the nature, kind, shape, height, materials and location, the exterior design, the exterior materials to be used, the color scheme, the site plan, a topographic survey, the location of the driveway and plans for the proper drainage of the Lot with respect to adjacent Lots must be submitted to the Committee for its prior written approval.

C. In passing upon such plans, specifications and other requirements, the Committee may take into consideration whether the proposed residence or other structure or alteration and the materials of which it is to be built are reasonably suitable for the Lot upon which the residence or other structure or alteration is to be erected, the harmony thereof with the surroundings, and the effect of the residence or other structure or alteration as planned on the outlook from adjacent or neighboring property. The Committee shall, in the exercise of its judgment and determination, use reason and good faith.

D. No residence, fence, wall, driveway, structure, alteration of any kind, which has not received such prior written approval by the Committee and which does not fully comply with such approved plans and specifications, shall be erected, constructed, placed, or



maintained upon any Lot. No changes or deviations in and from such plans and specifications as so approved shall be made without the prior written consent of the Committee. The Committee shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

Section 9.5. Reserved Right of Declarant. Notwithstanding the above provisions, and until the Declarant has conveyed its last Lot to a purchaser, Declarant shall have the right, and said right is hereby specifically reserved unto Declarant, to appoint the members of such Architectural Control Committee and to fill any vacancies therein created. (This Section supersedes the authority granted in Section 9.1 above.)

Section 9.6. Binding Agreement to Pay Legal Costs. In the event that an Owner shall dispute the determination of the Architectural Control Committee and files a lawsuit to overrule, vacate or otherwise mitigate the effect of any determination of the Committee, or if an Owner(s) fails to submit for approval any action as required by Section 9.4 and the Committee or any Owner brings an action to enforce these provisions; then the Owner(s) and the Association are hereby bound to the agreement that any and all costs, including reasonable attorney fees, associated with the institution and defense of such a suit, shall, to the extent permitted by a court of competent jurisdiction, be paid to the prevailing party by the losing party.

Section 9.7. Variance. The Architectural Control Committee may grant reasonable variances or adjustments from any conditions or restrictions imposed by this Declaration. Such variances or adjustments shall only be granted if it is not material, detrimental or injurious to the other property of improvements to the neighborhood, and shall not defeat the general intent and purpose hereof.

Section 9.8. Minor Violations of Setback Restrictions. If, upon erection of any Dwelling Unit upon any of the Lots which are subject to these restrictions, it is disclosed by survey that a minor violation and infringement of setback lines has occurred, such violation and infringement shall be deemed waived by the Owners of the Lots immediately adjoining the Lot upon which the violation and infringement occurs, and such waivers shall be binding upon all other Owners who are subject to this Declaration. Nothing herein contained shall prevent the maintenance of suit for any other violation of the restrictions contained in this Declaration. A "minor violation" for the purpose of this Section is a violation of not more than 30 inches beyond required setback lines or Lot lines. This provision shall only apply to the original structures and shall not be applicable to any alterations or repairs to such structures.

ARTICLE X. INSURANCE

Section 10.1. Comprehensive General Liability and Property Insurance. Comprehensive general liability and property damage insurance shall be purchased by the Board of Directors and shall be maintained in force at all times, the premiums thereon to be paid by the Association as a Common Expense. If Declarant pays the premium, it shall be entitled to reimbursement from the Association. The insurance shall be carried with reputable companies authorized to do business in the State of Colorado, in such amounts as the Board may determine; the insurance carrier should have a current rating by Best's Insurance Reports of VI or better, or a financial rating of Class VI and a general policyholder's rating of at least A. If the insurer does not meet this rating requirement, the insurer must be reinsured by a company that does have a current rating by Best's Insurance Reports of VI or better.

A comprehensive policy of general liability insurance shall be in force for a minimum amount of One Million Dollars (\$1,000,000.00) per occurrence, covering all claims for bodily injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for non-owned and hired automobiles, liability for property of others, and, if applicable, host liquor liability and other risks which are customarily covered with projects similar in construction, location, and use. The policy or policies shall name as insured all of the Owners and the Association. Declarant shall be named as an additional insured on such policy or policies until such time as Declarant shall have conveyed all the Dwelling Units in the Project. The policy or policies shall insure against loss arising from perils in the Common Areas and in any other areas which the Association has a maintenance responsibility and shall include contractual liability coverage to protect against such liabilities as may arise under the contractual exposures of the Association or the Board of Directors.

The policy or policies shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying a claim of an Owner or the Association because of negligent acts of the Association or other Owners.

Section 10.2. Fire and Hazard Insurance. Fire and hazard insurance shall be purchased by the Board of Directors and shall thereafter be maintained in force at all times, the premiums thereon to be paid by the Association as a Common Expense, such policy to cover all Common Area Improvements. The policy or policies shall be of a master or blanket type with a standard all risk endorsement, and insure against loss from perils therein including coverage on all of the Improvements in the Common Areas, except such as may be separately insured, and except land, foundation, excavation and other items normally excluded from coverage. Such policy or policies shall contain extended coverage, vandalism, and malicious mischief endorsements. The Improvements to be insured under this clause shall be continually insured to value.

and the policy or policies shall contain replacement cost insurance. If reasonably available, the policy or policies shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild. The policy or policies shall name as insured the Association, and the Declarant. The policy or policies shall also cover personal property owned by the Association or in common by the Owners, their tenants, invitees or agents, and shall further contain a waiver of subrogation rights by the carrier as to negligent Owners. If Declarant pays the premium for said policy or policies, it shall be entitled to reimbursement from the Association.

The insurance shall be carried with reputable companies authorized to do business in the State of Colorado, in such amounts as the Board may determine. The insurance carrier should have a current rating by Best's Insurance Reports of VI or better or a financial rating of Class VI and a general policyholder's rating of at least A. If the insurer does not meet this rating requirement, the insurer must be reinsured by a company that does have a current rating by Best's Insurance reports of VI or better.

Section 10.3. No Individual Fire Insurance on Common Areas. The blanket policy or policies to be carried by the Association and referenced under Section 10.2 above must provide that it is primary over any policy or policies separately carried by an individual Lot Owner and that the proceeds of the individual policy or policies carried by such Owner shall only be used to the extent that the proceeds of the insurance carried by the Association are insufficient to cover any losses to the Common Areas.

Section 10.4. Owner's Personal Liability and Property Insurance. An Owner may carry such property, fire and personal liability insurance as such Owner may desire. It is understood that the Association policies described herein will provide no insurance coverage for the Lots or the improvements situate thereon.

Section 10.5. Fidelity Insurance Coverage. The Association shall provide for fidelity coverage against dishonest acts on the part of the Officers, Directors, Management Contractors, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event less than 1.5 (one and one-half) times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any person or persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

Section 10.6. Other Insurance. The Board of Directors may purchase and maintain in force as a Common Expense, debris removal

insurance, plate or other glass insurance, fidelity bonds, and other insurance or bonds that it deems necessary. The Board shall purchase and maintain workmen's compensation insurance to the extent that the same shall be required by law respecting employees of the Association. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance, and a fidelity bond, meeting the insurance and fidelity bond requirements for such project established by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association and Government National Mortgage Association, so long as any are a Mortgagee or Owner of a Lot within the Properties, except to the extent such coverage is not available or has been waived in writing by either or all of the above.

Section 10.7. Attorney in Fact. The Association is hereby appointed the attorney in fact for all Owners to negotiate loss adjustment on the policy or policies carried by the Association under this Article X.

Section 10.8. Proceeds. The Association shall receive the proceeds of any casualty insurance payments received on the policies obtained and maintained pursuant to this Article. To the extent that repairs and reconstruction are required herein and there is a determination that the Properties shall not be rebuilt, the proceeds shall be distributed in the manner provided in Article XI regarding casualty damage or destruction.

Section 10.9. Notice of Cancellation or Modification. The policy and/or policies required by Sections 10.1, 10.2 and 10.5 must provide that they cannot be cancelled or substantially modified, by any party, without at least ten (10) days prior written notice to the Association, and to each holder of a First Mortgage which has requested in writing that it be listed as a scheduled holder of a First Mortgage in the insurance policy.

Section 10.10. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors to ascertain whether the coverages contained in the policies are sufficient for the upcoming year, whether any necessary repairs or replacements of the property which occurred in the preceding year were covered by insurance, and that all possible insurance claims have been filed.

Section 10.11. Deductibles. No insurance policy applicable to either fire or extended coverage shall contain a deductible clause which exceeds the greater of:

A. \$500.00; or

B. One percent (1%) of the face amount of the policy.

If an Owner, who by negligent or willful act, causes damage to the Common Area or other Properties which are insured as a Common Expense,

then said Owner shall bear the whole cost of the deductible required in the blanket insurance policy for the Association on the Common Area and other such Properties. An Owner shall be responsible for any action of members of his family, his tenants or his guests which cause damage to said Common Areas or other Properties.

Section 10.12. Directors' and Officers' Liability Insurance. The Association shall maintain adequate liability coverage to protect against any negligent act upon the part of the Directors or Officers of the Association.

Section 10.13. Waivers. All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on an invalidity arising out of the acts of a Member of the Association.

#### ARTICLE XI. CASUALTY

Section 11.1. Association As Agent and Attorney In Fact. All of the owners irrevocably constitute and appoint the Association as their true and lawful agent and attorney in fact in their name, place and stead for the purposes of dealing with the Property upon its damage, destruction, obsolescence and/or condemnation as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Association as agent and attorney in fact as herein provided.

Section 11.2. General Authority of Association. As attorney in fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and construction of the Common Area Improvements as used in this Article means restoring Project to substantially the same condition in which it existed prior to damage. The proceeds of any insurance collected shall be used by the Association for the purpose of repair or reconstruction unless Owners, to which at least 67% of the votes are allocated, and 67% of the First Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

Section 11.3. Notices and Cost Estimates. As soon as practical after an event causing damage to, or destruction of any part of the Common Area, the Association shall immediately obtain estimates that it deems reliable of the cost of repair or reconstruction of that part of the Project damaged or destroyed.

Section 11.4. Insurance Proceeds Sufficient to Repair. In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or construction after a casualty pursuant to the estimate of costs obtained by the Association, then such repair or reconstruction shall be promptly performed by the Association as attorney in fact for the Owners pursuant to this Article.

Section 11.5. Insurance Proceeds Insufficient to Repair. If the insurance proceeds are insufficient to repair or reconstruct the damage or destroyed Common Area or Common Area Improvements, such damage shall be repaired as promptly as possible by the Association and any costs of such repair or reconstruction in excess of insurance proceeds available shall be assessed against all Owners as a Common Expense pursuant to Article VII.

#### ARTICLE XII. CONDEMNATION

Section 12.1. Consequences of Condemnation. If at any time during the continuance of the Ownership pursuant to this Declaration, all or any part of the Common Areas shall be taken, or condemned by any public authority, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article XII shall apply.

Section 12.2. Proceeds and Notice. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award" shall be payable to the Association; provided, however, that the Association shall provide timely notice of such condemnation proceeding or condemning authority acquisition to all Owners and First Mortgagees of record of Dwelling Units within the project who request such notice.

#### ARTICLE XIII. GENERAL RESERVATIONS

Section 13.1. Reservation of Easements, Exceptions, and Exclusions. Declarant reserves the right to establish from time to time by dedication or otherwise, utility (including Cable TV) and other easements, for purposes including but not limited to streets, paths, walkways, drainable recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions consistent with the ownership of the Properties for the best interest of all Owners and the Association in order to serve all the Owners within the Project. The rights herein reserved unto Declarant shall continue until the Declarant no longer retains an interest in the Project, or December 31, 1993, whichever occurs first.

Section 13.2. Rights of Declarant and Participating Builders Incident to Construction. An easement is hereby retained by and granted to Declarant and any Participating Builder for access, ingress, and egress over, in, upon, under and across the Project, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's or any such Participating Builder's construction on the Properties; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot.



ARTICLE XIV. ENLARGEMENT OF PROJECT (ANNEXATION)

Section 14.1. Special Rights Reserved to Declarant: Enlargement of Project. The Declarant shall have the absolute right, but not the obligation, and same is hereby specifically reserved unto Declarant to be exercised prior to December 31, 1993, to annex to the land and Improvements described in this Declaration and to the Subdivision Plat herein referred to, and thereby to submit to each and every provision of this Declaration the land described on Exhibit C, attached hereto and incorporated herein by this reference, or any portions thereof as further referenced hereunder, together with the Improvements to be constructed thereon as further referenced herein. It is the intention of the Declarant that the lands described on Exhibit C may be annexed to the land covered by this Declaration by additional phases. The legal descriptions for each of said phases anticipated are as set forth as subparts to Exhibit C, properly labeled as to each phase. Such phases may be added by the Declarant either in the aggregate or on a phase by phase basis, by a portion of a phase, or any combination thereof, with the result being that this Project may be increased up to a maximum number of 982 Lots, or such lesser amount of Lots as may be reflective of the Declarant's decision to add either no additional phases or such lesser number of phases desired.

Any such expansion or annexation as herein reserved unto Declarant shall be accomplished by the recording of a supplement or supplements to this Declaration, and such documents shall be recorded in the records of the office of the Clerk and Recorder for Arapahoe County, Colorado.

There is hereby reserved unto Declarant the irrevocable power of attorney, coupled with an interest, to execute, acknowledge and deliver such further instruments and to do such further acts and/or things as may be from time to time required in order to accomplish the purposes of this Article XIV, including the right, if necessary, to amend the Articles of Incorporation or By-Laws, and to act on behalf of the Association to obtain such accomplishment. Each Owner and each and every Mortgagee of a Lot in the Project shall be deemed to have acquiesced to the supplements to this Declaration and to any required supplements to the Subdivision Plat for the purpose of adding additional Lots and Common Areas to the Project in the manner set forth in this Article XIV, and shall be deemed to have granted unto said Declarant an irrevocable power of attorney, coupled with an interest, to effectuate, execute, acknowledge and deliver any such instruments, if any, and to do such other acts and things as may be deemed necessary or desirable by the Declarant, its successors or assigns, to properly accomplish the supplements contemplated by this Article XIV. Such supplements shall contain at least the following information:

1. A legal description of the particular phase(s) being annexed, including a proper legal description of the Lots and the Common Areas located therein;



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2. A statement that said lands are being annexed pursuant to the particular provisions of Article XIV hereof; and

3. A further statement to the effect that said phase(s), when annexed, shall be deemed to be included within the Project covered by this Declaration and, thereby, subject to all of the terms, provisions, covenants, conditions, reservations, charges, and liens, including assessments, applicable hereunder as well as expressly subject to all of the provisions of the Articles of Incorporation and the By-Laws of the Association referenced hereunder.

All such supplements shall be subject to the prior approval of the Veterans Administration, if required, and shall be consistent with the original Plat as approved by the Veterans Administration, unless amendments thereto promulgated by Declarant have been properly processed and approved by the Veterans Administration and any governmental entity having jurisdiction thereof.

Section 14.2. Assessments and Voting Rights. On the date of recordation of any annexation by supplement to these Declarations, the assessment responsibility indicated in Section 7.1 and the voting rights outlined in Section 5.3, appurtenant to the annexed Lots, shall become effective.

Section 14.3. Future Improvements. All future Improvements to the Project shall be consistent with initial Improvements in terms of quality of construction.

ARTICLE XV. PRE-EXISTING RESERVATIONS,  
RESTRICTIONS, EASEMENTS AND COVENANTS

The property was subject to the following reservations, restrictions, conditions, exceptions, easements and covenants at the time of the recordation of this Declaration:

Section 15.1. County of Arapahoe. Any restrictions in the use of property created by plats or zoning ordinances approved or adopted by the County of Arapahoe, Colorado.

Section 15.2. Other Recorded Documents. Any other reservations, restrictions, conditions, exceptions, conditions, easements and covenants not enumerated under this Article, this Declaration or the Association By-Laws, but which exist of record at the time of the recordation of this Declaration.

ARTICLE XVI. REVOCATION OR AMENDMENT OF DECLARATION

Section 16.1. Revocation. Except as provided specifically elsewhere herein, this Declaration shall not be revoked unless the Owners of Lots to which 90% of the votes in the Association are allocated and 67% of the registered First Mortgagees consent and agree to such revocation by instrument(s) duly recorded.

Section 16.2. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the Properties for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration shall not be amended, except as otherwise herein provided, without the consent of Owners of Lots to which at least 67% of the votes in the Association are allocated, and approval of 67% of the First Mortgagees. Such amendment may be evidence by either a recorded instrument indicating such consent or by a recorded certificate of the Secretary of the Association certifying that at a meeting of the Owners, duly called, the Owners of Lots, to which 67% of the votes in the Association are allocated, consented to the Amendment, and that 67% of the First Mortgagees have given approval (as provided in Section 17.8 below) to the Amendment, and that copies of such written consent are in the corporate records of the Association.

Section 16.3. Amendments to Conform to VA, FHA, FNMA or FHLMC Requirements. Notwithstanding any provisions to the contrary, during the period of Class B membership, the Declarant shall have the right to unilaterally amend this Declaration in order to comply with the requirements of the Veteran's Administration, Federal Housing Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation. Such amendment shall not require the vote or consent of Owners in the Project.

Section 16.4. Technical Amendments. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration at any time prior to the termination of the Declarant's reserved right to appoint the Board of Directors of the Association for the purposes of correcting spelling, grammar, dates or as is otherwise necessary to clarify the meaning of the provisions of this Declaration.

#### ARTICLE XVII. MISCELLANEOUS PROVISIONS

Section 17.1. Mailing Address. Each Owner shall register his mailing address with the Association, and all notices, demands and statements shall be sent by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices to the Declarant shall be sent by certified or registered mail to the following address:

DECLARANT:  
SPRING CREEK PARTNERSHIP  
1777 South Harrison Street, Suite 904  
Denver, Colorado 80216

until such address is changed by notice of address change given to the Association.

Section 17.2. Compliance with Provisions. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, By-Laws, Rules and Regulations, resolutions, and contracts of the Association as the same may from time to time be in force and effect. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, together with reasonable attorney fees, court costs, and injunction bond premiums maintainable by the Board of Directors, or the Management Contractor, on behalf of the Owners, or by any Owner.

Section 17.3. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, word or section or the application thereof in any circumstances is invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase, word, or section in any other circumstances shall not be affected thereby.

Section 17.4. Terminology. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural and the singular; and the use of any gender shall include all genders.

Section 17.5. State Law. The provisions of this Declaration shall be in addition and supplemental to all laws of the State of Colorado.

Section 17.6. Declarant's Rights Transferable. Any right or interest of Declarant hereunder, established or reserved, may be transferred or assigned by Declarant either separately, or with one or more of such rights or interest, to any person or entity.

Section 17.7. Registration of First Mortgagees. Whenever these Declarations require that a First Mortgagee receive notice, such requirement of notice shall be waived if the First Mortgagee has failed to register its name and proper address with the Association for the purpose of such notices.

Section 17.8. Approval by First Mortgagees. Whenever these Declarations require the approval of First Mortgagees, only those First Mortgagees who have registered as provided under Section 17.7 need be included in the request for approval and in any determination of whether the applicable percentage of First Mortgagees have approved any intended action. Any First Mortgagee registered as provided under Section 17.7 and mailed a request for approval, but who fails to respond within 30 days to a request for approval, will be deemed to have approved the intended action.

Section 17.9. Case of Conflict. In the case of any conflict between the Articles of Incorporation and the By-Laws, the Articles shall control; in case of any conflict between this Declaration and the By-laws, the Declaration shall control; and in the case of any conflict

DOC# 4893 69

31.

between the Articles and this Declaration, this Declaration shall control.

DATED this 11th day of August, 1986.

SPRING CREEK PARTNERSHIP,  
a Colorado General Partnership

BY: TELCOR. LTD., a Colorado Limited  
Partnership, General Partner of  
Spring Creek Partnership by Willard  
B. Teller, Sole General Partner of  
Telcor, Ltd.

BY: Willard B. Teller  
Willard B. Teller, General  
Partner of Spring Creek  
Partnership

STATE OF COLORADO )  
 ) SS.  
COUNTY OF JEFFERSON )

The above and foregoing Declaration of Covenants, Conditions, and  
Restrictions for Spring Creek Meadows was subscribed and sworn to  
before me this 11th day of August, 1986 by Willard B. Teller.

My commission expires: April 12, 1988.

Witness my hand and official seal.



Kathleen W. Cooper  
Notary Public

BGG 4893 70

EXHIBIT A

Spring Creek Meadows Filing No. 2, except Tract H thereof  
(commercial tract).

EGG 4893 FA14 71

**EXHIBIT B**

2. Tracts B, C, D, E, F, G, I, and J, Spring Creek Meadows Filing No.



EXHIBIT C

PROPERTY THAT MAY BE ANNEXED TO SPRING CREEK MEADOWS HOMEOWNERS ASSOCIATION

BOOK 4893 PAGE 72

A parcel of land located in Section 2, Township 5 South, Range 66 West of the Sixth Principal Meridian, County of Arapahoe, State of Colorado, more particularly described as follows:

Commencing at the Southwest corner of said Section 2;  
 thence N00°12'45"E along the West line of the Southwest quarter of said Section 2, 30.00 feet to the Point of Beginning;  
 thence continuing N00°12'45"E along said West line, 2610.53 feet to the Southwest corner of the Northwest quarter of said Section 2;  
 thence N00°12'18"E along the West line of the Northwest quarter of said Section 2, 2603.50 feet to a line thirty (30) feet South of and parallel with the North line of the Northwest quarter of said Section 2;  
 thence N89°44'32"E along said line, 951.47 feet;  
 thence S00°15'28"E, 240.27 feet to a point of curve;  
 thence along said curve to the right having a radius of 650.00 feet, a central angle of 10°30'00", 119.12 feet to a point of tangent;  
 thence S10°14'32"W along said tangent, 50.97 feet;  
 thence N89°44'32"E parallel with the North line of said Section 2, 546.59 feet;  
 thence S00°06'53"W, 853.84 feet to the North line of the Southeast quarter of the Northwest quarter of said Section 2;  
 thence N85°55'30"E along said line, 1153.20 feet to the Northwest corner of the Southwest quarter of the Northeast quarter of said Section 2;  
 thence S89°56'59"E along the North line of said Southwest quarter of the Northeast quarter, 164.40 feet;  
 thence S00°03'05"W, 1319.16 feet to the South line of the Northeast quarter of said Section 2;  
 thence N89°58'43"W along said line, 163.96 feet to the Northeast corner of the Southwest quarter of said Section 2;  
 thence S00°02'24"W along the East line of the Southwest quarter of said Section 2, 2609.11 feet to a line thirty (30) feet North of and parallel with the South line of the Southwest quarter of said Section 2;  
 thence S89°58'11"W along said line, 2647.73 feet to the Point of Beginning excepting therefrom Spring Creek Meadows Subdivision Filing No. 2.

WATKINS PAGE  
ARAPAHOE COUNTY CLERK & RECORDERANNEXATION OF ADDITIONAL LAND  
AND DECLARATION AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF  
SPRING CREEK MEADOWS FILING NO. 1

KNOW ALL MEN BY THESE PRESENTS:

BOOK 7557 PAGE 221

THAT, WHEREAS, SPRING CREEK MEADOWS DEVELOPMENT COMPANY, INC., a Colorado corporation, has heretofore executed and caused to be recorded that certain Declaration of Covenants, Conditions and Restrictions of Spring Creek Meadows Filing No. 1, recorded in Book 7434 at Page 550 in the office of the Clerk and Recorder of Arapahoe County, Colorado ("Declaration") (terms which are defined in the Declaration shall have the same meanings herein unless otherwise defined), as amended and supplemented from time to time; and

WHEREAS, Article XII, Section 4 of the Declaration permits the annexation of additional land thereto by the Declarant until ten (10) years after the date of recording of the Declaration in the county in which the Common Interest Community is located, without consent of any other Unit Owners, Holders of Security Interest, or any other Person, subject to a determination by VA or HUD that the annexation is in accord with the general plan approved by it and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements (if the Declarant desires to attempt to obtain VA or HUD approval of the property being annexed); and

WHEREAS, VA or HUD has determined that this annexation is in accord with the general plan approved by it and the structures to be located on the property annexed will be of comparable style, quality, size and cost to the existing Improvements, as evidenced by the signature hereon of an authorized representative of such agency; and

WHEREAS, those Persons who own a portion of the Annexed Property (as hereinafter defined) have evidenced their consent to this document and the inclusion of the Annexed Property in the Common Interest Community, which consent is evidenced by "Consent to Recordation of Declaration of Covenants, Conditions and Restrictions for Spring Creek Meadows," attached hereto and incorporated herein by this reference.

NOW, THEREFORE, the undersigned Declarant does hereby annex to the Declaration that certain property more fully described on Exhibit A attached hereto and incorporated herein by this reference ("Annexed Property"), such that the Annexed Property shall be part of the Common Interest Community, and hereby further states and declares as follows:

1. Declarant is the owner of the Annexed Property.

2. Each Unit shall have an identifying number as designated by the lot number of such Unit as shown on the plat(s) of the Annexed Property.

3. The Annexed Property does not include any Common Elements.

4. As provided in Article I, Section 3 of the Declaration, the Allocated Interests attributable to each Unit, including without limitation those Units included in the Common Interest Community prior to recording of this document and those Units included in the Annexed Property, shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Common Interest Community upon annexation to the Declaration of the Annexed Property, as more fully herein provided.

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 the Annexed Property immediately upon recording of this document in Arapahoe County, Colorado.

IN WITNESS WHEREOF, the undersigned Declarant, with the consent of those Persons who are signatories to the attached Addendums To Contract For Purchase And Sale, has hereunto set its hand and seal this 16<sup>th</sup> day of May, 1994.

SPRING CREEK MEADOWS DEVELOPMENT  
COMPANY, INC., a Colorado  
corporation

By: John J. J. J.

Title: Vice President

STATE OF COLORADO )  
COUNTY OF Adams ) ss.

BOOK 7557 PAGE 223

The foregoing instrument was acknowledged before me  
this 16th day of May, 1994, by  
James J. Ward, as Vice President of SPRING CREEK  
MEADOWS DEVELOPMENT COMPANY, INC., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires: 2/8/97

Julie Richter  
Notary Public

EXHIBIT A  
TO ANNEXATION OF ADDITIONAL LAND  
AND DECLARATION AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF  
SPRING CREEK MEADOWS FILING NO. 1

Lots 16 through 19, inclusive, Block 3,  
Lots 2 through 36, inclusive, Block 4,  
Lots 1 through 22, inclusive, Block 5,  
Lots 1 through 32, inclusive, Block 6  
Lots 1 through 10, inclusive, Block 7,  
Lots 1 through 20, inclusive, Block 8,  
Lots 1 through 16, inclusive, Block 9,  
according to the final Plat,  
Spring Creek Meadows Subdivision, Filing No. 1,  
as recorded in Book 86 at Pages 61 and 62 of  
the office of the Clerk and Recorder,  
Arapahoe County, Colorado.

## CONSENT OF VETERANS ADMINISTRATION

Having determined that the aforesaid ANNEXATION OF ADDITIONAL LAND AND DECLARATION AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SPRING CREEK MEADOWS FILING NO. 1 is in accord with the general plan approved by it and that the structures to be located on the property annexed thereby will be of comparable style, quality, size and cost to the existing improvements under the Declaration, the Veterans Administration hereby consents to this ANNEXATION OF ADDITIONAL LAND AND DECLARATION AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SPRING CREEK MEADOWS FILING NO. 1.

IN WITNESS WHEREOF, the Veterans Administration has caused its name to be hereunto subscribed by its authorized representative this 2nd day of May, 1994.

VETERANS ADMINISTRATION

By Valerie V. Martinez  
Authorized Representative

STATE OF COLORADO )  
 ) ss.  
COUNTY OF JEFFERSON )

The foregoing instrument was acknowledged before me this 2nd day of MAY, 1994, by Valerie V. Martinez as Authorized Representative of Veterans Administration.

WITNESS my hand and official seal.

My commission expires: 9-26-95

Lauri Hogan  
Notary Public





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MAYOR PAGE  
ARAPAHOE COUNTY CLERK & RECORDERDECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
(Street Lighting)

BOOK 7255 PAGE 265

RECITALS

RICHLAND SPRING CREEK MEADOWS II LLC, A Colorado Limited Liability Company (the "Declarant"), as the owner of certain real property subject to this Declaration (the "Subdivision") described as follows:

Spring Creek Meadows Subdivision Filing No. 1,  
Arapahoe County, Colorado

which Subdivision consists of 188 individual residential lots (the "Lots", or individually the "Lot ") to be improved and sold as set forth on the subdivision plat, hereby makes the following grants, submissions, and declarations:

Declarant desires to provide for street lighting in the Subdivision, and Public Service Company of Colorado has agreed to provide such lighting in accordance with the tariffs filed with the Public Utilities Commission in the State of Colorado provided each of the Lots are conveyed subject to the covenants, conditions, and restrictions hereinafter set forth.

DECLARATION

NOW THEREFORE, Declarant declares that the Lots shall be transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, and charges which shall run with the real property and be binding on all persons having or acquiring any right, title or interest in any of the Lots, their heirs, successors and assigns, and shall inure to the benefit of, be binding upon and be enforceable by Public Service Company of Colorado:

1. All Lots shall be subject to and bound by Public Service Company's 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 the Subdivision, together with rate, rules and regulations therein provided and subject to all future amendments and changes thereto. Each owner or owners of a Lot shall pay as billed a portion of the cost of public street lighting in the Subdivision according to Public Service Company Rates, Rules and Regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

2. The provisions of this Declaration shall be in addition and supplemental to all laws of the State of Colorado.

FWF 1638

3. This covenant may be modified or terminated only with the prior written consent of the Public Service Company of Colorado.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 17th day of November, 1993.

RICHLAND SPRING CREEK MEADOWS II  
LLC, A COLORADO LIMITED LIABILITY  
COMPANY

ATTEST:

By: [Signature]  
Secretary

By: [Signature]  
Michael A. Messina, Manager

STATE OF COLORADO )

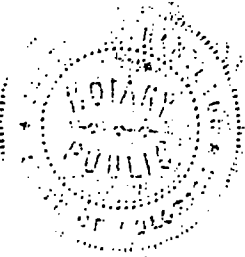
COUNTY OF ADAMS ) ss.

\*MANAGER

The above and foregoing Declaration of Covenants, Conditions and Restrictions was subscribed and sworn to before me this 17th day of November, 1993 by Michael A. Messina as ~~MANAGER~~ ~~SECRETARY~~ of Richland Spring Creek Meadows II LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: October 23, 1997.



[Signature]  
Notary Public  
c/o Richland Homes, Inc.  
8791 Wolff Court, Suite 200  
Westminster, CO 80033

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RECEIVED  
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DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

BOOK 7434 PAGE 550

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Exhibit A - Common Interest Community  
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DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

THIS DECLARATION is made and entered into by SPRING CREEK MEADOWS DEVELOPMENT COMPANY, INC., a Colorado corporation (Declarant).

WITNESSETH:

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

WHEREAS, Declarant desires to subject and place upon the above-described property 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 the Declarant, its successors and assigns in said property, or any portion thereof, may be promoted and safeguarded.

NOW, THEREFORE, Declarant hereby declares that all of the property described above 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; and furthermore hereby revokes all prior covenants affecting the Common Interest Community and all Common Elements, including without limitation, those covenants recorded on November 18, 1993, in Book 7255 at Page 265 in the office of the Clerk and Recorder of Arapahoe County, Colorado.

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" means and collectively refers to the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), 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 of each Unit shall be equal to a fraction, the numerator of which is 1 and the denominator of which is the total number of Units within the Common Interest Community from time to time.

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 Spring Creek Meadows Filing No. 1 Homeowners Association, Inc., a unit owners' association organized under section 38-33.3-301 of the Act.

6. "Common Elements" means any real estate owned or leased by the Association other than a Unit. The Common Elements as of the date of recording of this Declaration are as shown on Exhibit B.

7. "Common Expense Liability" means the liability for Common Expenses allocated to each Unit based on its Allocated Interest.

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

9. "Common Interest Community" means the real estate described in Exhibit A to this Declaration, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration. This Common Interest Community is created by recording of this Declaration in the office of the Clerk and Recorder of Arapahoe County, Colorado, and shall be indexed in the grantee's index in the name of the Common Interest Community and in the name of the Association and in the grantor's index in the name of each Person executing this Declaration. However, this Common Interest Community shall not be deemed to have been created with respect to the property described on the attached Exhibit A until the plat for such property has been recorded.

10. "Declarant" means Spring Creek Meadows Development Company, Inc., a Colorado corporation, and any other Person or group of Persons acting in concert 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.

11. "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.

12. "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.

13. "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.

14. "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, basketball hoops, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

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

16. "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.

17. "Person" means a natural person, a corporation, a partnership, a limited liability company, an association, a trust, or any other entity or any combination thereof.

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

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

20. "Special Declarant Rights" means rights reserved for the benefit of a Declarant to perform the following acts: To complete Improvements indicated on plats and maps filed with the Declaration; to exercise any Development Right; to maintain sales offices, management offices, signs advertising the Common Interest Community, and models; 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.

21. "Unit" means any separate numbered lot shown upon any recorded subdivision map of the real property described on the attached Exhibit A, 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 public streets.

22. "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. The Declarant is the owner of any Unit created by the Declaration until that Unit is conveyed to another Person who may or may not be a Declarant under this Article.

23. "Units that May Be Created" means One Hundred Eighty-Eight (188) 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 XI, Section 4 hereof is annexed to this Declaration.

## 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 such 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 directors of the Association and may remove all officers and directors of the Executive Board which have been appointed by such Declarant. A 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 a 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 a Declarant, not less than thirty-three and one-third percent (33 1/3%) of the 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. The Executive Board members and officers shall take office upon election.



5. 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 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) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the vote of eighty percent (80%) of the Allocated Interests rejects 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 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 be computed at the rate of Nine and no/100 Dollars (\$9.00) 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 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 be based on a budget adopted by the Association as provided above. The annual Common Expense assessments shall be due and payable in semi-annual installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, 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 Common Expense assessment 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 Executive Board of the Association may at any time 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. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

#### 7. Lien for Assessments.

(a) The Association has a statutory lien on a Unit for any assessment levied against that Unit or for 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.

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

#### 8. Priority of Association Lien.

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

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

(2) A Security Interest on the Unit which has priority over all other Security Interests on the Unit and which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and

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

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

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

9. 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 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.

10. Certificate of Status of Assessments. The Association shall furnish to a Unit Owner or such Unit Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Unit 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 Security Interest Holder or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid assessments which were due as of the date of the request.

11. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Executive Board, and the Executive Board may assess thereon a late charge not in excess of Twenty-Five and 00/100 Dollars (\$25.00) per month. 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 interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include interest and late charges, as above provided. No Unit Owner may be exempt from liability for payment of the assessments 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 to prohibit the Association from taking a deed in lieu of foreclosure.

12. 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.

13. Working Capital Fund. The Association or Declarant shall require the first Unit Owner of any Unit who purchases that Unit from Declarant to make a non-refundable contribution to the Association in the amount of Eighteen and no/100 Dollars (\$18.00) (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 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.

14. Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Unit Owner, the Association may assess that Common Expense exclusively against such Unit Owner and his Unit.

ARTICLE V  
ARCHITECTURAL REVIEW COMMITTEE

1. Composition of Committee. The Architectural Review Committee shall consist of three (3) or more Persons appointed by the Executive Board; provided, however, that until all of the Units have been conveyed by Declarant to the first Unit Owner thereof (other than Declarant), Declarant shall appoint the Architectural Review Committee. Two members of the Committee may jointly designate a representative to act for them. 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 complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, 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 residence on any Unit. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. 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 all 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 all 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. In the event an application for architectural approval is approved or denied by the Architectural Review Committee, whether pursuant to an original request for approval or on appeal from a decision of a representative of the Committee, any Unit Owner shall have the right to appeal such decision to the Executive Board, if a written request for a hearing on an appeal of the same shall be submitted to the Executive Board within thirty (30) days after such approval or denial by the Committee.

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.

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. The Association may also purchase any or all of the following: a Demolition Endorsement, an Increased Cost of Construction Endorsement, a Contingent Liability from Operation of Building Laws Endorsement, a Vacancy Permit Endorsement or the equivalent, and coverage on personal property owned by the Association including fixtures and building service equipment, furnishings and supplies. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

- (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

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 are 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 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

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, garage keepers 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, Unit Owners, 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 Common Expense assessments on the Units, plus such reserve funds as calculated from the current budget of the 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

Security Interest Holder 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, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Unit Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation by the insurer against any Unit Owner or member of his household. 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 One Thousand Dollars (\$1,000.00) or one percent (1%) of the face amount of the policy.

(a) To the extent the Association settles claims for damages, 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 property which the Association has the duty to maintain, repair and/or reconstruct, and 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 Persons 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 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.

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 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.

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. 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.

#### ARTICLE VII DAMAGE OR DESTRUCTION

##### 1. Damage or Destruction.

(a) Any portion of the Common Interest Community for which insurance is carried by the Association under this Declaration, and 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;
- (3) Eighty percent (80%) of the Unit Owners, including every Unit Owner of a Unit that will not be rebuilt, vote not to rebuild; or
- (4) Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Common Interest Community rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is 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, the remainder of the proceeds must be distributed to all the Unit Owners or lien holders, 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 XI, Section 11 hereof, and the Association promptly shall prepare, execute and record an amendment to this 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 applicable to assessments as provided in Article IV hereof, including without limitation, interest, late charges and lien rights.



ARTICLE VIII  
EXTERIOR MAINTENANCE

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1. General.

(a) Maintenance, repair and replacement of Improvements located on all Common Elements 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. 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 Association shall maintain all entry signage and adjacent landscaping wherever located so long as such signage is shown on an instrument entitled Entry Signage Easement for Spring Creek Meadows Filing No. 10 and recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado. The Association shall also maintain and repair such fences installed by Declarant and located on a Unit or on the adjacent rights-of-way and the landscaping located between said fencing and the paved portion of any right-of-way, whether such landscaping is located on a Unit or within the right-of-way. 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.

(c) The maintenance, repair and replacement of each Unit, including, but not limited to, the interior and exterior of the residence and other Improvements thereon, shall be the responsibility of the Unit Owner of such Unit. 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 Unit upon reasonable notice to the Unit Owner thereof. Any damage occurring to such 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 any manner satisfactory to the Executive Board, the Association may, if said

failure continues for a thirty (30) day period after written notice to said Unit Owner by the Executive 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, 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 to the extent that such access is necessary and conducted in a reasonable manner. 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 or the expense of avoidance. 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 no such notice shall be required in connection with maintenance of any landscaping, walks, or other exterior non-intrusive maintenance, and 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 the Common Elements, any Unit, any other property, 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 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, such as signage, and no unreasonable inconvenience, such as excessive traffic, to other residents of the Units is created thereby.

4. Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Units such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its reasonable discretion. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Units in such a way as to unreasonably interfere with or disturb any Unit Owner, or to unreasonably interfere with the use, enjoyment or access of such Unit Owner, his family members, guests or invitees of and to his Unit and to a public right-of-way.

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. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that a Unit Owner is otherwise in violation of the provisions of this Section 5, and to take such action or actions as it deems appropriate to correct the same. 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 the Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly

conditions, structures, facilities, equipment or objects shall be so located on any Unit as to be visible from a street or from any other Unit.

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 in connection with the sale or rental of Units, or otherwise in connection with development of or construction in the Common Interest Community, shall be permissible, provided that such use shall not interfere with the Unit Owners' use and enjoyment of their Unit or with their ingress or egress from a public way to their Unit.

(b) No clothes lines, chain-linked (or other) dog runs, drying yards, service yards, wood piles or storage areas shall be so located on any Unit as to be visible from a street or from any other Unit. 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.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Unit other than those originally installed by Declarant, or 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 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 during its sales or construction in the Common Interest Community.

(e) No wind generators of any kind shall be constructed, installed, erected or maintained in the Common Interest Community.

(f) No fences shall be constructed, installed, erected or maintained on any Unit unless approved in advance by the Architectural Review Committee as to location and other matters, and except such fences, in such locations, as were installed or permitted to be installed by the Declarant in its construction of Improvements in the Common Interest Community.

(g) Any exterior lighting installed or maintained on the Units shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby property.

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 in the Common Interest Community, unless such parking or storage is within the garage area of any Unit or will be suitably screened from view by a fence not to exceed five feet (5') in height unless the Unit is bounded by an arterial street, in which case a six foot (6') fence shall be permitted adjacent to such arterial in accordance with the requirements of the Architectural Review Committee such that such vehicle will not be visible from the ground level of any adjacent Unit or from the street, 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.

(b) Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Common Interest Community. An abandoned or inoperable vehicle shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of seventy-two (72) hours 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 in violation of subsections (a) or (b) of this Section 8, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

(d) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or

conducted in the Common Interest Community, unless such activity 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, 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 is a source of annoyance or embarrassment to, or which offends or disturbs the residents of any Unit or 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 which are reasonably necessary to the development and construction of, and sales activities on, the Units; provided, however that such activities of the Declarant 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 immoral, improper, offensive or unlawful use shall be permitted or made of any Unit or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Units, or any portion thereof, shall be observed.

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

11. 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, or except such campfires or picnic fires on property which may be designated for such use by the Association.

12. No Annoying Light, Sounds or Odors. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others.



13. 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.

14. 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 Unit 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 14 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.

15. Rules and Regulations. Rules and regulations concerning and governing the Common Elements, Units 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.

16. Units to be Maintained: Hazardous Materials or Chemicals. Each Unit shall at all times be kept in a clean, sightly and wholesome 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 13 of this Article. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

17. 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:

(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.

18. 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 Security Interests, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.

19. Maintenance of Grade and Drainage. As more fully provided in that certain Declaration of Covenants Concerning the Maintenance of Certain Improvements to Real Property as the same has been or will be recorded in the real property records of Arapahoe County, Colorado, 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.

20. 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 or 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.

21. 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 plats and maps.

22. 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. In addition, there is hereby created a blanket easement upon, across, over and under the Common Interest Community for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, master television antenna systems, and cable television. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Interest Community property and to affix, repair and maintain water and sewer pipes.

gas, electric, telephone and television wires, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall cease and determine upon the earlier of conveyance by Declarant of the last Unit to the first purchaser thereof (other than Declarant) or ten (10) years after recording of this Declaration in Arapahoe County, Colorado, at which time said right and authority shall vest in the Association. Declarant hereby reserves, for itself and 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 Section 19 of this Article, 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.

23. Street Lighting. The Units shall be subject to and bound by Public Service Company 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 together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The then Unit Owner of each Unit shall be billed a portion of the costs of public street lighting for the Units according to Public Service Company rates, rules and regulations, including future amendments and changes, on file with the Public Utilities Commission of the State of Colorado.

#### ARTICLE X PROPERTY RIGHTS IN THE COMMON ELEMENTS

1. Unit Owners' Easements. Subject to the provisions of Section 2 of this Article X, 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.

2. Extent of Unit Owners' Easements. The rights and easements 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; and

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

(c) The right of the Association to promulgate and publish rules and regulations 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 Bylaws of the Association or the Association's rules and regulations; 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, 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 Common Interest Community 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, tenants, guests and invitees, for any

purpose(s) the Executive 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 rights of use of and access over the Common Elements to the members of his family, his tenants, or contract purchasers who reside on his Unit.

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

5. Conveyance or Encumbrance of Common Elements.

(a) Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only if Persons 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 a Declarant, agree to that action.

(b) An agreement to convey Common Elements or subject them to a Security Interest must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Common Interest Community is situated and is effective only upon recordation.

(c) The Association, on behalf of all Unit Owners, may contract to convey an interest in the Common Interest Community pursuant to subsection (a) of this section, but the contract is not enforceable against the Association until approved, executed and ratified. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Unless in compliance with this section, any purported conveyance, encumbrance, judicial sale or other transfer of Common Elements is void.

(e) A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Unit of its rights of ingress and egress to the Unit and support of the Unit.

(f) A conveyance or encumbrance of Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

#### ARTICLE XI 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 (including, without limitation, the Association) violating or attempting to violate any such provision. The Association 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 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 of Provisions. Except to the extent that any provision of this Declaration is inconsistent with the Act, 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 the Members having two-thirds (2/3) of the Allocated Interests. 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 each (10) years after the date of recording of this Declaration in each 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 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 (but such determination by HUD or VA shall be required only if the Declarant desires to attempt to obtain HUD or VA approval of the property being annexed). Each such annexation shall be effected, if at all, by recording of a plat or map of the property to be annexed (unless such plat or map has previously been recorded), and by recording an Annexation of Additional Land and Declaration Amendment in the Office of the Clerk and Recorder of each 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 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 in 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 provided in subsection (d) of this Section 5 or in Section 4 of this Article XI, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Unit 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, 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 may 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.

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 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 Spring Creek Meadows Development Company, Inc., 8791 Wolff Court, Suite 200, Westminster, Colorado 80030, 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 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. A description of a Unit may set forth the name of the Common Interest Community, the recording data for the Declaration, the county in which the Common Interest Community is located, and the identifying number of the Unit. Such description is a legally sufficient description of that Unit and all rights, obligations and interests appurtenant to that Unit which were created by the Declaration or Bylaws of the Association. 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.

(a) Except in the case of a taking of all the Units by eminent domain, a Common Interest Community may be terminated only by agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(b) An agreement of Unit Owners to terminate must be evidenced by their execution of a termination agreement or ratifications thereof in the same manner as a deed, by the requisite number of Unit Owners. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof must be recorded in every county in which a portion of the Common Interest Community is situated and is effective only upon recordation.

(c) Subject to the provisions of a termination agreement described in this section, the Association, on behalf of the Unit Owners, may contract for the sale of real estate in a Common Interest Community following termination, but the contract is not binding on the Unit Owners until approved pursuant to this section. If any real estate is to be sold following termination, title to that real estate, upon termination, vests in the Association as trustee for the holders of all interests in the Units. Thereafter, the Association has all the powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association continues in existence with all the powers it had before termination. Proceeds of the sale must be distributed to Unit Owners and lien holders as their interests may appear, taking into account the value of the property owned or distributed that is not sold so as to preserve the proportionate interests of each Unit Owner with respect to all property cumulatively. Unless otherwise specified in the termination agreement, as long as the Association holds title to the real estate, each Unit Owner and the Unit Owner's successors in interest have an exclusive right to occupancy of the portion of the

real estate that formerly constituted the Unit. During the period of that occupancy, each Unit Owner and the Unit Owner's successors in interest remain liable for all assessments and other obligations imposed on Unit Owners by this Article or the Declaration.

(d) Following termination of the Common Interest Community, the proceeds of any sale of real estate, together with the assets of the Association, are held by the Association as trustee for Unit Owners and holders of liens on the Units, as their interests may appear.

(e) Creditors of the Association who obtain a lien and duly record it in every county in which any portion of the Common Interest Community is located are to be treated as if they had perfected liens on the Units immediately before termination or when the lien is obtained and recorded, whichever is later.

(f) The respective interests of Unit Owners referred to in subsections (c), (d) and (e) of this Section 9 are as follows:

(1) Except as provided in paragraph (2) of this subsection (f), the respective interests of Unit Owners are the combined fair market values of their Units, Allocated Interests and any tenant-in-common interest, immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Unit Owners and becomes final unless disapproved within thirty (30) days after distribution by Unit Owners of Units to which twenty-five percent (25%) of the votes in the Association are allocated. The proportion of any Unit Owner's interest to that of all Unit Owners is determined by dividing the fair market value of that Unit Owner's Unit and its Allocated Interests by the total fair market values of all the Units and their Allocated Interests.

(2) If any Unit or any limited Common Element is destroyed, to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Unit Owners are their respective Common Expense Liability immediately before the termination.

(g) Except as provided in subsection (h) of this section, foreclosure or enforcement of a lien or encumbrance against the entire Common Interest Community does not terminate, of itself, the Common Interest Community. Foreclosure or enforcement of a lien or encumbrance against a portion of the Common Interest Community other than withdrawable real estate does not withdraw that portion from the Common Interest Community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not withdraw, of itself, that real estate from the Common Interest Community, but the Person taking title thereto may require from the Association, upon request, an amendment to the

Declaration excluding the real estate from the Common Interest Community prepared, executed and recorded by the Association.

(h) If a lien or encumbrance against a portion of the real estate comprising the Common Interest Community has priority over the Declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the Common Interest Community. The Executive Board shall reallocate interests as if the foreclosed sections were taken by eminent domain by an amendment to the Declaration prepared, executed and recorded by the Association.

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. The instrument is not effective unless executed by the transferee.

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 is 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 of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 22nd day of February, 1994.

DECLARANT:

SPRING CREEK MEADOWS DEVELOPMENT  
COMPANY, INC., a Colorado  
corporation

ATTEST:

Kenneth J. Marchetti

By: Michael A. Messina

Its: President

STATE OF COLORADO )

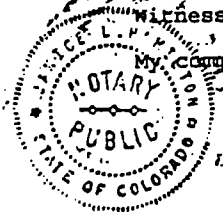
) ss.

COUNTY OF ADAMS )

The foregoing instrument was acknowledged before me this 22nd day of February, 1994, by Michael A. Messina as President and Kenneth J. Marchetti as Secretary of SPRING CREEK MEADOWS DEVELOPMENT COMPANY, INC., a Colorado corporation, Declarant.

Witness my hand and official seal.

My commission expires: October 23, 1997



Denise L. Hamilton  
Notary Public

8791 Wolff Ct., Suite 200  
Westminster, CO 80030

EXHIBIT A  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

The Common Interest Community:

Lots 1-8, inclusive, Block 1,  
Lots 1-16, inclusive, Block 2,  
Lots 1-15, inclusive, and Lots 20-28, inclusive,  
Block 3,  
Lot 1, Block 4,  
according to the final Plat,  
Spring Creek Meadows Subdivision Filing No. 1  
as recorded in Book 86 at Pages 61 and 62 in  
the office of the Clerk and Recorder,  
Arapahoe County, Colorado.



EXHIBIT B  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

Common Elements:

Tracts A, D and E,  
according to the final Plat,  
Spring Creek Meadows Subdivision Filing No. 1  
as recorded in Book 86 at Pages 61 and 62 in  
the office of the Clerk and Recorder,  
Arapahoe County, Colorado.

EXHIBIT C  
TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

Recorded Easements, Licenses and Other Matters:

1. REAL PROPERTY TAXES AND ASSESSMENTS FOR THE YEAR 1993, A LIEN NOT YET DUE AND PAYABLE.
2. TERMS, AGREEMENTS, PROVISIONS, CONDITIONS AND OBLIGATIONS OF PLANNED UNIT DEVELOPMENT, RECORDED MARCH 7, 1985 IN BOOK 4285 AT RECEPTION NO. 2507817.
3. AVIGATION AND HAZARD EASEMENT RECORDED NOVEMBER 19, 1985 IN BOOK 4601 AT PAGE 752 AND AMENDMENT RECORDED NOVEMBER 22, 1985 IN BOOK 4605 AT PAGE 594, AND RECORDED DECEMBER 3, 1986 IN BOOK 4974 AT PAGE 54.
4. UTILITY EASEMENT AS GRANTED TO EAST CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT IN INSTRUMENT RECORDED MARCH 04, 1986, IN BOOK 4687 AT PAGE 581.
5. UTILITY EASEMENT AS GRANTED TO EAST CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT IN INSTRUMENT RECORDED JULY 21, 1986, IN BOOK 4823 AT PAGE 143.
6. EASEMENTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS ON THE RECORDED PLAT OF SPRING CREEK MEADOWS SUBDIVISION FILING NO. 1.
7. TERMS, CONDITIONS AND PROVISIONS OF WATER AND SEWER TAP AND WATER RIGHTS PURCHASE AGREEMENT RECORDED APRIL 30, 1987 IN BOOK 5130 AT AGE 90 AND AMENDMENT THERETO RECORDED MARCH 2, 1990 IN BOOK 5879 AT PAGE 367.
8. EASEMENT FOR WATER LINE PURPOSES, AS GRANTED TO EAST CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT, AND THE TERMS, CONDITIONS AND PROVISIONS PERTAINING THERETO, RECORDED MARCH 2, 1990 IN BOOK 5879 AT PAGE 376.
9. PIPELINE EASEMENT GRANTED TO PHILLIPS PETROLEUM COMPANY IN INSTRUMENT RECORDED JULY 22, 1946 IN BOOK 552 AT PAGE 400 AND DELIMITED BY IN INSTRUMENT RECORDED JANUARY 9, 1969 IN BOOK 1796 AT PAGE 552.
10. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (STREET LIGHTING) RECORDED NOVEMBER 18, 1993, IN BOOK 7255 AT PAGE 265, RECEPTION NO. 162387.

EXHIBIT D  
TO  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
SPRING CREEK MEADOWS FILING NO. 1

Annexable Land:

Lots 16 through 20, inclusive, Block 3,  
Lots 2 through 36, inclusive, Block 4,  
Lots 1 through 22, inclusive, Block 5,  
Lots 1 through 32, inclusive, Block 6,  
Lots 1 through 10, inclusive, Block 7,  
Lots 1 through 20, inclusive, Block 8,  
Lots 1 through 16, inclusive, Block 9,  
according to the final Plat,  
Spring Creek Meadows Subdivision, Filing No. 1,  
as recorded in Book 86 at Pages 61 and 62 of  
the office of the Clerk and Recorder,  
Arapahoe County, Colorado.