2007000130 01/03/2007 03:02P COV
1 of 82 R 411.00 D 0.00 City&Cnty Broomfield

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

# OF

# LAKE FRONT

**(A Residential Planned Community)**

**AFTER RECORDING, RETURN TO:**
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2007000130 01/03/2007 03:02P COV
2 of 82 R 411.00 D 0.00 City&Cnty Broomfield

TABLE OF CONTENTS

PREAMBLE ..... 1

ARTICLE ONE: DEFINITIONS ..... 2

ARTICLE TWO: SCOPE OF THE DECLARATION ..... 8

ARTICLE THREE: THE COMMON AREAS ..... 9

ARTICLE FOUR: THE ASSOCIATION ..... 11

ARTICLE FIVE: ASSESSMENTS ..... 15

ARTICLE SIX: ARCHITECTURAL APPROVAL/DESIGN REVIEW ..... 21

ARTICLE SEVEN: LAND USE AND OTHER RESTRICTIONS ..... 26

ARTICLE EIGHT: EASEMENTS ..... 34

ARTICLE NINE: INSURANCE/CONDEMNATION ..... 36

ARTICLE TEN: RESTORATION UPON DAMAGE OR DESTRUCTION ..... 41

ARTICLE ELEVEN: MAINTENANCE, REPAIR AND RECONSTRUCTION ..... 42

ARTICLE TWELVE: EXPANSION ..... 44

ARTICLE THIRTEEN: DECLARANT AND PARTICIPATING BUILDER RIGHTS ..... 45

ARTICLE FOURTEEN: FIRST MORTGAGEE PROVISIONS ..... 47

ARTICLE FIFTEEN: MANDATORY DISPUTE RESOLUTION ..... 50

ARTICLE SIXTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION ..... 58

ARTICLE SEVENTEEN: GENERAL PROVISIONS ..... 59

EXHIBIT A ..... 67

EXHIBIT B ..... 68

EXHIBIT C ........ 69

EXHIBIT D ........ 70

EXHIBIT E ........ 77

EXHIBIT F ........ 79

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT ("Declaration") is made on the date hereinafter set forth by Lake Front by Remington Homes, Inc., a Colorado corporation (the "Declarant").

## PREAMBLE

WHEREAS, Declarant or Remington Homes Co., a Colorado corporation, is the owner of certain real property located in the City and County of Broomfield, Colorado, as more particularly described on the attached **Exhibit A** and **Exhibit B** (the "Property") and on the attached **Exhibit C** ("Expansion Property"); and

WHEREAS, said Property constitutes a portion of the Annexable Area as defined in the Master Declaration of Covenants, Conditions and Restrictions for the Broadlands recorded in the real property records of the Adams County Clerk and Recorder on November 25, 1997 at Reception No. C0339753 ("Master Declaration"); and

WHEREAS, Declarant intends to create a residential planned community, the name of which is Lake Front, together with other improvements thereon, on the Property and reserves the right to annex portions of the Expansion Property into the Planned Community; and

WHEREAS, Declarant will convey the Property subject to the protective covenants, conditions and restrictions as hereinafter set forth; and

WHEREAS, Remington Homes Co., consents to subjecting any Property owned by Remington Homes Co., on the attached Exhibits to the protective covenants, conditions and restrictions as hereinafter set forth; and

NOW, THEREFORE, Declarant hereby submits the Property, together with all rights, appurtenances thereto and improvements thereon, to the provisions of the Colorado Common Interest Ownership Act, as it may be amended from time to time (the "Act"). In the event the said Act is repealed, the Act as it exists on the date this Declaration is recorded shall remain applicable.

Declarant hereby declares that all of the real property described on said **Exhibit A** and **Exhibit B** shall be held and conveyed subject to the Master Declaration for so long as said Master Declaration may encumber the Property, and subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be for the protection of the value of the said real property, and for the benefit of any persons having any right, title or interest in the said real property. Declarant reserves the right to annex into the Planned Community and make subject to this Declaration all or any portion of the real property described on **Exhibit C**, together with any

improvements thereon, in accordance with the provisions of Article Twelve hereinbelow. These covenants, conditions and restrictions shall be deemed to run with the land and shall be a burden and a benefit to any persons acquiring such interest, their grantees, heirs, legal representatives, successors and assigns, and acceptance of such interest by any such persons shall constitute such person's agreement to be bound by the same.

## ARTICLE ONE: DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

1.1 ACT means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, *et seq.*, as it may be amended from time to time.

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

1.3 ALLOCATED INTERESTS means the Common Expense Assessment Liability and the votes in the Association which are allocated to each of the Lots in the Planned Community. The formulas used to establish the Allocated Interests are as follows:

(a) *Common Expense Assessment Liability*. Subject to Section 5.3 below, all Common Expenses shall be levied against Lots on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots then within the Planned Community.

In the event that Declarant exercises its right, reserved hereinbelow, to enlarge this Planned Community in Phases by submitting to the Planned Community additional real property in accordance with Article Twelve hereof, the Common Expense Assessment Liability set forth above will be reallocated by Declarant in accordance with the above.

(b) *Votes*. Owners shall be entitled to one (1) vote for each Lot owned within the Planned Community.

1.4 ARTICLES means the Articles of Incorporation of the Association.

1.5 ASSESSMENTS mean the (a) Common Expense Assessments, (b) Special Assessments, (c) Individual Assessments, (d) Fines levied pursuant to this Declaration and (e) Costs of Enforcement.

1.6 ASSESSMENT LIEN means the statutory lien on a Lot for any Assessment levied against that Lot together with all Costs of Enforcement as herein defined. All Costs of Enforcement

2007000130 01/03/2007 03:02P COV
6 of 82 R 411.00 D 0.00 City&Cnty Broomfield

are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the installment is a lien from the time it becomes due, including the due date set by the Association's acceleration of installment obligations.

1.7 ASSOCIATION means the Lake Front Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns; the Articles of Incorporation and Bylaws of which, along with this Declaration, shall govern the administration of the Planned Community, and the Members of which shall be all of the Owners of the Lots within the Planned Community. The Association is a sub-association of the Master Association as defined hereinbelow.

1.8 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by Declarant as therein provided. The Board of Directors is the governing body of the Association and shall act on behalf of the Association.

The term Board of Directors as used herein is synonymous with the term Executive Board as the latter term is used in the Act.

1.9 BUDGET means the annual budget of the Association prepared and adopted in accordance with Section 4.11 hereof.

1.10 BYLAWS means the Bylaws which are adopted by the Board for the regulation and management of the Association.

1.11 CITY AND COUNTY means the City and County of Broomfield, Colorado.

1.12 COMMON AREAS means the real property (including all Common Area Improvements thereon) owned by the Association, all of which is held for the common use and enjoyment of the Owners and the description of which is provided on the attached **Exhibit B**.

The term Common Areas as used herein is synonymous with the term Common Elements as the latter term is used in the Act.

1.13 COMMON AREA IMPROVEMENTS means those Improvements located on the Common Areas and which are owned by the Association for the common use and enjoyment of the Owners and their Guests.

1.14 COMMON EXPENSE ASSESSMENTS means the funds required to be paid by each Owner in payment of such Owner's Common Expense Assessment Liability as more fully defined in Section 5.4(a) hereof.

1.15 COMMON EXPENSE ASSESSMENT LIABILITY means the liability for the Common Expense Assessments allocated to each Lot determined in accordance with that Lot's Allocated Interests as set forth in Section 1.3(a) hereof.

1.16 COMMON EXPENSES means expenditures made by or liabilities incurred by or on behalf of the Association, together with allocations to reserves.

1.17 COSTS OF ENFORCEMENT means all fees, late charges, interest and expenses, including receiver's fees, and reasonable attorneys' fees and costs incurred by the Association in connection with the collection of Assessments and Fines, and the enforcement of the terms, conditions and obligations of the Project Documents.

1.18 COUNTY means the City and County of Broomfield, Colorado.

1.19 DECLARANT means Lake Front by Remington Homes, Inc., a Colorado corporation, or its successors and assigns. A Person shall be deemed a "successor and assign" of Declarant only if specifically designated in a duly recorded instrument as a successor or assign of the Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of the Declarant under this Declaration which are specifically designated in the written instrument.

1.20 DECLARANT AND PARTICIPATING BUILDER RIGHT(S) means the development, special declarant and other rights granted to or reserved by Declarant for the benefit of Declarant and/or any Participating Builder as set forth in this Declaration and the Act.

1.21 DECLARATION means this Declaration, the Plat and any supplements and amendments thereto recorded in the office of the Clerk and Recorder in the City and County of Broomfield, Colorado.

1.22 DESIGN REVIEW COMMITTEE OR COMMITTEE means the committee formed pursuant to Article Six hereof to review and approve or disapprove plans for Improvements as defined herein and as more fully provided for by this Declaration.

1.23 DESIGN REVIEW GUIDELINES means the Design Review Guidelines for Lake Front, as amended and supplemented from time to time. These guidelines may be adopted by the Design Review Committee to implement and interpret the Architectural Approval/ Design Review provisions of Article Six of this Declaration.

These guidelines may contain, among other things, policies that will clarify the design, materials, heights and size of structures, and the maximum and minimum setbacks that will be considered in design approval.

1.24 DWELLING UNIT or UNIT means the residence constructed on each Lot within the Planned Community and any replacement thereof.

1.25 ELIGIBLE MORTGAGEE means a holder, insurer or guarantor of a First Security Interest who has delivered a written request to the Association containing its name, address, the legal description and the address of the Lot encumbered by its First Security Interest, requesting that the Association notify them on any proposed action requiring the consent of the specified percentage of Eligible Mortgagees.

1.26 FINES means those fines described in Section 5.4(c) hereof.

1.27 FIRST MORTGAGEE means any Person which owns, holds, insures or is a guarantor of a Security Interest as herein defined, which is a First Security Interest encumbering a Lot within the Planned Community. A First Mortgagee shall also include the holder of executory land sales contracts wherein the Administrator of Veterans Affairs (Veterans Administration) is the Seller, whether such contract is recorded or not.

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

1.29 GUEST means (a) any person who resides with an Owner within the Planned Community; (b) a guest or invitee of an Owner; (c) an occupant or tenant of a Dwelling Unit within the Planned Community, any members of his or her household, and invitees or cohabitants of any such person; or (d) a contract purchaser.

1.30 IMPACTED OWNER means an Owner who would reasonably be affected by any proposed Improvement, excluding the Owner making the proposal to the Committee. Impacted Owners are identified by the Design Review Committee, who take into account the physical proximity of their Lot(s) to the proposed Improvement as well as other factors deemed pertinent by the Committee.

1.31 IMPROVEMENTS means:

(a) All exterior improvements, structures and any appurtenances thereto or components thereof of every type or kind; and

(b) The grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level and change of drainage pattern; and

(c) All landscaping features, including but not limited to buildings, outbuildings, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, private drives, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, cooling, heating and water softening equipment; and

(d) Any change, alteration, modification, expansion, or addition to any previously approved Improvement, including any change of exterior appearance, finish material, color or texture.

1.32 LOT means each platted lot shown upon the Plat of the Planned Community and which is subject to this Declaration, together with all appurtenances and improvements now or hereafter located thereon. Lot shall include any Dwelling Unit constructed thereon as the term Dwelling Unit is herein defined.

The term Lot as used herein is synonymous with the term Unit as the latter term is used in the Act.

1.33 LOTS THAT MAY BE CREATED means eighty-five (85) Lots, or the maximum number of Lots allowed by any governmental entity having jurisdiction over the Planned Community pursuant to any development plan or plat, including those Lots which shall be included when, and if, all of the property described on **Exhibit C** is annexed into the Planned Community and made subject to this Declaration.

In the event that the process of entitlement for Declarant to obtain building permits is placed on "hold" (e.g., moratorium, anti-growth legislation, etc.) for reasons beyond the control of Declarant, the time limitations set forth herein shall be extended until the impediment to entitlement is removed.

1.34 MANAGING AGENT means any one (1) or more persons employed by the Association who are engaged to perform certain duties, powers or functions of the Association.

1.35 MASTER ASSOCIATION means The Broadlands Master Association, Inc., a Colorado nonprofit corporation, its successors and assigns, as further described in Article 3 of the Master Declaration.

1.36 MASTER ASSOCIATION GOVERNING DOCUMENTS means the Master Declaration, Articles of Incorporation, Bylaws, Rules and Regulations, and Design Guidelines of the Master Association, as they may be amended or supplemented from time to time.

1.37 MASTER DECLARATION means the Master Declaration of Covenants, Conditions and Restrictions for the Broadlands recorded in the office of the Clerk and Recorder for Adams County on November 25, 1997 at Reception No. C0339753, Book 5166, Pages 0084-0155, as amended.

1.38 MEMBER means each Owner, as defined in Section 1.40 hereof.

1.39 NOTICE AND HEARING means a written notice and an opportunity for a hearing before the Board in the manner provided in the Rules.

1.40 OWNER means the record Owner of the fee simple title to any Lot which is subject to this Declaration.

1.41 PARTICIPATING BUILDER shall mean a Person or Persons other than the Declarant who acquires a portion of Property for purposes of improving said portion and constructing Dwelling Units in accordance with any development plans for resale to third party purchasers, and who may be designated by the Declarant by an instrument duly recorded with the Clerk and Recorder in the City and County of Broomfield, Colorado.

Remington Homes Co., a Colorado corporation, is hereby designated as a Participating Builder.

2007000130 01/03/2007 03:02P COV
0 of 82 R 411.00 D 0.00 City&Cnty Broomfield

1.42 PARTY WALL means each wall or fence which is built as a part of the original improvements on a Lot within the Planned Community and constructed on the Lot line between adjoining Lots. Such wall or fence shall be owned, used and maintained as more fully described in Section 7.25 hereof.

1.43 PERIOD OF DECLARANT CONTROL means that period of time as defined in Section 4.8 hereof.

1.44 PERSON means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture or any other entity recognized as being capable of owning real property under Colorado law.

1.45 PHASE means each phase of development of the Planned Community as determined from time to time by Declarant.

1.46 PLANNED COMMUNITY means the Property, the Lots, the Common Areas and the Common Area Improvements. The name of the Planned Community is Lake Front.

1.47 PLAT means The Broadlands Filing No. 20, City and County of Broomfield, State of Colorado, a subdivision plat recorded in the records of the office of the Clerk and Recorder in the City and County of Broomfield, State of Colorado on March 21, 2005 at Reception No. 2005003480 as to Lots 1-80(inclusive) and Tracts A, B and D and The Broadlands Filing No. 20-Replat A, City and County of Broomfield, State of Colorado, a minor subdivision plat recorded in the records of the office of the Clerk and Recorder in the City and County of Broomfield, State of Colorado on May 25, 2006 at Reception No. 2006006604 as to Lots 81-85(inclusive). and Tract C, and any supplements or amendments thereto.

1.48 PROJECT DOCUMENTS means this Declaration, the Plat, the Articles, the Bylaws, the Design Review Guidelines, the Rules (and other documents promulgated by the Board or the Committee) as they may be amended or supplemented from time to time.

1.49 RULES means the rules and regulations adopted by the Board for the regulation and management of the Planned Community, as amended from time to time.

1.50 SECURITY INTEREST means an interest in real estate or personal property created by contract which secures payment of an obligation. The term includes a lien created by a deed of trust, contract for deed, land or sales contract and UCC-1.

1.51 SITE DEVELOPMENT PLAN means The Broadlands Filing No. 20 (Tract 29) Site Development Plan recorded with the office of the Clerk and Recorder in the City and County of Broomfield, Colorado on March 21, 2005 at Reception No. 2005003481.

1.52 SPECIAL ASSESSMENTS means those Assessments defined in Section 5.4(d) hereof.

1.53 SUPPLEMENTAL DECLARATION means a written instrument containing covenants, conditions and restrictions, which is recorded, annexing in accordance with Article Twelve

hereof, all or a portion of the real property, together with any improvements thereon, described on **Exhibit C** hereof into the Planned Community.

In the event additional real property is made subject to this Declaration in the manner provided for in Article Twelve hereof, certain terms defined above shall be expanded to encompass said property from the date such additional real property is made subject to this Declaration.

## ARTICLE TWO: SCOPE OF THE DECLARATION

2.1 Property Subject to this Declaration. Declarant, as the owner of fee simple title to the Planned Community, by recording this Declaration does hereby subject the Planned Community to the provisions of this Declaration and the Act.

2.2 Master Declaration. This Planned Community is established as a sub-association under the Master Association in accordance with the terms of the Master Declaration. The Property shall also be subject to the Master Declaration for so long as the Master Declaration encumbers the Property. In the event of a conflict between provisions of any of the Project Documents and the Master Association Governing Documents, the provisions of the Master Association Governing Documents shall control.

2.3 Conveyances Subject to this Declaration. All covenants, conditions and restrictions which are granted or created by this Declaration shall be deemed to be covenants appurtenant to and running with the land, and shall at all times inure to the benefit of and be binding on any person having any interest in the Planned Community, their respective heirs, successors, personal representatives and assigns.

Any instrument recorded subsequent to this Declaration and purporting to establish and affect any interest in the Planned Community shall be subject to the provisions of this Declaration and the Master Declaration despite any failure to make reference thereto.

2.4 Owner's Rights Subject to this Declaration. Each Owner shall own his or her Lot in fee simple and shall have full and complete dominion thereof, subject to the provisions of the Project Documents and the Master Association Governing Documents.

2.5 First Phase, Number of Lots. The number of Lots within the First Phase of the Planned Community is the number set forth on **Exhibit A** attached hereto. Declarant reserves the right, but shall not be obligated, to create additional Lots by the expansion of the Planned Community in accordance with Article Twelve hereof.

2.6 Identification of Lots. The identification number of each Lot is shown on the Plat of the Planned Community.

2.7 Lot Boundaries. The boundaries of each Lot are located as shown on the Plat of the Planned Community.

## ARTICLE THREE: THE COMMON AREAS

3.1 Common Areas Dedication. The Site Development Plan for the Property has designated certain areas of the Property as Common Areas. Said Common Areas are more fully described on **Exhibit B** attached hereto.

The Common Areas are not dedicated for use by the general public, but are dedicated to the common use and enjoyment of only the Owners of Lots located within the Planned Community and such Owners' Guests as more fully provided for in this Declaration.

The Site Development Plan and the Plat are hereby incorporated herein and made a part of this Declaration.

3.2 Title to the Common Areas. Declarant hereby covenants that it will convey to the Association fee simple title to the Common Areas prior to the conveyance of the first Lot within the Planned Community to an Owner other than Declarant or any Participating Builder.

3.3 Duty to Accept the Common Areas Transferred by Declarant. The Association shall accept title to said Common Areas and agrees to own and maintain any property, including all Common Area Improvements located thereon, and personal property relating thereto, transferred to the Association by Declarant as Common Areas, together with the responsibility to perform any and all functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses. Any property or interest in property transferred to the Association by Declarant shall be transferred to the Association free and clear of all liens and monetary encumbrances (other than the lien for real estate taxes not then due and payable), subject to the covenants, easements and restrictions of record.

EACH OWNER AND THE ASSOCIATION HEREBY ACKNOWLEDGE AND AGREE THAT THE ASSOCIATION WILL RECEIVE THE COMMON AREAS LIMITED WARRANTY ATTACHED HERETO AS **EXHIBIT D**, IN LIEU OF ANY OTHER RIGHTS ANY OWNER (AND SUCCESSORS AS OWNERS OF THE PROPERTY) AND THE ASSOCIATION WOULD HAVE AGAINST DECLARANT OR ANY PARTICIPATING BUILDER RELATING TO THE CONDITION, DESIGN AND CONSTRUCTION OF THE COMMON AREA IMPROVEMENTS. ALL LIABILITIES, OBLIGATIONS, RIGHTS, AND REMEDIES OF THE OWNERS AND THE ASSOCIATION ARISING OUT OF CONSTRUCTION OF THE COMMON AREA IMPROVEMENTS DEEDED TO THE ASSOCIATION SHALL BE LIMITED TO THE EXPRESS PROVISIONS OF SAID WARRANTY. EACH OWNER AND THE ASSOCIATION FURTHER ACKNOWLEDGE AND AGREE THAT OTHER THAN AS EXPRESSLY PROVIDED IN THE COMMON AREAS LIMITED WARRANTY, THE COMMON AREA IMPROVEMENTS ARE BEING PROVIDED IN THEIR "AS IS" STATE OF REPAIR AND PHYSICAL CONDITION. DECLARANT AND EACH PARTICIPATING BUILDER DISCLAIM AND EACH OWNER AND THE ASSOCIATION WAIVE ALL OTHER EXPRESSED OR IMPLIED WARRANTIES RELATING TO ALL COMMON AREA IMPROVEMENTS, INCLUDING BUT NOT LIMITED

TO THE IMPLIED WARRANTIES THAT THE COMMON AREA IMPROVEMENTS WILL BE FREE FROM DEFECTS AND WILL BE FIT FOR THEIR INTENDED PURPOSES, THE IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION, CONFORMANCE WITH LOCAL BUILDING CODES, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY RIGHTS OR REMEDIES AS TO ANY PERSONAL PROPERTY OR "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL, STATE OR LOCAL LAWS OR THEIR IMPLEMENTING REGULATIONS) THAT MAY BE A PART OF OR LOCATED IN THE COMMON AREAS (INCLUDING WITHOUT LIMITATION ANY PERSONAL PROPERTY OR FIXTURES WITHIN THE PROPERTY AND THE COMMON AREAS).

3.4 Duty to Manage and Care for the Common Areas. The Association shall manage, operate, care for, insure, maintain, repair, reconstruct, modify and improve all of the Common Areas and the Common Area Improvements located thereon and keep the same in an attractive and desirable condition for the use and enjoyment of all of the Owners and their Guests.

3.5 Owner's Rights in the Common Areas. Every Owner and such Owner's Guests shall have the right and easement of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title of the Lot to such Owner. Owners' right to own and use their Lot and the Common Areas shall be subject to the Declarant Rights reserved herein and the following rights of the Board:

(a) To borrow money to improve the said Common Areas and to mortgage said Common Areas as security for any such loan; provided, however, that the Association may not subject any portion of the Common Areas to a security interest unless such is approved by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant as more fully set forth in §38-33.3-312 of the Act.

(b) To convey or dedicate all or any part of the said Common Areas for such purposes and subject to such conditions as may be agreed to by the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant as more fully set forth in §38-33.3-312 of the Act.

The granting of permits, licenses and easements shall not be deemed a conveyance or encumbrance within the meaning of this Section 3.5, as more fully set forth in §38-33.3-312 of the Act.

(c) To promulgate and adopt Rules with which each Owner and their Guests shall strictly comply.

(d) To suspend the voting rights of an Owner for any period during which any Assessment remains unpaid and for any infraction of the Project Documents.

(e) To take such steps as are reasonably necessary to protect the Common Areas against foreclosure.

(f) To enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of Common Areas by Owners and Guests for any purpose the Board may deem to be useful, beneficial or otherwise appropriate (also see Section 4.14(b) hereof).

(g) To close or limit the use of the Common Areas temporarily while maintaining, repairing and making replacements in the Common Areas, or permanently if approved by Members to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant as more fully set forth in §38-33.3-312 of the Act.

(h) To make such use of the Common Areas as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

(i) The rights granted to the Association and Board in Section 4.14 hereof.

3.6 Delegation of Use. The Board may allow members of the general public to use the Common Areas, subject to reasonable limitations and provided that such use does not unreasonably interfere with or impair the rights of use and enjoyment of the Common Areas by Owners. Any Owner may delegate his or her right of enjoyment to the Common Areas and Common Area Improvements to their Guests.

## ARTICLE FOUR: THE ASSOCIATION

4.1 Name. The name of the Association is Lake Front Homeowners Association, Inc., and it is a Colorado non-profit corporation.

4.2 Purposes and Powers. The Association, through its Board, shall manage, operate, care for, insure, maintain, repair and reconstruct all of the Common Areas and Common Area Improvements and keep the same in an attractive and desirable condition for the use and enjoyment of all of the Owners and their Guests. Any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designations and management. The Board shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Association.

4.3 Board of Directors/Managing Agent. The affairs of the Association shall be managed by the Board. By resolution the Board may delegate authority to a Managing Agent for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of final responsibility.

4.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws; also see Section 17.6 hereof.

4.5 Membership. Members of the Association shall be every record Owner of a Lot subject to this Declaration. Membership shall be appurtenant to and may not be separated from ownership of

any Lot. Where more than one (1) person holds an interest in any Lot, all such persons shall be Members.

The membership of the Association at all times shall consist exclusively of all Lot Owners or, following termination of the Planned Community, of all former Lot Owners entitled to distributions of the proceeds under §38-33.3-218 of the Act, or their heirs, personal representatives, successors or assigns.

4.6 Voting Rights. The Association shall have one (1) class of voting membership. Owners shall be entitled to one (1) vote for each Lot owned within the Planned Community.

The vote for such Lot, the ownership of which is held by more than one (1) Owner, may be exercised by any one (1) of them unless an objection or protest by any other holder of an interest of the Lot is made prior to the completion of the vote, in which case the vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves. Should the joint Owners of a Lot be unable, within a reasonable time, to agree upon how they will vote any issue. they shall be passed over and their right to vote on such issue shall be lost.

4.7 Master Association Voting and Delegation.

4.7.1 Lot Owners and the Board shall be entitled to vote in matters concerning the Master Association to the extent and in the manner set forth in the Master Association Governing Documents.

4.7.2 The Board is authorized to delegate to the Master Association one (1) or more of the powers of the Board as described in this Article Four or pursuant to the Act.

4.8 Declarant Control of the Association. Subject to provisions of Section 4.9 hereof, there is a "Period of Declarant Control" during which period the Declarant may appoint and remove any officer of the Association or any member of the Board. The Period of Declarant Control is a length of time expiring seven(7) years after the recording of this Declaration; provided, however, the Period of Declarant Control in any event terminates no later than the earlier of:

(a) Sixty (60) days after conveyance of seventy-five percent (75%) of the Lots That May Be Created to Owners other than Declarant or any Participating Builder; or

(b) Two (2) years after the last conveyance of a Lot by Declarant or any Participating Builder in the ordinary course of business to Owners other than Declarant or any Participating Builder; or

(c) Two (2) years after any right to add new Lots to the Declaration was last exercised.

In the event that the process of entitlement for Declarant to obtain building permits is placed on "hold" (e.g., moratorium, anti-growth legislation, etc.) for reasons beyond the control of Declarant, the time limitations set forth herein shall be extended until the impediment to entitlement is removed.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control. In that event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

4.9 Election by Owners. Not later than sixty (60) days after conveyance of twenty-five percent (25%)of the Lots That May Be Created to Owners other than Declarant or any Participating Builder, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than Declarant.

Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots That May Be Created to Owners other than Declarant or any Participating Builder, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than Declarant.

Not later than the termination of the Period of Declarant Control as set forth in Section 4.8 hereof, the Owners shall elect a Board consisting of three (3) members, at least a majority of whom must be Owners other than Declarant. The Board shall elect the officers of the Association. The Owners' Board shall take office upon termination of the Period of Declarant Control and upon election.

4.11 Budget.

(a) *Annual Budget.* In accordance with § 38-33.3-303 of the Act, the Board shall cause to be prepared a Budget for each calendar year. Within thirty (30) days after the adoption of any Budget by the Board, the Board shall mail by ordinary first-class mail, or otherwise deliver, a summary of the Budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the Budget within a reasonable time after delivery of the summary.

Unless at that meeting Owners to which at least a majority of the votes in the Association are allocated reject the Budget, the Budget shall be deemed ratified whether or not a quorum is present. In the event the Budget is rejected, the Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent Budget adopted by the Board.

(b) *Amended Budget.* If the Board deems it necessary or advisable to amend a Budget that has been ratified by the Owners pursuant to Section 4.11(a) above, the Board may adopt a proposed amendment to the Budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall be a reasonable time after the delivery of the summary of the proposed amendment.

Unless at that meeting Owners to which at least a majority of the votes in the Association are allocated reject the amended Budget, the amended Budget shall be deemed ratified whether or not a quorum is present.

4.12 Association Agreements. Any agreement for professional management of the Planned Community or any contract providing for services of Declarant, may not exceed one (1) year. Any such agreement must provide for termination by either party for cause and without payment of a termination fee or penalty upon not more than ninety (90) days written notice.

The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Period of Declarant Control unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after such conversion upon not more than ninety (90) days' notice to the other party thereto.

4.13 Indemnification. Each officer, director and Committee member of the Association shall be indemnified by the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon him or her in any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been an officer, director or Committee member of the Association, or any settlements thereof, whether or not he or she is an officer, director or Committee member of the Association at the time such expenses are incurred, to the full extent permitted by Colorado law and as further set forth in the Bylaws.

4.14 Certain Rights and Obligations of the Association.

(a) *Attorney-in-Fact.* This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact as herein provided to deal with the Planned Community upon its damage, destruction, condemnation and/or obsolescence.

The Board is hereby irrevocably appointed attorney-in-fact for the Owners (individually and collectively) to manage, control and deal with the interest of such Owner in the Common Areas so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder and to deal with the Planned Community upon its destruction, condemnation or obsolescence as hereinafter provided.

Acceptance of any interest in any Lot shall constitute an appointment of the Board as attorney-in-fact as provided above and hereinafter. The Board shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Planned Community and to perform all of the duties required of it.

(b) *Contracts, Easements, and Other Agreements.* Subject to Section 4.12 above, the Board shall have the right to enter into, grant, perform, enforce, cancel and vacate: contracts, easements, licenses, leases, agreements, and/or rights-of-way, for the use by Owners, their Guests, and other persons, concerning the Common Areas (see also Section 3.5(f) hereof).

Any such contracts, licenses, leases, agreements, easements and/or rights-of-way shall be upon such terms and conditions as may be agreed to from time to time by the Board, without the necessity of the consent thereto, or joinder therein, by the Owners or First Mortgagees.

(c) *Other Association Functions*. The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Members on a self-supporting, Special Assessment or Common Expense Assessment basis.

(d) *Implied Rights*. The Board shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

4.15 Certain Rights and Obligations of Declarant and Participating Builders. So long as there are unsold Lots within the Planned Community owned by Declarant or any Participating Builder, Declarant or any Participating Builder shall enjoy the same rights and assume the same duties as they relate to each individual unsold Lot, except to the extent said duties are modified by the Declarant Rights herein.

4.16 Disclaimer Regarding Security. The Association may, but shall not be obligated to, take measures or maintain or support certain activities within the Planned Community designed to make the Planned Community more secure than it otherwise might be. Neither the Association nor Declarant, or any representative or agent or either of them, shall in any way be considered insurers or guarantors of safety or security within the Planned Community, nor shall either of them be held liable for any loss or damage by reason of failure to provide adequate security or of the ineffectiveness of any such security measures taken. No representation or warranty is made that any fire protection system, burglar alarm system or security system cannot be compromised or circumvented, nor that any such system or security measure undertaken will prevent loss or provide the detection or protection for which such system is designed or intended.

## ARTICLE FIVE: ASSESSMENTS

5.1 Obligation. Each Owner, including Declarant, shall be personally obligated to pay to the Association (a) Common Expense Assessments, (b) Special Assessments, (c) Fines, (d) Individual Assessments, and (e) Costs of Enforcement, which shall be a continuing lien upon the Lot against which each such Assessment is levied. In addition, the Owner of a Lot shall be required to pay all fees owing to the Master Association in accordance with the Master Association Governing Documents. The Association may collect the Master Association fees from each Owner coincident with its collection of Common Expense Assessments, and, in such event, shall deliver to the Master Association, when due, all collected Master Association fees together with a written record of the Master Association assessment paid by each Owner. The Association may collect said Master Association fees only as to Lots that are subject to this Declaration. Notwithstanding the foregoing, the Master Association may elect from time to time to take direct action to collect the Master Association fees, and any delinquent Master Association fees, itself or through a third party, from one (1) or more Owners.

The obligation for such payments by each Owner to the Association is an independent personal covenant with all amounts due, from time to time, payable in full when due without notice or demand and without setoff or deduction. All Owners of each Lot shall be jointly and personally

liable to the Association for the payment of all Assessments, including Costs of Enforcement, attributable to their Lot.

The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

The omission or failure of the Board to levy Assessments for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Areas or the abandonment of such Owner's Lot.

5.2 Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of: (a) collecting any fees owing to the Master Association; (b) promoting the welfare of the residents of the Planned Community and the Members of the Association and their Guests; (c) providing for the administration and management of the Planned Community; (d) providing for the upkeep, improvement, repair, maintenance and reconstruction of the Common Areas and the Common Area Improvements; (e) providing for certain Lot maintenance and the exterior maintenance of Dwelling Units constructed upon the Lots within the Planned Community in accordance with Section 11.2 hereof, (f) providing liability insurance to cover incidents occurring on the Common Areas, and (g) satisfying any other purpose reasonable, necessary or incidental to such purposes.

Assessments shall include the establishment and maintenance of a reserve fund for those items which the Association has an ongoing duty to repair, maintain or reconstruct on a periodic basis.

5.3 Date of Commencement of the Assessments; Declarant's Right Of Offset. The Common Expense Assessment shall commence as to the Lots no later than sixty (60) days after the first Lot is conveyed to an Owner other than Declarant; *provided, however,* **no Assessment shall commence against any Lot that that has not received a Certificate of Occupancy for a Dwelling Unit on the Lot until such Certificate of Occupancy is issued.**

Until the commencement of the collection of the Common Expense Assessment, Declarant shall pay all of the expenses incurred and paid for by the Association. Declarant may at any time advance operating funds to the Association. Declarant shall be entitled to offset such amounts so paid or advanced as a credit against future Common Expense Assessments payable by Declarant.

5.4 Levy of Assessments and Fines.

(a) *Common Expense Assessments.* Common Expense Assessments shall be levied based upon a Budget of the Association's cash requirements. The Common Expense Assessment Liability shall be allocated among the Lots in accordance with that Lot's Common Expense Assessment Liability as set forth in Section 1.3(a) hereof and shall commence in accordance with Section 5.3 hereof. Common Expense Assessments may include any fees owing to the Master Association.

To the extent that any Common Expenses or a portion thereof benefit fewer than all of the Lot Owners, such expenses may be assessed exclusively against the Lots benefited as provided in §38-33.3-315(3)(b) of the Act, as determined by the Board.

(b) *Individual Assessments*. The Board shall have the right to individually levy upon any Owner or Owners amounts as provided for by this Declaration, to include but not be limited to, charges levied under Sections 6.17, 7.5, 7.14, 7.15, 7.16, 8.7, 9.2, 9.6, 10.2, 10.3, 11.1, 11.2, and 11.3 hereof.

Individual Assessments shall be collected as part of the Costs of Enforcement. Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required by other Assessments called for under this Declaration.

(c) *Fines*. The Board shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles or the Rules. No such Fine shall be levied until the Owner or Owners to be charged have been given notice and a hearing as provided for in the Rules. Late charges for nonpayment of Assessments levied pursuant to Section 5.6 hereinbelow are not Fines under this Section 5.4(c).

Fines may be levied in a reasonable amount as determined from time to time by the Board in its discretion and uniformly applied. Fines may be levied at any time as required and are exempt from any voting requirements by the membership required for other Assessments called for under this Declaration.

(d) *Special Assessments*. In addition to the other Assessments authorized herein, the Board, subject to the requirements set forth below, may levy a Special Assessment for the purpose of defraying, in whole or in part, any unexpected expense to include but not be limited to the cost of any construction, reconstruction, improvement, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property relating thereto, or for the funding of any operating deficit incurred by the Association provided that any such Assessment shall have the approval of Owners to whom at least a majority of the votes in the Association are allocated, who are voting in person or by proxy at a meeting duly called for this purpose.

Any such Special Assessment shall be levied against each Lot in accordance with that Lot's Common Expense Assessment Liability determined in accordance with Section 1.3(a) hereof, subject to §38-33.3-315(3)(b) of the Act and Section 5.3 hereof. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

5.5 <u>Due Date</u>. Fines and Individual Assessments shall be due and payable as established by the Board.

Special Assessments shall be due and payable as established by the Board but may be payable on an installment basis as determined by the Board.

All other Assessments shall be due and payable in monthly installments, in advance, or in such frequency as the Board determines in its discretion from time to time, provided that the initial

Assessments shall be adjusted to reflect the time remaining in the Association's first fiscal year. Notwithstanding the foregoing, that portion of the Common Expense Assessment constituting fees owing to the Master Association shall be due, payable, and collected by the Association in accordance with the due dates for such Master Association fees as set forth in the Master Association Governing Documents. Any Owner purchasing a Lot between due dates shall pay a prorated share.

Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

5.6 Remedies for Nonpayment of Assessments. If any Assessment (including Costs of Enforcement) is not fully paid within five (5) days after the same becomes due and payable, then interest shall accrue at the rate of eighteen percent (18%) per annum on any amount of the Assessment in default accruing from the due date until date of payment, and the Board may assess a late charge as a Cost of Enforcement in an amount as determined in the Board's discretion. In addition the Board may in its sole discretion:

(a) Accelerate and declare immediately due and payable all unpaid installments of the Assessment payable for the balance of the fiscal year during which such default occurred; and

(b) Bring an action at law against any Owner personally obligated to pay the Assessment and obtain a judgment for the amounts due; and

(c) Proceed to foreclose its lien against the Lot pursuant to the power of sale granted to the Association by this Declaration in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. If any Owner fails to timely pay Assessments or any money or sums due to the Association, the Association may require reimbursement for the Costs of Enforcement without the necessity of commencing a legal proceeding.

5.7 Assessment Lien. The Association is hereby granted an Assessment Lien against each Lot for any Assessment levied by the Board and for Costs of Enforcement levied against such Lot Owners when the Lot Owner fails to pay as required herein. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments.

The Association's Assessment Lien shall be superior to all other liens and encumbrances on a Lot except the following:

(a) Liens and encumbrances recorded prior to the recording of this Declaration; and

(b) Real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivisions or special taxing districts, or any other liens made superior by statute; and

(c) The lien of any loan evidenced by a first mortgage or deed of trust and any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not, except to the extent the Act grants priority for Assessments to the Association.

The Act does not affect the priority of mechanic's or materialmen's liens.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article Five is required. However, the Board may prepare, and record in the office of the Clerk and Recorder in the City and County of Broomfield, Colorado, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

Sale or transfer of any Lot shall not affect the lien for said Assessments except that sale or transfer of any Lot pursuant to foreclosure by any First Mortgagee, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Assessment Lien only to the extent provided by Colorado law. No such sale, deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot Owner from continuing liability for any Assessment thereafter becoming due, nor from the lien thereof.

Any First Mortgagee who acquires title to a Lot by virtue of foreclosing a first deed of trust or mortgage or by virtue of a deed in lieu of foreclosure will take the Lot free of any claims for unpaid Assessments and Costs of Enforcement against that Lot which have accrued prior to the time such First Mortgagee acquires title to the Lot, except to the extent the Act grants lien priority for Assessments of the Association.

In any action by an Association to collect Assessments, including Costs of Enforcement, or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the 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 and Costs of Enforcement. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust or mortgage.

The Assessment Lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Lot; provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust or mortgage. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

The Association's Lien on a Lot for any 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 a Lot subject to this

Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

5.8 Assignment of Assessments. The Board shall have the unrestricted right to assign its right to receive Common Expense Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved in writing by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant.

5.9 Surplus Funds. Any surplus funds of the Association remaining at the close of the Association's fiscal year after payment of the Association's expenses and funding the reserve fund may be retained by the Association as unallocated reserves and need not be credited to the Owners to reduce their future Common Expense Assessment Liability.

5.10 Working Capital Fund and Master Association Contributions.

The Association shall establish an initial working capital fund equal to two-twelfths (2/12) of the estimated annual Common Expense Assessment for each Lot. At the closing of the initial sale of a Lot to an Owner other than Declarant or any Participating Builder, a nonrefundable contribution shall be made by such Owner to the working capital fund of the Association in an amount equal to two-twelfths (2/12) of the annual Common Expense Assessment determined by the Board for that Lot for the year in which the new Owner acquires title. Said contribution shall be collected and transferred to the Association at the time of closing of the sale of each Lot and shall be held by the Association for emergencies, insurance deductibles in the event of casualty or other loss, capital expenditures for repair or replacement of Common Areas, and such other expenses which do not occur on a regular and ongoing basis, as may be determined by a majority of the Board.

Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the later sale or transfer of his or her Lot, an Owner shall NOT BE ENTITLED to a credit from the Association for the aforesaid contribution.

Declarant is prohibited from using the working capital fund to defray any of its expenses, reserve contributions or construction costs, or to make up any budget deficits during the Period of Declarant Control. In the event that Declarant makes payment of any working capital on behalf of any Lot, such amount shall be reimbursable to Declarant by the Lot purchaser at the closing of the sale of the Lot by Declarant to such purchaser.

If required by the Master Association Governing Documents, at the closing of the initial sale of a Lot to an Owner other than Declarant or any Participating Builder, a contribution shall be made by such Owner to the Master Association in an amount equal to one-fourth (1/4) of the Master Association's common assessment for the year in which the new Owner acquires title. Said contribution shall be held by the Master Association in its administrative functions reserve fund.

5.11 Certificate of Assessment Status. The Association shall furnish to an Owner or such Owner's First Mortgagee upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot.

The statement shall be furnished within fourteen (14) business days after receipt of the request and is binding upon the Association, the Board, and every Owner. If no statement is furnished to the Owner or First Mortgagee, 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 priority lien upon the Lot for unpaid Assessments which were due as of the date of the request (see §38-33.3-316 of the Act).

5.12 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration. Declarant is exempt from the requirements of this Section 5.12.

## ARTICLE SIX: ARCHITECTURAL APPROVAL/DESIGN REVIEW

6.1 Generally. Other than Improvements originally constructed by Declarant or any Participating Builder, each Improvement as defined in Section 1.31 hereof must be constructed, and may thereafter only be removed, altered or modified, in accordance with the Master Association Governing Documents and the Design Review Guidelines, if available, and approved in accordance with this Article Six.

The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Committee if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

6.2 Committee Approval of Improvements Required. Except as provided in Section 7.18 hereinbelow, the approval by the Design Review Committee and, as applicable, the Master Association's design review committee, shall be required prior to the commencement of the construction, alteration, modification, expansion, addition, removal, demolition or destruction of any Improvements on any portion of the Planned Community, including any change of exterior appearance, finish material, color or texture, except, in any such case, by Declarant or any Participating Builder with respect to any original first-built Improvements constructed by Declarant or any Participating Builder. The approvals of the Committee and Master Association design review committee are in addition to any review and approval required by the City and County.

A purchase of any Lot within the Planned Community does not grant any implied guarantee of approval of the Improvement to be located thereon by the Committee.

Any basements that are finished by an Owner shall comply with standard building procedures for walls in basements so as not to endanger the structure of the building should the floors rise due to expansive soils.

The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Committee.

6.3 Membership of the Committee. The Committee shall consist of up to three (3) members, the initial number and the members of which shall be determined by Declarant in its sole discretion. Declarant shall have the continuing right to appoint and reappoint the members of the Committee, which right shall terminate at the option of Declarant but in any event shall terminate without further act or deed upon the completion of construction of the last Dwelling Unit by Declarant or any Participating Builder within the Planned Community, the provisions of Section 13.3 hereof notwithstanding. Thereafter, the Committee shall consist of three (3) members, and the Board shall have the right to appoint the members of the Committee. Members of the Committee appointed by the Board must be Members of the Association.

Members of the Committee appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by Declarant. Members of the Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

6.4 Address of the Committee. The address of the Committee shall be that of the principal office of the Association.

6.5 Submission of Plans/Design Review Fee. Prior to commencement of work to accomplish any proposed Improvement (except satellite dishes pursuant to Section 7.18 hereinbelow), the Person proposing to make such Improvement ("Applicant") shall submit to the Committee, at its offices, or at such other place as the Committee may designate (such as the Master Association's design review committee), such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Committee shall reasonably request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement.

The Committee may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed Improvement. The Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvements or that the fee shall be determined in any other manner, such as the estimated cost of the proposed Improvement. Said fee may be used to compensate any consultant as the Committee deems necessary to assist the Committee in the performance of its duties. Members of the Committee may be reimbursed for services rendered and for directly related out-of-pocket expenses.

The Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement. Until receipt by the Committee of all required materials in connection with the proposed Improvement, the Committee may postpone review of any materials submitted for approval by a particular Applicant.

Except as provided in Sections 6.2 and 7.18 hereof, no Improvement of any kind shall be erected, altered, placed or maintained within the Planned Community unless and until the final plans, elevations and specifications therefor have received written approval by the Committee as herein provided.

6.6 Delegation/Waiver. The Committee may at its discretion delegate to the Board any of its powers granted to it by this Article Six by written notice to the Board indicating what powers and

authority are granted to the Board. Such delegation shall be effective from the date such notice is given.

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

The Committee may waive or grant reasonable variances or adjustments to any provision of this Article Six in the event there is a practical difficulty or unnecessary hardship.

6.7 Criteria for Approval. The question of reasonableness and good faith is the standard applicable in reviewing plans for approval by the Committee. The Committee shall have the right to disapprove any proposed Improvement which is not in accordance with the Design Review Guidelines, or is not suitable or desirable in the Committee's opinion for aesthetic or other reasons.

In passing upon the Improvement, the Committee shall have the right to take into consideration the suitability of the proposed Improvement and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the Improvement as planned on the outlook from the adjacent or neighboring Lots, and if it is in accordance with all of the provisions of the Project Documents and the Master Association Governing Documents.

The Committee may disapprove the proposed Improvement if the plans and specifications submitted are incomplete, or in the event the Committee deems the materials submitted to be contrary to the spirit or intent of this Declaration. The Committee may condition its approval of any proposed Improvement upon the making of such changes thereon as the Committee may deem appropriate.

6.8 Decision of the Committee. The decision of the Committee shall be made within thirty (30) days after receipt by the Committee of all materials required by the Committee unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed Improvement, the reasons therefor shall be stated. The decision of the Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Committee.

A majority vote of the Committee shall constitute the action of the Committee.

The Committee shall report in writing to the Board all final actions of the Committee if requested by the Board.

The Committee shall not be required to keep the materials submitted beyond one (1) year from date of approval or two (2) years from the date of the completion of the Improvement to be constructed, which ever shall last occur.

6.9 Appeal to the Board of Directors. If the Committee disapproves or imposes conditions on the approval of a proposed Improvement, the Applicant (after the period of Declarant control of the Committee has terminated) may appeal to the Board by giving written notice of such appeal to the Board and the Committee within ten (10) days after notice of such disapproval or conditional approval is given to the Applicant.

The Board shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Applicant and the Committee and shall decide, with reasonable promptness, whether or not the proposed Improvement or the conditions imposed by the Committee shall be approved, disapproved or modified.

If the Committee approves a proposed Improvement, any Impacted Owner created by the Committee's decision may appeal the approval to the Board by giving written notice of such appeal to the Board, the Committee and the Applicant within ten (10) days after such approval.

The Board shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Applicant, the Impacted Owner and the Committee. The Board shall decide with reasonable promptness, whether or not the proposed Improvement's approval shall be upheld. The decision of the Board shall be final and binding on the parties concerned.

These appeal rights to the Board shall only be available after the period of Declarant control of the Committee terminates.

6.10 Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Committee within thirty (30) days after the date of receipt by the Committee of all necessary materials as determined by the Committee.

6.11 Prosecution of Work After Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement, any materials submitted to the Committee in connection with the proposed Improvement and any conditions imposed by the Committee. Failure to complete any proposed Improvement within eight (8) months from the date of the commencement of construction (commencement of excavation) shall constitute noncompliance with this Article Six unless extended by the Committee.

6.12 Notice of Completion. Upon completion of the Improvement, the Applicant shall give written "Notice of Completion" to the Committee. Until the date of receipt of a Notice of Completion, the Committee shall not be deemed to have notice of completion of any Improvement.

6.13 Inspection of Work. The Committee or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion; provided that the right of inspection shall terminate thirty (30) days after the Committee receives a Notice of Completion from the Applicant.

6.14 Notice of Noncompliance. If, as a result of inspections or otherwise, the Committee finds that any Improvement has been done without obtaining the approval of the Committee, or was not done in substantial compliance with the description and materials furnished to, and any conditions

imposed by, the Committee, or was not completed within eight (8) months from the date of the commencement of construction, the Committee shall notify the Applicant in writing of the noncompliance ("Notice of Noncompliance"), which notice shall be given within thirty (30) days after the Committee has inspected the Improvement but in no event later than thirty (30) days after the Committee's receipt of such Applicant's Notice of Completion. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

6.15 Failure of Committee to Act After Completion. If for any reason other than the Applicant's act or neglect the Committee fails to notify the Applicant of any noncompliance within thirty (30) days after receipt by the Committee of a written Notice of Completion from the Applicant, the Improvement shall be deemed to be in compliance if the Improvement was in fact completed as of the date of Notice of Completion.

6.16 Appeal to the Board of Directors of Finding of Noncompliance. If the Committee gives any Notice of Noncompliance, the Applicant may appeal to the Board by giving written notice of such appeal to the Board and the Committee within ten (10) days after receipt by the Applicant of the Notice of Noncompliance.

If, after a Notice of Noncompliance, the Applicant fails to commence diligently to remedy such noncompliance, the Committee shall request a finding of noncompliance by the Board by giving written notice of such request to the Board and the Applicant within thirty (30) days after delivery to the Applicant of a Notice of Noncompliance. In either event, the Board after notice and a hearing shall decide, with reasonable promptness, whether or not there has been such noncompliance and, if so, the nature thereof.

This appeal right to the Board shall only be available after the period of Declarant control of the Committee terminates.

6.17 Correction of Noncompliance. If the Committee or Board determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than thirty (30) days from the date of receipt by the Applicant of the ruling of the Committee or Board. If the Applicant does not comply with the ruling within such period, the Committee or Board may, at its option, record a "Notice of Noncompliance" against the Lot on which the noncompliance exists, or may remove the noncomplying Improvement or may otherwise remedy the noncompliance.

The Board may levy an Individual Assessment in accordance with Section 5.4(b) hereof against the Owner of such Lot for such costs and expenses incurred in enforcing this Section 6.17. The right of the Declarant (during the period of Declarant's control of the Committee) or Board to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Declarant or Board may have at law, in equity, or under this Declaration.

6.18 Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder.

6.19 No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board shall constitute a waiver or estoppel with respect to future action by the Committee or the Board.

Specifically, the approval by the Committee of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or similar proposals, plans, specifications or other materials submitted with respect to any other Improvement.

6.20 Estoppel Certificates. The Board shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Committee, furnish a certificate with respect to the approval or disapproval of any Improvement or with respect to whether any Improvement was made in compliance herewith. Any person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

6.21 Architectural Standards/Design Review Guidelines. The Committee may promulgate rules and regulations to interpret and implement the provisions of this Article Six. These rules and regulations shall be known as the Design Review Guidelines and shall contain, among other things, guidelines which will clarify the types of designs and materials that will be considered in design approval. Compliance with the Planned Community's design review process and design standards is not a substitute for compliance with design standards and procedures of the Master Association, or City and County building, zoning and subdivision regulations. The Applicant shall be responsible to apply for all permits and approvals required by the City and County and the Master Association. The Committee may review and revise the Design Review Guidelines from time to time in its sole discretion so long as said guidelines are not discriminatory and are uniformly applied.

6.22 No Liability for Committee Action. There shall be no liability imposed on the Design Review Committee, any member of said Committee, any authorized representative of said Committee, the Association, any member of the Board or Declarant for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Committee, if such party acted in good faith and without malice.

In reviewing any matter, the Committee shall not be responsible for passing on safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, nor shall its approval of an Improvement be deemed an approval of such matters.

## ARTICLE SEVEN: LAND USE AND OTHER RESTRICTIONS

7.1 Limitations and Restrictions. All Lots and Common Areas shall be used and enjoyed subject to the Rules, any restrictions contained in the Master Association Governing Documents, and the following limitations and restrictions, and subject to the exemptions for Declarant and the Participating Builder as set forth in this Declaration.

The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

7.2 Land Use and Occupancy. Subject to Declarant and Participating Builder Rights reserved or described herein and the exemptions for Declarant and Participating Builders set forth in Section 7.26 hereof, no Dwelling Unit within the Planned Community shall be used for any purpose other than single-family residential purposes as generally defined, provided however, Owners may conduct

business activities within their Dwelling Unit provided that such activities are conducted in accordance with the Master Association Governing Documents and all of the following conditions are satisfied in the sole discretion of the Board:

(a) The business conducted is clearly secondary to the residential use of the Dwelling Unit and is conducted entirely within the Dwelling Unit;

(b) The existence or operation of the business is not detectable from outside of the Dwelling Unit by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

(c) The business does not result in an undue volume of traffic or parking within the Planned Community, which determination shall be made by the Board in its sole discretion from time to time;

(d) The business conforms to all zoning requirements and is lawful in nature; and

(e) The business conforms to any Rules that may be imposed by the Board from time to time on a uniform basis.

Uses described as day care or child care facilities (licensed or unlicensed) are expressly prohibited except with the prior written permission of the Board.

7.3 Building Locations, Height Restrictions and Lot Coverage. The Committee and, as applicable, the Master Association's design review committee, shall approve the location, height and square footage of any Improvement placed on any Lot (except satellite dishes and antennas installed pursuant to Section 7.18 hereinbelow). No Improvement shall exceed the height as set forth in the City and County's building code or approved development plan, as applicable. Except as approved by the Committee and the Master Association's design review committee, no Improvement shall be constructed which unreasonably obstructs the operation of an existing solar energy installation.

Such approvals must be obtained before the commencement of any construction or alteration in accordance with Article Six hereof.

7.4 Temporary Structures. No house trailer, tent, detached garage, shed or other outbuilding shall be placed or erected upon any part of the Planned Community except with the prior written approval of the Committee, and, as applicable, the Master Association's design review committee, obtained in each instance.

No Dwelling Unit located upon the Planned Community shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans nor shall any Dwelling Unit when completed be in any manner occupied until there is compliance with all requirements, conditions, covenants, and restrictions set forth herein.

7.5 Restrictions on Garbage and Trash. Each Owner shall keep all of his or her trash, garbage and other refuse in a container in his or her garage. The Association shall provide for trash and garbage removal services.

No trash, litter, garbage, grass, shrub or tree trimmings, scrap refuse or debris of any kind shall be permitted to remain exposed upon any Lot so it is visible from any neighboring Lot, Common Areas or from the street except that any container containing such material may be placed outside at proper times for garbage or trash pickup. No trash, garbage or other refuse shall be burned in outside containers, barbecue pits or the like.

The Board shall have the right and duty, through its agents and employees, after notice and a hearing, to enter upon any Lot and remove such unsightly objects and materials. The cost of such removal shall be chargeable to such Owner as an Individual Assessment in accordance with Section 5.4(b).

7.6 Nuisances. No noxious or offensive activity shall be carried on within the Planned Community or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or which is or may cause an unreasonable embarrassment, disturbance or annoyance to others, or detract from the Planned Community's value as an attractive residential community. Habitually barking, howling or yelping dogs shall be deemed a nuisance.

7.7 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Planned Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Planned Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Planned Community except with the prior written approval of the Committee, and the Master Association's design review committee as necessary.

7.8 No Hazardous Activities. No activity shall be conducted on any portion of the Planned Community which is 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 portion of the Planned Community and no open fires shall be lighted or permitted on any portion of the Planned Community except in a contained barbecue unit while attended and in use for cooking purposes or within a fireplace designed to prevent the dispersal of burning embers.

7.9 No Unsightliness. All equipment shall be stored within the Dwelling Unit or garage, including all bicycles, tractors, snow-removal equipment and garden or maintenance equipment, except when actually in use.

No types of exterior refrigerating, cooling or heating apparatus shall be permitted unless approved by the Committee and in accordance with the Master Association Governing Documents. No laundry or other articles may be hung on or from decks, patios or any other portion of an Owner's Lot.

7.10 Utilities. Except as provided in Section 8.2 hereof, all pipes for water, gas, sewer, drainage or other purposes, electric, television, radio and telephone line installations and connections from the Owner's property line to the Dwelling Unit shall be placed underground and have the prior approval of the Committee. All types of exterior refrigerating, cooling or heating apparatus installed outside

the Dwelling Unit must be approved by the Committee and installed on the ground, and in accordance with the Master Association Governing Documents as applicable. All solar collector installations must be approved by the Committee prior to installation. All utility installations shall comply with all state laws and City and County ordinances.

7.11 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Planned Community, except to the extent the foregoing is in conflict with applicable law and except such signs as may be approved in writing by the Committee and, as applicable, the Master Association's design review committee, which may include signs indicating protection by security systems and Neighborhood Watch programs. One (1) sign advertising a Lot for sale or for lease may be placed on such Lot or Dwelling Unit; provided however, that standards relating to dimensions, color, style and location of such sign shall be determined from time to time by the Committee and shall comply with the local sign codes and with all other applicable statutes, ordinances and regulations, including the Master Association Governing Documents. Notwithstanding the foregoing, reasonable signs and advertising used by Declarant or any Participating Builder in connection with development of or construction on a Lot shall be permissible.

7.12 Compliance with Insurance Requirements. Except as may be approved in writing by the Board, nothing shall be done or kept on the Planned Community which may result in an increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

7.13 Compliance with Laws. No unlawful use shall be permitted or conducted on any Lot. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Lots or any portion thereof shall be observed.

7.14 Household Pets. Owners shall be responsible for strict compliance with all laws and any rules or regulations adopted from time to time by the Association and Master Association related to pet ownership, including any regulation wholly excluding or limiting the number or type of pets allowed, and shall ensure their pet does not interfere with other Owners' quiet use and enjoyment of the Planned Community premises. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on any portion of the Planned Community; except that dogs, cats or other customary household pets may be kept thereon if they are not raised, bred or maintained for any commercial purpose and are not kept in such number or in such manner as to create a nuisance or inconvenience to any resident of the Planned Community.

The Board shall have the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section 7.14 or the Rules. The Board shall take such action or actions as it deems reasonably necessary to correct the violation to include after notice and a hearing, directing permanent removal of the pet or pets from the Planned Community.

Household pets shall not be allowed to run at large within the Planned Community, but shall at all times be under the control of such pet's Owner and such pets shall not be allowed to litter the Common Areas. Pets shall be on a leash or held while in the Common Areas.

Each Owner is responsible for cleaning up his or her pet's waste from any Lot or Common Area within the Planned Community.

No animals shall be tied or chained to or on any patio, deck or other portion of an Owner's Dwelling Unit. The Board is granted the authority to enforce the provisions of this Section 7.14 by the levy of Fines against the Owner in accordance with Section 5.4(c) hereof.

Reimbursement for damages caused by such pets and costs incurred by the Association, to include attorneys' fees and costs, in the removal of a pet or pets from the Planned Community or incurred by the Association in cleanup after such pets may be levied against such pet's Owner as an Individual Assessment in accordance with Section 5.4(b) hereof.

No dog runs or animal pens of any kind shall be permitted on any Lot without the prior approval of the Committee.

7.15 Vehicular Parking, Storage and Maintenance. No house trailer, camping trailer, horse trailer, camper, camper shells, boat trailer, hauling trailer, boat or boat accessories, truck larger than three-quarter (3/4) ton, recreational vehicle or equipment, mobile home, or similar vehicle may be parked or stored anywhere within the Planned Community unless it is parked in a garage, and unless it is being actively loaded or unloaded. This applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles". No emergency or temporary parking shall continue for more than seventy-two (72) hours.

Parking is not allowed on landscaped areas, lawn areas or fire lanes.

No abandoned, unlicensed, wrecked or inoperable vehicles of any kind shall be stored or parked within the Planned Community except in garages or except in emergencies. Any wrecked vehicle shall be as determined by the Board in its sole discretion. Any abandoned or inoperable vehicle shall be defined pursuant to the Rules.

The Board shall have the right to remove and store a vehicle in violation of this Section 7.15 after notice and a hearing, the expenses of which shall be levied against the Owner of the vehicle as an Individual Assessment in accordance with Section 5.4(b) hereof.

Subject to any Rules adopted by the Board, vehicle maintenance is allowed only in the garage. Car washing is not considered vehicle maintenance.

Owners are encouraged to keep their garage doors closed except when in use.

It was the intent of Declarant in designing the overall parking plan for the Planned Community that garages be used in such a manner so that vehicles would be parked within such garages. Therefore, any use of a garage that does not allow a vehicle to be parked within such space is expressly prohibited. The Board is granted the authority to enforce the provisions of this Section 7.15 by the levy of Fines against the Owner in accordance with Section 5.4(c) hereof.

7.16 Owner-Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property within the Common Areas, such Owner shall be liable and responsible for the payment of same.

The amount of such loss or damage, together with costs of collection and reasonable attorneys' fees, if necessary, may be collected by the Board, from such Owner as an Individual Assessment against such Owner in accordance with Section 5.4(b) hereof.

Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Section 7.16 shall be made by the Board and shall be final.

7.17 Exterior Equipment Prohibition. No exterior equipment or fixtures, including but not limited to the following, shall be permitted without the written consent of the Committee and, as applicable, the Master Association's design review committee: air conditioning units, swamp coolers, or other ventilating equipment; and any type or kind of wiring, ducts or pipes.

7.18 Antennas and Satellite Dishes. No conventional television antennae of any kind may be installed on the exterior of any Dwelling Unit in the Planned Community. No satellite dishes, antennas, and similar devices for the transmission or reception of television, radio, satellite, or other signals of any kind shall be permitted, except that:

(a) Satellite dishes designed to receive direct broadcast satellite service which are one (1) meter or less in diameter;

(b) Satellite dishes designed to receive video programming services via multi-point distribution services which are one (1) meter or less in diameter or diagonal measurement; or

(c) Antennas designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device for a Dwelling Unit is placed in the least conspicuous location on the Lot at which an acceptable quality signal can be received and is not visible from the street, Common Areas, or neighboring Dwelling Units, or is screened from the view from adjacent Dwelling Units in a manner approved by the Committee, and provided further that any such Permitted Device must be as small and unobtrusive as possible and, in the case of an antenna, may be installed on the exterior of a Dwelling Unit only if installation in the attic portion of the Dwelling Unit is not physically possible or would impair reception.

This Section 7.18 is intended to comply with the Telecommunications Act of 1996 ("Act") and the rules and regulations promulgated by the Federal Communications Commission ("FCC"). Specifically, this Section 7.18 is not intended to unreasonably delay or prevent installation, maintenance or use of Permitted Devices, unreasonably increase the cost of installation, maintenance or use of Permitted Devices, or preclude reception of an acceptable quality signal.

In the event that any portion of this Section 7.18 is found to violate the Act or any rule or regulation of the FCC, the portion of this Section 7.18 that is found to be in violation shall be stricken and the remaining provisions of this Section 7.18 shall remain in full force and effect.

7.19 Lease of a Dwelling Unit. With the exception of a First Mortgagee who has acquired title to a Lot by virtue of foreclosing a First Security Interest or by virtue of a deed in lieu of foreclosure, an Owner shall have the right to lease his or her Dwelling Unit upon such terms and conditions as the Owner may deem advisable, subject to the following:

(a) Any such lease or rental agreement must be in compliance with applicable local, state and federal laws;

(b) No Owner may lease or rent (i) less than his or her entire Dwelling Unit; (ii) for transient or hotel purposes; or (iii) for a term of less than three (3) months in duration unless it is a lease extension;

(c) Any lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of the Master Association Governing Documents and the Project Documents;

(d) Such lease or rental agreement shall state that the failure of the lessee or renter to comply with the terms of the Master Association Governing Documents and the Project Documents shall constitute a default and such default shall be enforceable by either the Board, the lessor, or both, such enforcement to include but not be limited to eviction of the lessee from the Dwelling Unit; and

(e) The Board shall be furnished with a copy of the lease or rental agreement upon its request.

7.20 Other Exterior Improvements. No basketball hoops, poles, backboards, other playground equipment, clotheslines, wood piles or storage areas or containers may be installed on any Lot or in the Common Areas unless approved by the Committee and, as applicable, the Master Association's design review committee. No mailboxes, porch and area lighting, property identification, landscaping or other exterior Improvements shall be constructed, installed, erected or maintained on any Lot unless approved by the Committee and, as applicable, the Master Association's design review committee, and except as were installed or permitted to be installed by Declarant or any Participating Builder their construction of Dwelling Units on the Lots.

7.21 Certain Work Prohibited. No Owner shall undertake any work in his or her Dwelling Unit that would jeopardize or interfere with the soundness, safety or operation of such Dwelling Unit or any other Dwelling Unit.

7.22 Window Coverings. Window coverings on all exterior windows of a Dwelling Unit must be installed by the Owner of the Unit (at the Owner's cost) within sixty (60) days following the conveyance of title to the Dwelling Unit to the Owner thereof (whether by Declarant, a Participating Builder or a subsequent Owner).

Such window coverings, as seen from outside, must be a neutral color that blends with the exterior color of the Dwelling Unit and the building of which it is a part (i.e., white, off-white, light beige or wood tones). Tinting of exterior windows shall be subject to the prior approval of the

Committee pursuant to the provisions of Article Six hereof. No reflective glazing, silver foil or other similar sun screening material shall be allowed on any exterior windows of a Dwelling Unit.

7.23 Rules. Every Owner and his or her Guests shall adhere strictly to the Master Association Governing Documents and to the Rules as promulgated by the Board, as amended from time to time.

7.24 Exterior Lighting. Any exterior lighting installed on any Dwelling Unit shall be downward directed and of such controlled focus and intensity so as to not disturb residents of neighboring Dwelling Units.

7.25 Party Walls.

(a) *Party Walls Defined.* There lies along and over the common boundaries of the Dwelling Units common walls that, in conjunction with the footings underlying and those portions of the roof thereover, form a structural part of and physically joins the Dwelling Units on each Lot (the "Party Walls"). The location of the Party Walls are shown on the Plat as lot lines.

(b) *Ownership of Party Walls.* Each Dwelling Unit (and Lot) shall be deemed to include that portion of a Party Wall extending from the exterior surface of the Party Wall which is inside the Lot to the portion of the Party Wall lying on the Lot line, together with the necessary easements for perpetual lateral and subjacent support, maintenance, repair and inspection of the Party Wall with equal rights of joint use.

(c) *Protection of Party Walls.* No Owner shall have the right to destroy, remove or make any structural changes in or to a Party Wall that would jeopardize the structural integrity of any Improvement or Lot without the prior written consent of the affected Owners, any First Mortgagees of said Owners, and the Committee. No Owner shall subject a Party Wall to the insertion or placement of timbers, beams or other materials in such a way as to adversely affect the Party Wall's structural integrity. No Owner shall subject a Party Wall to any use that in any manner whatsoever may interfere with the equal use and enjoyment of the Party Wall by the other Owner that owns a portion of the Party Wall. Notwithstanding the foregoing, all of the covenants and restrictions contained herein shall be subject to the Declarant and Participating Builder Rights as set forth herein.

(d) *Damage by Intentional or Negligent Act of Owner.* Should a Party Wall be structurally damaged or destroyed by the intentional act or negligence of an Owner (the "Responsible Owner") or the Responsible Owner's agent, contractor, employee, tenant, family member, licensee, Guest or invitee, the Association shall rebuild and/or repair the Party Wall, and the Responsible Owner shall be responsible for paying the Association's cost to rebuild and/or repair the Party Wall. In addition, the Responsible Owner shall compensate the other Owner(s) for any damages sustained to person or property as a result of such intentional or negligent act.

(e) *Damage from Other Causes.* Should a Party Wall be structurally damaged or destroyed by causes other than the intentional act or negligence of an Owner (or its agent, contractor, employee, tenant, family member, licensee, Guest or invitee), the damaged or destroyed Party Wall shall be repaired or rebuilt by the Association at the joint expense of the Owners owning any portion of the Party Wall, each to pay an equal share of the cost thereof.

(f) *No Encroachment.* In the event that any portion of any structure originally constructed by Declarant or any Participating Builder, including any Party Wall, shall protrude over an adjoining Lot, such structure shall not be deemed to be an encroachment upon the adjoining Lot nor shall any action be maintained for the removal of or for damage because of such protrusion. The foregoing shall also apply to any replacements of any Party Wall if the same are constructed substantially in conformity with the original Party Wall constructed by Declarant or any Participating Builder. If a Party Wall is in need of repair or is destroyed or damaged by any casualty, the Association shall repair, restore or reconstruct it substantially to its original form.

7.26 Exemptions for Declarant and Participating Builder. So long as Declarant and any Participating Builder owns a Lot within the Planned Community, Declarant and any Participating Builder shall be exempt from the provisions of this Article Seven to the extent that it impedes, in Declarant's or Participating Builder's sole discretion, Declarant's or Participating Builder's development, construction, marketing, sales or leasing activities, or other rights reserved herein to Declarant or any Participating Builder.

7.27 Maintenance of the Drainage Pattern. There shall be no interference with the established drainage pattern initially established by Declarant and Participating Builders over any portion of the Planned Community, except as approved in writing by the Committee, and the Master Association's design review committee as necessary. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any property is completed by Declarant and Participating Builders and shall include any established drainage pattern shown on the plans approved by the Committee, and the Master Association's design review committee as necessary.

The established drainage pattern may include the drainage pattern from the Common Areas over any Lots within the Planned Community and from any Lot within the Planned Community over the Common Areas, or from any Lot over another Lot. Any proposed alterations to the drainage pattern must be prepared, signed, and stamped by a qualified professional engineer registered in the State of Colorado.

7.28 Enforcement. The Association, acting through the Board, shall have the standing and power to enforce all of the above land use and other restrictions.

## ARTICLE EIGHT: EASEMENTS

8.1 Generally. The Planned Community shall be subject to all easements as shown or created on the Plat, those of record, those provided in the Act, this Article Eight and in other provisions of this Declaration.

8.2 Utility Easements. There is hereby created and granted a blanket easement on, over, in, under and through the Planned Community for the installation, replacement, repair, operation and maintenance of utilities, including but not limited to water, sewer, gas, telephone, electricity, satellite and cable systems. Said blanket easement includes future utility services not presently available to the Planned Community that may be reasonably required in the future.

Should any utility company furnishing a service covered by the easement herein created request a specific easement by separate recordable document, Declarant and Participating Builder shall have, and hereby reserves, the right and authority to grant such easement upon, across, over or under any part or all of the Planned Community without conflicting with the terms hereof; provided, however, that such power shall cease upon termination of the Declarant Rights as provided in Section 13.3, at which time such reserved right shall vest in the Association.

The easements granted in this Section 8.2 shall in no way affect, avoid, extinguish or modify any other recorded easement(s) within the Planned Community.

8.3 Easements for the Board of Directors and Owners. The Board (its agents, employees, and contractors) is hereby granted an easement on, over, in, under and through each Lot to perform its obligations pursuant to this Declaration. Each Owner, and such Owner's Guests, is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Lot, over and across the Common Areas, which right shall be appurtenant to the Owner's Lot, and which right shall be subject to limited and reasonable restriction on the use of Common Areas set forth in writing by the Association, such as for closure for repairs and maintenance.

8.4 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing the Planned Community, to enter upon any part of the Planned Community in the performance of their duties.

8.5 Easements for Encroachments. If any part of a Dwelling Unit as originally constructed by the Declarant or any Participating Builder including, without limitation, patio, patio fences and window wells encroaches or shall hereafter encroach upon the Common Areas, or upon another Dwelling Unit, the Owner of that Dwelling Unit shall and does have an easement for the existence of such encroachment and for the maintenance of the same.

Such easements shall extend for whatever period of time the encroachment shall exist. Such encroachments shall not be considered to be encumbrances either upon the Common Areas or upon a Dwelling Unit. Encroachments referred to herein include unintentional encroachments made by error in original construction of the Dwelling Unit, by the settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Dwelling Units.

8.6 Recording Data Regarding Easements. Pursuant to §38-33.3-205(m) of the Act, the recording data for certain recorded easements and licenses appurtenant thereto, or included in the Planned Community or to which any portion of the Planned Community is subject to as of the date of recordation of this Declaration, are identified on the attached **Exhibit E**.

8.7 Zero Lot Line Easements. Due to the anticipated style of Dwelling Units to be placed on certain Lots, (a) a Dwelling Unit may be located on or so close to its property line, or (b) a Dwelling Unit's roof overhang may encroach upon an adjoining Lot or Lots so as to make entry upon an adjoining Lot or Lots a necessary incident to the construction and maintenance of such Dwelling Unit.

In the event the above situation shall exist, then at the time of the commencement of the construction of such improvement, provided such construction shall commence within twenty (20) years after the date of recording of this Declaration, there shall thereby be created an easement or easements for the existence of such overhang if one shall encroach, not to exceed two (2) feet in depth and for the construction, maintenance, repair, replacement and/or reconstruction of such Dwelling Unit which encroaches or is to located on or near its property line.

Said easement or easements (a) shall be over and across the Lot or Lots immediately adjoining the Lot upon which such Dwelling Unit is so located, and (b) shall extend the full depth of the adjoining Lot or Lots, and (c) shall extend into so much of the adjoining Lot or Lots as is necessary to provide the Owner of such Dwelling Unit so located with an easement of such width that, when added to the space lying between the Dwelling Unit and its property line, such easement shall be six (6) feet in width; and such Owner shall immediately repair, and be liable to make, full reimbursement for any damages caused by any failure immediately to repair any damage to the Lot or the Dwelling Unit or other property thereon resulting form the use of this easement. The amount of such reimbursement may be collected by the Board from such Owner as an Individual Assessment in accordance with Section 5.4(b) hereof.

Construction of any structure shall be prohibited within these easements except as such structure shall be approved in writing by the Committee or the Board. For title and other purposes, such easements shall not be considered or deemed to be encumbrances upon such adjoining Lot.

8.8 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be deemed appurtenant to the Lots owned by such Owner. All conveyances and instruments affecting title to a Lot shall he deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appears.

## ARTICLE NINE: INSURANCE/CONDEMNATION

9.1 Authority to Purchase/General Requirements. Except as provided in the following Section 9.1, the Board shall obtain one (1) or more master policies of insurance relating to the Dwelling Units, the Common Areas and the Common Area Improvements within the Planned Community. The Board shall promptly furnish to each Owner and/or such Owner's First Mortgagee requesting same, written notice of the procurement of, subsequent changes in, renewals of, or termination of insurance coverages obtained on behalf of the Association.

The Owner of an Owner-occupied Dwelling Unit shall purchase a Dwelling Unit Owner's policy (HO-6) or its equivalent for all of such Owner's personal property and household goods located within such Owner's Dwelling Unit. The policy shall also insure any and all improvements or betterments made to the Dwelling Unit's interior unfinished surfaces of its perimeter walls, floors and ceilings by the current Owner, together with providing personal liability coverage. An Owner, except for Declarant or any Participating Builder, of a non-Owner occupied Dwelling Unit shall purchase an Owner's rental liability policy or its equivalent. The Association will not provide such coverages in its master policies.

The Board 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 Association, an Owner, the First Mortgagee or such First Mortgagee's successor and assigns, or (b) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members; or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent Owners or First Mortgagees, their successors and assigns from collecting insurance proceeds.

Each such policy shall provide that:

(a) The insurer to the extent possible waives any right to claim by way of subrogation against the Declarant, the Participating Builder, the Association, the Board, the Managing Agent or the Owners, and their respective agents, employees, Guests and, in the case of the Owners, the members of their households.

(b) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Owner or his or her Guests or of any member, officer or employee of the Board or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within forty-five (45) days after such demand;

(c) Such policy, including any fidelity insurance of the Association referred to in Section 9.4 hereof may not be canceled, or substantially modified by any party (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Board, the Managing Agent and to each First Mortgagee listed as a scheduled holder of a first mortgage in the policy;

(d) Such policy must provide that no assessment may be made against a First Mortgagee, its successors or assigns and that any assessment made against others shall not become a lien on a Lot superior to the lien of a First Mortgagee;

(e) The Declarant or any Participating Builder, so long as Declarant or any Participating Builder shall own any Lot, shall be protected by all such policies as an Owner, if such coverage is available.

All policies of insurance shall be written by reputable companies duly authorized and licensed to do business in the State of Colorado with an A.M. Best's rating of "A" or better if reasonably available, or, if not reasonably available, the most nearly equivalent rating.

All insurance policies shall contain the standard mortgagee clause or equivalent endorsement (without contribution) in which it appropriately names as beneficiary the First Mortgagee in the policy, its successors and assigns.

9.2 Hazard Insurance. The Board shall obtain and maintain a blanket, "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, cost of demolition and water damage endorsements, insuring the Dwelling Units (except as provided in Section 9.1 above) and any of the insurable Common Area Improvements.

Such insurance shall at all times represent one hundred percent (100%) of the current replacement cost based on the most recent appraisal of the Dwelling Units and all insurable Common Area Improvements. The current replacement cost shall not include values for land, foundation, excavation and other items normally excluded therefrom and shall be without deduction for depreciation and with no provision for co-insurance. If available, the policy shall be endorsed with a "Guaranteed Replacement Cost Endorsement."

The Board shall review at least annually all of its insurance policies in order to insure that the coverages contained in the policies are sufficient. The Board shall, consistent with good business practices and at reasonable intervals, obtain a written appraisal for insurance purposes showing that the insurance represents one hundred percent (100%) of the current replacement cost as defined above for the Dwelling Units and all insurable Common Area Improvements, together with any personal property owned by the Association.

Such policies shall also provide:

(a) The following endorsements or their equivalent: No Control Endorsement, Contingent Liability from Operation of Building Laws or Codes Endorsement, Cost of Demolition Endorsement, Increased Cost of Construction Endorsement, Agreed Amount Endorsement, and Inflation Guard Endorsement, if available.

(b) That any "no other insurance" clause expressly exclude individual Owners' policies from its operation so that the property insurance policy purchased by the Board shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their First Mortgagees, unless otherwise required by law.

A certificate, together with proof of payment of premiums, shall be delivered by the insurer to any Owner and First Mortgagee requesting the same at least thirty (30) days prior to expiration of the then current policy.

The insurance shall be carried naming the Association as the owner and beneficiary thereof for the use and benefit of the Association. Any loss covered by the policies carried under this Article Nine shall be adjusted exclusively by the Board and provide that all claims are to be settled on a replacement cost basis.

The Association shall hold any insurance proceeds received in trust for the Owners and their First Mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Dwelling Units and Common Areas. Owners and First Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Dwelling Units and Common Areas have been repaired or restored. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any distribution of the insurance proceeds.

The deductible, if any, on such insurance policy shall be as the Board determines to be consistent with good business practice and which shall be consistent with the requirements of the First Mortgagees, not to exceed, however, Fifty Thousand and No/100 Dollars ($50,000.00) or one percent (1%) of the face amount of the policy, whichever is less. Any loss falling within the deductible portion of a policy shall be paid by the Association. Funds to cover the deductible amounts shall be included in the Association's reserve funds and be so designated.

The Board shall have the authority to levy, after notice and a hearing, against Owners causing such loss for the reimbursement of all deductibles paid by the Association as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

9.3 Liability Insurance. The Board shall obtain and maintain comprehensive general liability (including eviction, libel, slander, false arrest and invasion of privacy) and property damage insurance covering all of the Common Areas, insuring each officer, director, the Managing Agent and the Association.

Such coverage under this policy shall include, without limitation, the legal liability of the insureds for property damage, bodily injuries and deaths of persons that result from the operation, maintenance or use of the Common Areas and the legal liability arising out of lawsuits relating to employment contracts in which the Association is a party.

Such insurance shall be issued on a comprehensive liability basis. Additional coverage may be required to include protection against such other risks as are customarily covered with respect to the Planned Community similar in construction, location and use, including, but not limited to, Host Liquor Liability coverage with respect to events sponsored by the Association, Workmen's Compensation and Employer's Liability Insurance, Comprehensive Automobile Liability Insurance, and Severability of Interest Endorsement.

The Board shall review such limits once each year, but in no event shall such insurance be less than One Million and No/100 Dollars ($1,000,000.00) covering all claims for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

Absolute liability is not imposed on Owners for damage to Common Areas or Lots within the Planned Community.

9.4 Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance coverage for any Owner, Association employee or Managing Agent who either handles or is responsible for funds held or administered by the Association. The insurance policy shall name the Association as insured, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The fidelity insurance policy should cover the maximum funds (including reserve funds) that will be in the custody of said Owner, Association employee or Managing Agent at any time while the policy is in force; provided, however, in any event the aggregate amount of such insurance shall not be less than a sum equal to three (3) months' aggregate assessments on all Lots, plus reserve funds.

The policy must include a provision that calls for thirty (30) days' written notice to the Association before the policy can be canceled or substantially modified for any reason. The same notice must also be given to each servicer that services a Fannie Mae-owned or securitized mortgage in the Planned Community.

A Managing Agent that handles funds for the Association should be covered by its own fidelity insurance policy which must provide the same coverage required of the Association.

9.5 Additional Insurance. If the Common Areas within the Planned Community are identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance for the Common Areas shall be maintained providing coverage equivalent to that provided under the National Flood Insurance Program in an amount of the then current replacement cost of the Common Areas and the Common Area Improvements located thereon as shown on the current FEMA map.

If the Common Areas at the time of the recording of this Declaration are not identified as a Special Flood Hazard Area but become reclassified at a later date as such, the Board shall obtain flood insurance for the Common Areas in accordance with the paragraph above. Conversely flood insurance may be discontinued when the Common Areas are reclassified out of the Special Flood Hazard Area.

The Association may also maintain coverage for:

(a) Adequate directors and officers liability insurance, if reasonably available, and if deemed consistent with good business practices, for errors and omissions on all directors and officers to be written in an amount which the Board deems adequate;

(b) Worker's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amount and in the forms now or hereafter acquired by law; and

(c) Such other insurance of a similar or dissimilar nature as the Board shall deem appropriate with respect to the Planned Community.

9.6 Payment of Insurance Premiums. The cost of the insurance obtained by the Association in accordance with this Article Nine shall be paid from Association funds and shall be collected from the Owners as part of the Common Expense Assessment as provided for in Section 5.4(a) hereof.

In the event there are not sufficient funds generated from the Common Expense Assessment to cover the cost of the insurance provided for above, then the deficiency shall be chargeable to each Owner by an Individual Assessment in accordance with Section 5.4(b) hereof and such Assessment shall be exempt from any special voting requirements of the Membership. Such Assessment shall be prorated among Owners in accordance with the Owners' Common Expense Assessment Liability set forth in Section 1.3(a) hereof.

9.7 Separate Insurance. No Owner shall be entitled to exercise his or her right to acquire or maintain such insurance coverage so as to decrease the amount which the Board, on behalf of all Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by an Owner. All such policies shall contain waivers of subrogation. No Owner shall obtain separate insurance policies except as provided in this Section 9.7.

9.8 Damage to Property. Any portion of the Dwelling Units, Common Areas and Common Area Improvements that is damaged or destroyed, and for which insurance is carried by the Association, shall be repaired or reconstructed by the Board in accordance with Article Ten hereof.

9.9 Condemnation. All compensation, damage or other proceeds therefrom (Condemnation Award) shall be payable to the Association as attorney-in-fact to be held in trust for the use and benefit of the Association, the Owners and the holders of their Security Interests as their interests may appear. No Owner or any other party shall be entitled to priority over First Mortgagees with respect to any distribution of the Condemnation Award.

Upon the condemnation of an entire Lot, all of the allocated interests of that Lot or Lots shall be reallocated as if that Lot or Lots did not exist and the Board shall promptly prepare, execute and record an amendment to this Declaration reflecting the reallocations without the necessity of the consent thereto or joinder therein by the Owners or First Mortgagees.

## ARTICLE TEN: RESTORATION UPON DAMAGE OR DESTRUCTION

10.1 Duty to Restore Common Areas. In the event of damage or destruction to any portion of the Dwelling Units (except as provided in Section 9.1 above), Common Areas and/or the Common Area Improvements which is covered by insurance carried by the Association, the insurance proceeds shall be applied by the Board to such reconstruction and repair.

The Dwelling Units and Common Areas must be repaired and restored in accordance with either the original plans and specifications, or other plans and specifications which have been approved by the Board.

10.2 Use of Insurance Proceeds. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage to the Dwelling Units or Common Areas, the Board shall levy an Individual Assessment in the aggregate amount of such insufficiency pursuant to Section 5.4(b) and Section 11.2, and shall proceed to make such repairs or reconstruction. The amount of each Owner's Individual Assessment shall be such Owner's Common Expense Assessment Liability determined in accordance with Section 1.3(a) hereof, subject to Section 5.4 and Section 11.2.

If all of the damage to the Common Areas covered by the Association's insurance is not repaired or reconstructed, the insurance proceeds attributable to the damage shall be used to restore the damaged portion of the Common Areas to a condition compatible with the remainder of the Planned Community and the remainder of the proceeds shall be distributed to the Association.

## ARTICLE ELEVEN: MAINTENANCE, REPAIR AND RECONSTRUCTION

11.1 Maintenance of the Common Areas. Upon completion of construction or installation of each Common Area Improvement by Declarant, the Association's maintenance responsibilities as to such Common Area Improvement shall commence. Declarant may deliver a notice of completion and commencement of the Association's maintenance responsibilities with respect to such Common Area Improvement to the Managing Agent, but failure to deliver such notice shall not in any way limit the Association's maintenance responsibilities. The Association shall keep and maintain the Common Areas and the Common Area Improvements in an attractive, clean and functional condition and in good repair and may make necessary or desirable alterations or improvements thereon.

Association maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all streets, landscaping, gates, monument signage, irrigation systems, perimeter fencing, retaining walls, playground equipment, benches, sidewalks, and other Common Area Improvements.

In the event any repair, maintenance and/or replacement of a Common Area or its Common Area Improvements results from the willful act, neglect or destruction by an Owner or such Owner's Guest, the Board shall have the right after notice and a hearing to charge the costs of such repair and/or replacement to such Owner through an Individual Assessment in accordance with Section 5.4(b) hereof. Determination with respect to whether or not a particular activity by occurrence shall constitute a violation of this paragraph shall be made by the Board and shall be final.

11.2 Maintenance of the Lots and Dwelling Units. To provide and maintain the exterior harmony of the Lots and Dwelling Units located within the Planned Community, the Association shall maintain and repair (a) landscaping located within the portion of the Lot lying outside of the foundation of a Dwelling Unit; and (b) certain elements of the exterior of each Dwelling Unit including painting, repairing, replacing and maintaining roofs, trim, gutters, downspouts, shutters, exterior building surfaces, patios, porches, stoops, decks, sidewalks, window wells, doorsteps and lighting fixtures (excluding light bulbs), including building-mounted coachlights, and such other exterior building elements as the Board may determine from time to time by amendment to the Rules.

Such maintenance shall not include the maintenance, repair or replacement of glass in doors or windows or screened surfaces, entry doors, door frames and hardware, garage doors and garage openers, driveways and sidewalks to individual Dwelling Units, all of which (except for painting as provided above) shall be the sole responsibility of the Dwelling Unit's Owner and shall be kept in good order, condition and repair.

No planting or gardening shall be allowed, and no fences, hedges or walls shall be erected upon a Lot to benefit a Dwelling Unit, except such as are installed in accordance with the initial construction or the approved initial construction plans of the Dwelling Unit, or as approved by the Committee.

If such Improvements are made to a Lot, then such Improvements must be maintained by the Owner of the Dwelling Unit benefited in a manner acceptable to the Board. In the event the Owner

shall fail to maintain such Improvements in a manner acceptable to the Board, the Board shall have the right and duty to remove the improvement and restore the Lot to a condition compatible with the remainder of the Planned Community. The cost of such removal and restoration shall be charged to the benefited Owner as an Individual Assessment in accordance with Section 5.4(b) hereof.

In the event an Owner constructs a Committee-approved exterior modification to his or her Dwelling Unit, the expense of repair, maintenance and reconstruction of such exterior modification shall be the responsibility of the Owner unless such responsibility is specifically assumed in writing by the Board. As part of the design review process, an agreement shall be entered into between the Owner and the Board to reflect this responsibility and shall be recorded.

The maintenance obligation on the part of the Association shall apply to such maintenance required by ordinary wear and tear of the Common Areas, Common Area Improvements, Lots and Dwelling Units, and shall not apply to maintenance, repair or reconstruction resulting from the act, omission, neglect or destruction by any Owner or such Owner's Guest.

In the event such repair, maintenance and/or replacement results from the willful act, omission, neglect or destruction by an Owner or such Owner's Guests, the Board shall have the right to charge the costs of such repair, maintenance and/or replacement to such Owner by an Individual Assessment in accordance with Section 5.4(b) hereof.

Determination of whether repair or maintenance is the obligation of the Association, or if the repair or maintenance is necessary, shall rest solely with the Board, which will also have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

All other Lot and Dwelling Unit maintenance and repair shall be the sole responsibility and at the sole expense of the Owner.

11.3 <u>Owner's Failure to Maintain or Repair</u>. In the event that a Dwelling Unit is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Dwelling Unit lies with the Owner of the Dwelling Unit, then the Board, after notice and a hearing shall have the right to enter upon the Dwelling Unit to perform such work as is reasonably required to restore the Dwelling Unit to a condition of good order and repair and charge the cost thereof to such Owner as an Individual Assessment in accordance with Section 5.4(b) hereof.

11.4 <u>Master Association Maintenance</u>. Property within the Planned Community may be maintained by the Master Association pursuant to a written agreement between the Association and the Master Association delegating such responsibilities to the Master Association.

11.5 <u>Board of Directors Responsibility</u>. The determination of when and the magnitude and the manner of the above-described maintenance and repair shall be determined solely at the discretion of the Board. Access to all of the Lots within the Planned Community to perform the said maintenance, repair and/or replacement by the Board, its agents and employees shall be made pursuant to the maintenance easement granted in accordance with Section 8.3 hereof.

## ARTICLE TWELVE: EXPANSION

12.1 Reservation of Right to Expand. Declarant reserves the right (without in any way being bound) to enlarge the Planned Community in Phases, without the necessity of the consent thereto or joinder therein by the Owners or First Mortgagees, by submitting to the Planned Community from time to time a Supplemental Declaration adding any of the Expansion Property, together with improvements thereon, described in **Exhibit C** attached hereto. Concurrent with the addition of any of the Expansion Property described in **Exhibit C** to the Planned Community, said real property shall also be submitted to the Master Association and made subject to the Master Declaration in accordance with the terms of the Master Association Governing Documents.

12.2 Supplemental Declarations. Such expansion must be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder in the City and County of Broomfield, Colorado a supplement or supplements to this Declaration containing the legal description of the new real property to be included in such expansion. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

All future improvements will be consistent with the initial improvements in structure type and quality of construction and must be substantially completed prior to being brought into the Planned Community.

12.3 Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration shall be expanded. For example, "Lot", "Common Areas", "Property" and "Planned Community" shall mean the Lots, Common Areas, Property and the Planned Community described herein plus any additional Lots and Common Areas added by a Supplemental Declaration or Declarations, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Lots shall be effective to transfer rights in the Planned Community as expanded with additional references to the Supplemental Declaration.

12.4 Declaration Operative on New Properties. The new real property shall be subject to all the terms, covenants, conditions and restrictions of this Declaration as amended or supplemented, by recording by Declarant in the office of the Clerk and Recorder in the City and County of Broomfield, Colorado of a Supplemental Declaration.

12.5 Interests on Enlargement. An Owner at the time of his or her purchase of a Lot which has been brought into the Planned Community by a Supplemental Declaration shall be a Member of the Association. Such Owner shall be entitled to the same non-exclusive use of the Common Areas and the same voting privileges as the Owners of the initial property brought into the Planned Community through this original Declaration and shall be subject to the same Assessments. The Assessments for that Phase shall commence for Owners within that Phase, including Declarant and any Participating Builder, upon the recording of the Supplemental Declaration for that Phase, subject to Section 5.3 hereof.

Whenever any additional property is brought into the Planned Community, the Common Expense Assessment Liability of each Owner after such addition will change and shall be reallocated by Declarant in accordance with Section 1.3(a) hereof.

12.6 Taxes, Assessments and Other Liens. All taxes and other assessments then due and owing relating to the real property described in **Exhibit C** covering any period of time prior to the addition of such property or any portion thereof to the Planned Community must be paid.

Liens arising out of the construction of improvements in later Phases shall not extend into prior Phases and shall not adversely affect the rights of Owners or the priority of first mortgages and deeds of trust on any Lot in a prior Phase.

12.7 Project Treated as a Whole. For all purposes hereof, each of the Phases of the Planned Community after the recording of the Supplemental Declaration submitting each Phase to the Planned Community, shall be treated as a part of the Planned Community developed as a whole from the beginning, except to the extent expressly otherwise provided herein.

It is the express purpose hereof to provide that from and after the date of the submission of a Phase of the Planned Community in accordance with the above, that such Phase shall be treated as though such Phase had been developed, owned, occupied and used by the Owners thereof as a single undivided Planned Community.

12.8 Termination of the Right of Expansion. The right of expansion shall terminate at the option of Declarant, but in any event such right of expansion shall terminate without further act or deed in accordance with the limitations set forth in Section 13.3 hereof.

## ARTICLE THIRTEEN: DECLARANT AND PARTICIPATING BUILDER RIGHTS

13.1 Reservation. Notwithstanding any provision herein to the contrary, Declarant reserves on behalf of itself and Participating Builders, the following Declarant Rights which may be exercised, where applicable, anywhere within the Planned Community:

(a) To complete the improvements as shown on the Plat and Site Development Plan;

(b) To exercise any Declarant Rights reserved or described herein;

(c) To maintain business/sales offices, parking spaces, management offices, storage areas, nursery, construction yard, signs, advertising and model Dwelling Units;

(d) To maintain signs and advertising on the Common Areas, Lots and Dwelling Units to advertise and market the Planned Community;

(e) To have and use, and to permit others to have and use, easements through the Common Areas as may be reasonably necessary for construction within the Planned Community and for the purpose of discharging Declarant's rights and obligations under the Act and this Declaration;

(f) To amend the Declaration and/or the Plat in connection with the exercise of any Declarant Rights;

(g) To expand, without in any way being bound, the Planned Community in Phases from time to time, by adding to the Planned Community any of the real property described in **Exhibit C** attached hereto, in accordance with Article Twelve hereof;

(h) To submit all or any of the real property described in **Exhibit C** to the Master Association in accordance with the Master Association Governing Documents;

(i) To merge or consolidate the Planned Community with a common interest community of the same form of ownership;

(j) To appoint or remove any officer of the Association or a member of the Board during the Period of Declarant Control subject to the provisions of Section 4.8 hereof; and

(k) To exercise any other Declarant Rights created by any other provisions of this Declaration.

13.2 Rights Transferable. Declarant Rights created or reserved under this Article Thirteen for the benefit of Declarant and Participating Builders may be transferred to any Person by an instrument describing the rights transferred and recorded in the records of the office of the Clerk and Recorder in the City and County of Broomfield, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

13.3 Limitations. Declarant Rights shall terminate at the option of Declarant, but in any event such Rights shall terminate without further act or deed seven (7) years after the date of the recording of this Declaration except as provided for in Section 6.3 hereof regarding the Declarant Right to appoint and remove members of the Design Review Committee.

13.4 Interference with Declarant Rights. Neither the Association, the Board nor any Owner may take any action or adopt any rule that will interfere with or diminish Declarant Rights without the prior written consent of Declarant and any Participating Builders.

13.5 Use by Declarant and Participating Builders. The exercise of Declarant Rights by Declarant or a Participating Builder shall not unreasonably interfere with the access, enjoyment or use of any Lot by any Owner nor the access, enjoyment or use of the Common Areas; nor shall any activity be conducted which might be unsafe, unhealthy or hazardous to any person.

13.6 Models, Sales Offices and Management Offices. Declarant, Participating Builders and their duly authorized agents, representatives and employees may maintain any Dwelling Unit or Dwelling Units owned by the Declarant or Participating Builders as a model Dwelling Unit or as a sales, leasing and/or management office (or may located a sales trailer within the Planned Community for any of such purposes).

13.7 Declarant's Easements. Declarant and each Participating Builder reserves the right to perform warranty work, and repairs and construction work on Lots, Dwelling Units, Common Areas, and Common Area Improvements to store materials in secure areas, and to control and have the right of access to work and repair until completion. All work shall be performed by Declarant and Participating Builders without the consent or approval of the Board, Owners or First Mortgagees.

Declarant and each Participating Builder have an easement through the Common Areas as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising of Declarant Rights, whether arising under the Act or reserved in this Article Thirteen.

Notwithstanding any other provision of this Declaration, the easements reserved herein shall remain in effect for the benefit of the Declarant and each Participating Builder until the termination of all applicable warranty periods with respect to any particular Lot, Dwelling Unit, Common Area or Common Area Improvements.

13.8 Signs and Marketing. Declarant reserves the right for Declarant and Participating Builders to post signs on the Common Areas in order to promote sales of Lots and Dwelling Units. Declarant also reserves the right for Declarant and Participating Builders to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

13.9 Other Reserved Rights. The rights reserved in this Article Thirteen are in addition to all other rights reserved by or granted to Declarant in this Declaration or by the Act.

13.10 Exercise of Declarant Rights. The exercise of any or all of the Declarant Rights shall be at the sole option and discretion of Declarant and any Participating Builder. Declarant Rights may be exercised with respect to different Phases of the Planned Community at different times. No assurances are made with respect to the boundaries of the Phases of the Planned Community or the parcels of real property that may be subject to Declarant Rights, nor the order in which Declarant Rights may be exercised. If Declarant or Participating Builders exercise any Declarant Rights, such rights may, but need not, be exercised as to all or any other portion of the Planned Community.

Notwithstanding anything in this Declaration to the contrary, no consent or agreement of, or notice to, the Owners or any Eligible Mortgagee shall be required in order to allow Declarant or Participating Builders to exercise any of its Declarant Rights, provided such exercise otherwise complies with the applicable provisions of this Declaration.

## ARTICLE FOURTEEN: FIRST MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, or guarantors of holders of First Security Interests recorded against Lots within the Planned Community who qualify as an Eligible Mortgagee as defined by Section 1.25 hereof. To the extent applicable, necessary or proper, the provisions of this Article Fourteen apply to both this Declaration and to the Articles and Bylaws.

14.1 Notices of Action. An Eligible Mortgagee shall be entitled to timely written notice of:

(a) Any material condemnation loss or any casualty loss which affects a material portion of the Planned Community or any Lot in which there is a First Security Interest held, insured or guaranteed by such Eligible Mortgagee;

(b) Any sixty (60)-day delinquency in the payment of Assessments or charges owed by an Owner of any Lot on which an Eligible Mortgagee holds a Security Interest;

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees; and

(e) Any material judgment rendered against the Association.

14.2 Amendment to Documents/ Special Approvals:

Except for amendments that may be undertaken by Declarant hereunder or pursuant to the Act:

(a) The consent of Owners to which at least a majority of the votes in the Association are allocated and the consent of a majority of the Eligible Mortgagees shall be required to add to or amend any material provisions of this Declaration. A change to any of the following would be considered material.

(i) Voting rights;

(ii) Increase the Common Expense Assessment annually by more than twenty-five percent (25%) over the previously levied Common Expense Assessment, change the manner of the Assessment Liens or the priority of the Assessment Liens;

(iii) Reduction in the reserves for maintenance, repair and replacement of the Common Areas;

(iv) Responsibility for maintenance and repairs, except as provided in Section 11.2 above;

(v) Right to use the Common Areas;

(vi) Convertibility of Lots into Common Areas or vice versa;

(vii) Hazard or fidelity insurance requirements;

(viii) Imposition of any restrictions on the leasing of Lots;

(ix) Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;

(x) Restoration or repair of the Planned Community (after damage or partial condemnation) in a manner other than that specified in the Project Documents;

(xi) Any provision that expressly benefits mortgage holders, insurers or guarantors;

(xii) Subject to the provisions of Article Twelve hereof, (a) the reallocation of interests in the Common Areas or rights to their use; or (b) the expansion of the Planned Community; or (c) the addition or annexation of property to the Planned Community; and

(xiii) A decision by the Board to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgagee.

(b) The Association may not take any of the following actions without the consent of Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of at least fifty-one percent (51%) of the Eligible Mortgagees.

(i) Reconstruct or repair the Planned Community after damage due to an insurable hazard or a partial condemnation in a manner other than specified in the Project Documents.

(ii) Merge or consolidate the Planned Community with any other planned community.

(iii) Not repair or reconstruct, in the event of substantial destruction, any part of the Common Areas.

(c) Any action to terminate the legal status of the Planned Community after substantial destruction or condemnation occurs must be agreed to by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and by fifty-one percent (51%) of the Eligible Mortgagees.

(d) Any action to terminate the legal status of the Planned Community for reasons other than substantial destruction or condemnation must be agreed to by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and by sixty-seven percent (67%) of the Eligible Mortgagees.

14.3 Implied Approval. If this Declaration or any Association Documents require the approval of any Agency or Eligible Mortgagee then, the Association shall send a dated, written notice and a copy of any proposed amendment by certified mail with return receipt requested to such Agency and/or Eligible Mortgagee at its most recent address as specified in the written notice provided to the Association in accordance with Section 1.25 hereof, or as otherwise delivered by the Eligible Mortgagee to the Association. The Association shall also cause the dated notice, together with information on how to obtain a copy of the proposed amendment, to be printed in full at least twice, on separate occasions at least one (1) week apart, in a newspaper of general circulation in the City and County of Broomfield. Implied approval by an Eligible Mortgagee shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after the date of the notice provided above.

14.4 Books and Records. Owners and their mortgagees shall have the right to examine the books and records of the Association at the office of the Association in accordance with the procedure set forth in the Bylaws.

## ARTICLE FIFTEEN: MANDATORY DISPUTE RESOLUTION

15.1 Statement of Clarification. Without modifying or restricting the scope of this Article Fifteen and as a statement of clarification only, nothing contained in this Article Fifteen is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a "Claim" as defined herein, that the Mandatory Dispute Resolution provisions contained in this Article Fifteen are activated.

15.2 Alternative Method for Resolving Disputes. Declarant, the Association, its officers and directors; all Owners; design professionals; builders, including any of their subcontractors and suppliers; and any Person not otherwise subject to this Declaration but who agrees to submit to this Article Fifteen (each of the foregoing entities being referred to as a "Party"), agree to encourage the amicable resolution of disputes involving the Planned Community and all of its improvements without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims each may have to the procedures set forth in this Article Fifteen and not to a court of law.

15.3 Claims. Except as specifically excluded in Section 15.4, all claims, disputes and other controversies arising out of or relating to:

(a) Any Dwelling Unit Purchase Agreement between Declarant and any Owner (except as may be expressly provided otherwise therein);

(b) The Property (as defined in any such Dwelling Unit Purchase Agreement), the Lot or Dwelling Unit;

(c) The purchase of the Dwelling Unit or Lot;

(d) The interpretation, application or enforcement of this Declaration;

(e) The soils of any property that lies within the Planned Community;

(f) The land development, design, construction and/or alteration of a Dwelling Unit or other Improvement within the Planned Community and/or any alleged defect therein;

(g) Any rights, obligations and duties of any party under this Declaration;

(h) Any personal injury or property damage that any Owner alleges to have sustained on the Property;

(i) Except as provided in Section 15.4 below, any limited warranty agreement between Declarant, any Participating Builder or any other builder of Dwelling Units, and any Owner and/or the Association; or

(j) Any breach of any of the foregoing;

all of which are hereinafter referred to as a "Claim", shall be subject to and resolved by submitting the Claim to mediation and, if not resolved during mediation, shall be resolved by Mandatory Binding Arbitration all in accordance with this Article Fifteen and not in a court of law. Notwithstanding the foregoing, no Claim may be asserted or brought unless there is either (i) actual physical damage to or actual loss of use of tangible real or personal property, or (ii) bodily injury or wrongful death.

15.4 Claims Subject to Approval. Unless Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated agree to the contrary, the following shall not be Claims and shall not be subject to the provisions of this Article Fifteen:

(a) Any suit by the Association against any Party to enforce the provisions of Article Five (Assessments);

(b) Any suit by the Association or Declarant to obtain a temporary restraining order or injunction and such other ancillary relief as the court may deem necessary in order for the Association or Declarant to act under and enforce the provisions of Article Six (Architectural Approval/Design Review), or Article Seven (Land Use and Other Restrictions);

(c) Any suit by an Owner to challenge the actions of Declarant, the Association, Declarant acting as the Design Review Committee, or any other committee with respect to the enactment and application of standards or rules or the approval or disapproval of plans pursuant to the provisions of Article Six (Architectural Approval/Design Review);

(d) Any suit between or among Owners that does not include Declarant or the Association; and

(e) Where any limited warranty agreement provided to an Owner in connection with the purchase of a Dwelling Unit provides for any other method for resolving disputes relating to the limited warranty.

15.5 Notice of Claim. Any Party alleging a Claim ("Claimant") against any other Party ("Respondent") shall submit all of their Claims by written notification delivered to each Respondent, stating plainly and concisely:

(a) The nature of the Claim, including a list of any alleged construction defects, the Persons involved and Respondent's role in the Claim;

(b) The legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises);

(c) The date on which the Claim first arose;

(d) The name and address of every Person, including without limitation any current or former employees of Respondent, whom Claimant believes does or may have information relating to the Claim; and

(e) The specific relief and/or proposed remedy sought.

15.6 Timely Initiation. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in any event, regardless of the nature of the Claim, within the time specified in the applicable limited warranty agreement described in Section 15.3(i) above for warranty Claims and no later than two (2) years after the Claim arises for all other Claims.

15.7 Right to be Heard. Upon receipt of a Claim and prior to the Association or any Owner asserting the Claim commencing any mediation or arbitration, Respondent shall have the right to make a written response and be heard by Claimant, affected Owners, and the Association in an effort to resolve the Claim.

15.8 Right to Inspect and Repair. If the Claim is based on the land development, design, construction and/or alteration of any Dwelling Unit or other Improvement within the Planned Community then, upon reasonable notice to any affected Owners (or the Association if the affected area is owned by the Association), Respondent shall have the right to access the affected area at a reasonable time(s) for purposes of inspecting the condition complained of including but not be limited to, any investigative or destructive testing.

The Association shall have the same right to inspect for any Claims by Owner against the Association in accordance with the above.

In the exercise of the inspection rights contained herein, the Party causing the inspection to be made ("Inspecting Party") shall:

(a) Be careful to avoid any unreasonable intrusion upon, or harm, damage or costs to the other party including, without limitation, using its best efforts to avoid causing any damage to, or interference with, any improvements on the property being inspected ("Affected Property");

(b) Minimize any disruption or inconvenience to any person who occupies the Affected Property;

(c) Remove daily all debris caused by the inspection and located on the Affected Property; and

(d) In a reasonable and timely manner, at the Inspecting Party's sole cost and expense, promptly remove all equipment and materials from the Affected Property and repair and replace all damage, and restore the Affected Property to the condition of the Affected Property as of the date of the inspection, unless the Affected Property is to be immediately repaired.

The repair, replacement and restoration work shall include, without limitation, the repair or replacement to any structures, driveways, fences, landscaping, utility lines or other improvements on the Affected Property that were damaged, removed or destroyed by Inspecting Party.

In the event the Inspecting Party wishes to make repairs to resolve the subject matter of the Claim, the Inspecting Party shall have the right, at its option, to do so and to enter the Affected Property at a reasonable time(s) and upon reasonable notice for such purpose.

The Inspecting Party shall not permit any claim, lien or other encumbrance arising from the exercise of its right to inspect and/or repair to accrue against or attach to the Affected Property. The Inspecting Party shall indemnify, defend and hold harmless the Affected Owners, or the Association if the Affected Property is owned by the Association, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and reasonable attorneys' fees, resulting from any breach of this Article Fifteen by the Inspecting Party.

15.9 Good Faith Negotiations. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Any party may be represented by attorneys and independent consultants (at such Party's cost) to assist such party in negotiations and to attend meetings.

15.10 Mediation.

(a) If the Parties do not resolve the Claim through negotiations within thirty (30) days after the date of submission of the Claim to Respondent(s), as may be extended upon agreement of all affected Parties, Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent mediation service reasonably acceptable to all Parties. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and all Respondent(s) shall be released and discharged from any and all liability to Claimant on account of such Claim.

(b) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties.

(c) If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(d) Within ten (10) days after issuance of a Termination of Mediation, Claimant shall make a final written settlement demand to the Respondent(s), and the Respondent(s) shall make a final written settlement offer to the Claimant. If the Claimant fails to make a settlement demand, Claimant's original Claim shall constitute the settlement demand. If the Respondent(s) fail to make a settlement offer, Respondent(s) shall be deemed to have made a "zero" or "take nothing" settlement offer.

(e) Each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the mediation proceeding.

(f) If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Article Fifteen and any Party thereafter fails to abide by the terms of such agreement, then any other affected Party may file suit to enforce such agreement without the need to again comply with the procedures set forth in this Article Fifteen. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party all costs incurred in enforcing such agreement, including, without limitation, reasonable attorneys' fees and court costs.

15.11 Arbitration.

(a) If the Parties do not reach a settlement of the Claim within fifteen (15) days after issuance of any Termination of Mediation and reduce the same to writing, the Claimant shall have fifteen (15) additional days to submit the Claim to binding arbitration in accordance with the Arbitration Procedures contained in **Exhibit F** hereof and deliver an Arbitration Notice to all Respondent(s).

(b) The Parties agree that where any Claim, dispute or other controversy existing between them is submitted to arbitration, and any other Party may have liability with respect thereto, all Parties including any third Parties agree that the third Parties may be joined as additional Parties in the arbitration, or if a separate arbitration exists or is separately initiated, to the consolidation of all arbitrations. It is the intent of the Parties to resolve all rights and obligations of all interested Parties at one (1) time in one (1) forum rather than in multiple proceedings.

(c) Within sixty (60) days after submission of the Claim, if applicable, Claimant shall file with the arbitrator and deliver to Respondent(s) a certified list of construction defects that are the subject of the Claim, which list shall be signed by the attorney for Claimant, or if Claimant does not have an attorney, by Claimant, and shall include:

(i) A statement that (A) the attorney for Claimant, or Claimant if Claimant does not have an attorney, has consulted with a Person not a Party to the Claim with expertise in the area of each construction defect that is the subject of the Claim (the "Construction Consultant") and (B) the Construction Consultant has inspected the improvements for which the construction defects are claimed, has reviewed the known facts, including such records, documents and other materials the Construction Consultant has found to be relevant to the construction defects, and has concluded that the Claim has substantial justification based on the Construction Consultant's inspection and review of the known facts;

(ii) A certification that the Construction Consultant can demonstrate by competent evidence that, as a result of training, education, knowledge and experience, the Construction Consultant is competent to testify as an expert and render an opinion as to the alleged construction defects;

2007000130 01/03/2007 03:02P COV
of 82 R 411.00 D 0.00 City&Cnty Broomfield

(iii) A certification signed by the Construction Consultant stating (A) such Person's name, address, qualifications and credentials that render him or her competent to express an expert opinion as to the alleged construction defect, (B) that he or she has inspected each improvement and reviewed the known facts, including such records, documents and other materials which he or she has found to be relevant to the construction defects at issue, and (C) as to each improvement for which a construction defect Claim is asserted, an identification of the owner of the improvement, the location and date of construction of the improvement, and an identification of each claimed construction defect and its specific location;

(iv) A computation of the damages alleged for each construction defect;

(v) An identification, with respect to each improvement and construction defect, of each Party alleged to be responsible for such defect;

(vi) A certification that each Party alleged to be responsible for the alleged construction defect has been given written notice of the defect and an opportunity to remedy the defect under the foregoing provisions of this Article Fifteen and that the defect has not been remedied; and

(vii) A copy of the notice of Claim served by Claimant on each Person that is named as a Party to the Claim.

(d) If the Claim is not timely submitted to arbitration, if Claimant fails to appear for the arbitration proceeding, or if Claimant fails to file and deliver the certified list of construction defects as provided in Section 15.11(c) above, the Claim shall be deemed abandoned, and Respondent(s) shall be released and discharged from any and all liability to Claimant arising out of such Claims

(e) The award rendered by the arbitrator shall be final and binding, may be filed with any court of competent jurisdiction in the County in accordance with applicable law and judgment obtained thereon, and execution may issue. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorneys' fees.

(f) Claimant shall notify Respondent(s) prior to retaining any Person or entity as an expert witness for purposes of any arbitration or authorized litigation.

15.12. Consensus for Association Action. The Association shall not commence any action, mediation or arbitration against Declarant or other Party for a Claim unless the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated agree to such proceedings. However, such Owner consent must be obtained by the Association only after the Board delivers written notice to all Members of the Association in accordance with the procedures set forth in the Bylaws with respect to meetings of Members. Such delivery shall include:

(a) A description of the nature of the Claim and the relief sought;

(b) A copy of any written response thereto, including any settlement proposal:

(c) A statement advising Owners of their duties to disclose to prospective purchasers and lenders the Claim that the Association proposes to assert;

(d) A statement that any recovery from the action may not result in receipt of funds to pay all costs of remedying the Claim as estimated by experts retained by the Association;

(e) An estimate of the expenses and fees to the Association that the Board anticipates will be incurred in prosecuting the claim; and

(f) A description of the agreement with the attorneys whom the Board proposes to retain to prosecute the cause of action.

15.13 Liability for Failure to Maintain an Action Against Declarant. No director or officer of the Association shall be liable to any Person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (a) the director or officer was acting within the scope of his or her duties; (b) the director or officer was acting in good faith; and (c) the act or omission was not willful, wanton or grossly negligent.

15.14 Utilization of Funds Resulting from the Cause of Action. In the event the Association receives funds as a result of any settlement, mediation, arbitration or judgment based upon a cause of action, after payment of fees and costs incurred in connection with prosecution of such action, the Association shall: (a) deposit the proceeds in a special, interest-bearing account; and (b) utilize the proceeds only for the purpose of performing remedial or repair work on the conditions which were the subject of the Claim or otherwise for purposes of remedying the Claim.

15.15 Exclusive Remedy. The provisions contained in this Article Fifteen shall be the sole and exclusive remedy that the Association and other Parties shall have against Declarant and other Parties for any Claim, and Declarant, the Association and each Owner expressly waives any right it may have to seek resolution of any Claim contemplated by this Article Fifteen in any court of law or equity and any right to trial by jury.

Should any Party commence litigation or any other action against any other Party, in violation of the terms of this Article Fifteen, such Party shall reimburse the costs and expenses, including attorneys' fees, incurred by the other Party seeking dismissal of such litigation or action. If the Claim involves Declarant or the Association, no Party shall record a memorandum or notice of *lis pendens* or similar instrument that would encumber or create a lien on real property owned by either Declarant or the Association, and any recording of the same shall be null and void and of no force or effect.

15.16 Binding Effect. This Article Fifteen and the obligation to arbitrate shall be specifically enforceable under the applicable arbitration laws of the State of Colorado. The arbitration award shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction in the County to the fullest extent permitted under the laws of the State of Colorado.

15.17 Dwelling Unit Limited Warranty. Participating Builder Remington Homes Co., may, but shall not have any obligation whatsoever to extend an express, written Limited Warranty ("Limited Warranty") to original purchasers from Remington Homes Co. of a Dwelling Unit. Every such

original purchaser, and successive owners of such original purchaser's Dwelling Unit, shall be bound by the Limited Warranty (to the extent such a warranty is actually issued and in effect at the time of the particular claim and with respect to the particular Dwelling Unit at issue). THE LIMITED WARRANTY SHALL BE THE ONLY WARRANTY, EXPRESS OR IMPLIED, PROVIDED TO OWNERS WITH REGARD TO THE DWELLING UNITS.

ALL LIABILITIES, OBLIGATIONS, RIGHTS AND REMEDIES OF EACH OWNER (AND THE ASSOCIATION ON BEHALF OF THE OWNERS) ARISING OUT OF THE CONSTRUCTION AND CONDITION OF A DWELLING UNIT SHALL BE LIMITED TO THE EXPRESS PROVISIONS OF THE LIMITED WARRANTY. EACH OWNER AND THE ASSOCIATION ACKNOWLEDGE AND AGREE THAT OTHER THAN AS EXPRESSLY PROVIDED IN THE LIMITED WARRANTY, DECLARANT AND ANY PARTICIPATING BUILDER DISCLAIMS AND EACH OWNER AND THE ASSOCIATION WAIVE, ALL EXPRESSED OR IMPLIED WARRANTIES RELATING TO THE DWELLING UNITS, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES THAT THE DWELLING UNITS WILL BE FREE FROM DEFECTS AND WILL BE FIT FOR THEIR INTENDED PURPOSES, THE IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION, CONFORMANCE WITH LOCAL BUILDING CODES, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY RIGHTS OR REMEDIES AS TO ANY PERSONAL PROPERTY OR "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL, STATE OR LOCAL LAWS OR THEIR IMPLEMENTING REGULATIONS) THAT MAY BE A PART OF OR LOCATED IN THE DWELLING UNITS (INCLUDING WITHOUT LIMITATION ANY PERSONAL PROPERTY OR FIXTURES WITHIN THE DWELLING UNIT). EXCEPT AS SET FORTH IN THE LIMITED WARRANTY, EACH SALE OF A DWELLING UNIT FROM DECLARANT OR ANY PARTICIPATING BUILDER TO AN ORIGINAL PURCHASER IS "AS IS" AND "WHERE IS.".

TO THE EXTENT THAT THE LIMITED WARRANTY ASSIGNS CERTAIN MAINTENANCE OBLIGATIONS TO OWNERS AS TO THE DWELLING UNIT, OWNERS AGREE TO ASSUME SUCH OBLIGATIONS AND RELEASE DECLARANT, ITS CONTRACTORS AND DESIGN PROFESSIONALS FROM ANY CLAIMS AND DAMAGES THAT ARISE AS A RESULT OF OWNERS' FAILURE TO COMPLY WITH THE TERMS OF SUCH MAINTENANCE OBLIGATIONS.

15.18 Amendment. Neither this Article Fifteen nor **Exhibit F** may be amended unless such amendment is approved by a majority of the Board and Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated. Any amendment made without the requisite Board and Owners' vote shall be null and void and shall have no effect, and the last paragraph of Section 16.2 hereof shall not apply. Notwithstanding the foregoing, for purposes of modifying or amending Section 15.17 herein, Declarant shall be one of the Owners included in said sixty-seven percent (67%) so long as Declarant owns a Dwelling Unit in the Planned Community.

2007000130 01/03/2007 03:02P COV
61 of 82 R 411.00 D 0.00 City&Cnty Broomfield

## ARTICLE SIXTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION

16.1 Duration. The covenants, restrictions and obligations of this Declaration shall run with and bind the land in perpetuity until this Declaration is terminated in accordance with Section 16.7 herein.

16.2 Amendments by Owners. Except in cases of amendments that may be executed by the Board pursuant to Section 9.9 hereof and by Declarant pursuant to Article Twelve and Section 16.3 and except as restricted by Section 14.2 and Section 15.17 hereof, this Declaration may be amended by the written agreement by Owners of Lots to which at least a majority of the votes in the Association are allocated; provided however, except as provided in Article Twelve hereof, an amendment may not: (a) create or increase Declarant Rights; (b) increase the number of Lots; or (c) change the Allocated Interests of a Lot without the written agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant.

Any such amendment shall be effective upon the recording of the amendment together with a notarized certificate of an officer of the Association certifying that the requisite number of Owners and First Mortgagees or Eligible Mortgagees, if required, have given their written consent to the amendment. Such officer shall further certify that originals of such written consents by Owners and Mortgagees, as applicable, along with the recorded amendment, are in the records of the Association and available for inspection.

Each amendment to the Declaration must be recorded in the office of the Clerk and Recorder in the City and County of Broomfield, Colorado.

Signatures of Owners on an amendment need not be notarized.

All signatures shall be irrevocable even upon the death of an Owner or the conveyance of the Lot, except that if an amendment is not recorded within three (3) years of the date of signature, then the executing Owner or their successor or assigns may revoke their signature by a written and notarized document delivered to the secretary of the Association.

Amendments can be executed in counterparts, provided that such recorded document shall also contain a certification of the secretary of the Association that all counterparts, as executed, are part of the whole.

No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of this Declaration, or the Articles or the Bylaws unless it is commenced within one (1) year from the effective date of said amendment, unless fraud or willful negligence is asserted and proven and except as otherwise provided in Section 15.16 hereof.

2007000130 01/03/2007 03:02P COV
62 of 82 R 411.00 D 0.00 City&Cnty Broomfield

16.3 Amendments by Declarant. Declarant reserves the right to amend, without the consent of Owners or Eligible Mortgagees, this Declaration, the Articles and the Bylaws at any time within the limitations set forth in Section 13.3 hereof, as follows:

(a) To make nonmaterial changes such as the correction of a technical, clerical, grammatical or typographical error or clarification of a statement.

(b) To comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure or guarantee First Security Interests.

(c) To comply with any requirements of the Act or governmental agencies.

16.4 Amendment Terminology. As used in this Declaration or any of the Project Documents, the word "amend" or "amendment" shall be deemed to also mean alter, vary, change, waiver, delete, abandon, terminate, supplement, add to or otherwise modify in any manner the language of this Declaration or the Project Documents.

16.5 Consent of Declarant Required. As long as Declarant has any rights or obligations under or pursuant to this Declaration or any of the other Project Documents, any proposed amendment of any provision of this Declaration shall require Declarant's written consent to such amendment. Any amendment made without Declarant's written consent as required herein shall be null and void and shall have no effect and the last paragraph of Section 16.2 hereof shall not apply.

The foregoing requirement for consent of Declarant to any amendment shall terminate at the option of the Declarant but in any event, shall terminate without further act or deed in accordance with the limitations set forth in Section 13.3 hereof.

16.6 Consent of Eligible Mortgagees Required. Amendments may be subject to the consent requirements of Eligible Mortgagees as more fully set forth in Article Fourteen hereof.

16.7 Termination. The Planned Community may be terminated only in accordance with Section 14.2(c) and Section 14.2(d) hereof.

The proceeds of any sale of real estate together with the assets of the Association shall be held by the Association as trustee for Owners and holders of liens upon the Lots as their interests may appear, as more fully set forth in §38-33.3-218 of the Act.

## ARTICLE SEVENTEEN: GENERAL PROVISIONS

17.1 Right of Action. Subject to the provisions of Article Fifteen, the Association and any aggrieved Owner shall have an appropriate right of action against an Owner for such Owner's failure to comply with this Declaration, or the Articles, Bylaws or the Rules of the Association or with decisions of the Board which are made pursuant thereto. Owners shall have a similar right of action against the Association.

17.2 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association and each Owner and their heirs, personal representatives, successors and assigns.

17.3 Severability. If any part of any provision of this Declaration shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Declaration.

17.4 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

17.5 Registration by Owner of Mailing Address; Notices. Each Owner shall register his or her mailing address with the Association. Except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all notices intended to be served upon an Owner pursuant to this Declaration, shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address or at the address of such Owner's Lot if there is no registered mailing address for such Owner on file at the Association.

All notices, demands or other notices intended to be served upon the Board or the Association shall be sent by certified mail, postage prepaid, to the registered agent for the Association on file in the office of the Colorado Secretary of State.

17.6 Conflicting Provisions. The Project Documents are intended to comply with the requirements of the Act and the Colorado Revised Nonprofit Corporation Act (collectively, the "Governing Acts"). If there is any conflict between any provision of the Project Documents and any mandatory provision of either of the Governing Acts, the mandatory provision of the applicable Governing Act shall control and neither Declarant nor the Association shall have any liability for actions taken in conformity with such Governing Act. If there is any conflict between any provision of the Project Documents and any permissive or non-mandatory provision of either of the Governing Acts, the provision of the Project Documents shall control. In the event of any conflict between this Declaration and any other Project Documents, this Declaration shall control. In the event either the Articles or Bylaws conflict with this Declaration, this Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

17.7 Captions. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

17.8 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.

17.9 Mergers. The Planned Community maybe merged or consolidated with another planned community of the same form of ownership by complying with §38-33.3-221 of the Act.

17.10 Golf Course Disclosure. By accepting a deed to a Lot, each Owner acknowledges that the Planned Community is near or adjacent to an eighteen (18)-hole golf course ("Golf Course") identified in the PUD Plan located within the area generally known as The Broadlands Planned Unit Development (the "Broadlands"), in the City and County of Broomfield, State of Colorado (the "City"). By acceptance of a deed to a Lot, or by occupancy of any building upon the Lot, Owners and their Guests acknowledge and agree to assume the risks of owning or occupying property near or adjacent to a golf course. Such risks include, without limitation, injury or damage to person and/or property arising out of, or resulting from, (i) the design, construction, operation, maintenance and/or use of the Golf Course; (ii) noise associated with Golf Course maintenance and operation of equipment including, without limitation, compressors, blowers, mulchers, tractors, utility vehicles and pumps; (iii) golf balls, including errant golf balls; (iv) golf carts (including those privately owned by owners of real property within the Broadlands and those owned or leased by the person or entity operating the Golf Course), maintenance vehicles and mowers; (v) trespass; (vi) acts or omissions of persons using or otherwise on the Golf Course and/or the Broadlands; (vii) the existence of water hazards, ponds and/or lakes on the Golf Course itself; (viii) overspray or odors in connection with the watering or fertilizing of the Golf Course; (ix) use of fertilizers, pesticides and other chemicals in connection with the operation, maintenance and landscaping of the Golf Course; and (x) use of reclaimed water, treated waste water or other sources of non-potable water for irrigation (collectively, the "Golf Course Risks").

Each Owner, by acceptance of a deed to a Lot, or by occupancy of any building upon the Lot, for itself, its heirs, successors and assigns and for any person occupying any building on the Lot, to the fullest extent permitted by law, hereby releases, waives and discharges the Master Association, the County, Community Development Group of Broomfield, LLC, the Golf Course management company, any lessee of the Golf Course who operates the same, Declarant, the Association, and their respective officers, directors, members, managers shareholders, partners, agents and employees, and their respective heirs, successors and assigns (collectively, the "Benefited Parties"), from any and all losses, claims, liabilities, costs, expenses and damages arising directly or indirectly from the Golf Course Risks, whether caused by the negligence of the Benefited Parties, including, without limitation, the negligent design, development, construction or operation of the Golf Course, but not including the gross negligence or willful misconduct of the Benefited Parties. Each Owner further agrees not to institute any action or suit at law or in equity against the Benefited Parties, or any of them, not to institute or prosecute any claim, demand or compensation against the Benefited Parties, or any of them, for or on account of any damage, loss or injury to either person or property, or both, resulting directly or indirectly from the design, construction, operation, maintenance and/or use of the Golf Course, including, without limitation, the Golf Course Risks.

Each Owner hereby further acknowledges and agrees that the Lots are burdened by a non-exclusive easement for the flight, passage and landing of golf balls and for overspray in connection with the watering or fertilizing of the Golf Course, as described in Section 10.31 of the Master Declaration, as amended from time to time. Owners may own and use private golf carts, provided they register the same with the Master Association and use such golf cart in accordance with the Master Association's rules and regulations. Owners further acknowledge and agree that use of a privately-owned golf cart on the Golf Course must be in accordance with the rules and regulations adopted by the operator of the Golf Course.

17.11 <u>Oil and Gas Wells</u>. Each Owner hereby acknowledges the current existence of six (6) oil and gas wells located within the real property encompassed by The Broadlands Preliminary Plat and PUD Plan recorded in the office of the Adams County Colorado, Clerk and Recorder on June 26, 1997 under Reception No C0293757 and/or the Annexable Area (as defined in the Master Declaration). The six (6) oil and gas wells have been placed into operation pursuant to the grant of those certain leases identified as follows (recorded in Adams County, Colorado):

(a) Oil and Gas Lease, Recorded October 16, 1991 at Reception No. B0127854, Book 3826, Page 154;

(b) Affidavit of Oil and Gas Lease Recorded August 2, 1991 in Book 3802 at Page 877;

(c) Oil and Gas Lease Recorded October 16, 1991 in Book 3826 at Page 166;

(d) Oil and Gas Lease Recorded October 16, 1991 in Book 3826 at Page 160;

(e) Oil and Gas Lease between Northwest Quadrant Investment Co. and Vessels Oil & Gas Company, Recorded January 22, 1992 in Book 3858 at Page 165; and

(f) Oil and Gas Lease Recorded August 14, 1991 in Book 3806 at Page 73;

all of which are recorded in the office of the Clerk and Recorder of Adams County, Colorado. These oil and gas leases generally permit certain surface activity on the leased premises which activity may include drill sites, gathering pipelines, production sites and facilities, and access roads, all as further described in the leases. With regard to such surface activity, no drill sites, gathering pipeline, production site or access road shall be located upon any Lot. No residential dwelling unit shall be permitted to be constructed within two hundred (200) feet of a drilling or production site, or within such other distance, lesser or greater than two hundred (200) feet, as established or required by the City and County of Broomfield, Colorado, while such well is operational.

By acceptance of a deed to a Lot, each Owner recognizes the existence of such oil and gas leases, and the surface activity associated with such oil and gas leases, and assumes the risk of owning property near or adjacent to an oil and gas well operation. Such risks include, without limitation, injury or damage to person and/or property arising out of, or resulting from the drilling, operation and maintenance of an oil and gas well; noise associated with an oil and gas well operation; explosion and fire; leakage of oil and/or gas from drilling or production facilities; vehicles servicing the oil and gas site (collectively the "Oil and Gas Well Risks"). By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Community Development Group of Broomfield, LLC, the Master Association, Declarant, the Association, and their respective officers, directors, members, managers, partners, shareholders, agents and employees, and their respective heirs, representatives, successors and assigns from any and all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from the Oil and Gas Well Risks and from the existence or operation of oil and gas wells pursuant to the leases identified above.

**IN WITNESS WHEREOF**, Declarant has caused this Declaration to be executed this 19 day of Dec, 2006.

**DECLARANT:**

**LAKE FRONT BY REMINGTON HOMES, INC.,**
a Colorado corporation

By: ______________________
Charles R. Hauptman, President

**STATE OF COLORADO** )
) ss.
**COUNTY OF** Jefferson )

The foregoing instrument was acknowledged before me this 19th day of December 2006, by Charles R. Hauptman as President of Lake Front by Remington Homes, Inc., a Colorado corporation, ~~on its behalf~~.

WITNESS my hand and official seal.

My commission expires: 9-23-09

(S E A L)

SHANNON R. BUCHANAN NOTARY PUBLIC STATE OF COLORADO

Shannon R. Buchanan
Notary Public

**CONSENT:**

**Remington Homes Co.**, hereby consents to subjecting any Property owned by Remington Homes Co., on the attached Exhibits to the protective covenants, conditions and restrictions as hereinafter set forth

**REMINGTON HOMES, CO.,**
a Colorado corporation

By: ______________________
Printed name: Reyan Hauptman
Its: President

2007000130 01/03/2007 03:02P COV
67 of 82 R 411.00 D 0.00 City&Cnty Broomfield

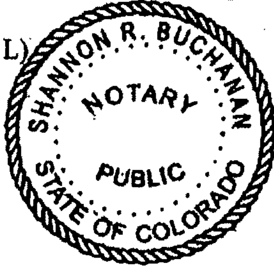
STATE OF COLORADO )
) ss.
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 2 day of January, 2007, by Regan Hauptman as President of Remington Homes Co., a Colorado corporation, on its behalf.

WITNESS my hand and official seal.

My commission expires: 9-23-09.

(S E A L)




Shannon R Buchanan
Notary Public

## MORTGAGEE CONSENT

Consent is hereby given to this Declaration and to the Plat of the Planned Community recorded in conjunction herewith. The undersigned agrees and acknowledges that any foreclosure or enforcement of any other remedy available to the undersigned under the Deed of Trust, as recorded on April 1, 2005, at Reception No. 2005004137 in the records of the Clerk and Recorder of the City and County of Broomfield, Colorado, or under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the Planned Community described in this Declaration will not render void or otherwise impair the validity of the Declaration and said Plat. Additionally, the undersigned subordinates the lien and interests of the undersigned under said Deed of Trust as above referenced and under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the planned community described in the Declaration to the covenants, terms and conditions of the Declaration and Plat.

Citywide Banks,
a COLORADO CORP.

By: [signature]
Name: ANDREW MARCHASE
Its: PRESIDENT-CONSTRUCTION LOANS

STATE OF Colorado )
) ss.
COUNTY OF Arapahoe )

The foregoing instrument was acknowledged before me this 22 day of December, 2006 by Andrew J. Marchase as President of Citywide Banks, a Colorado Corp.

Witness my hand and official seal.

My commission expires: 5/11/2008.

(S E A L)

[signature]
Notary Public

My Commission Expires 05/11/2008

241563.8

# MORTGAGEE CONSENT

Consent is hereby given to this Declaration and to the Plat of the Planned Community recorded in conjunction herewith. The undersigned agrees and acknowledges that any foreclosure or enforcement of any other remedy available to the undersigned under the Deeds of Trust, as recorded on October 27, 2006 at Reception No. 2006014307, October 27, 2006 at Reception No. 2006014311, October 27, 2006 at Reception No. 2006014313, October 27, 2006 at Reception No. 2006014316, October 27, 2006 at Reception No. 2006014318 and October 27, 2006 at Reception No. 2006014320 all in the records of the Clerk and Recorder of the City and County of Broomfield, Colorado, or under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the Planned Community described in this Declaration will not render void or otherwise impair the validity of the Declaration and said Plat. Additionally, the undersigned subordinates the lien and interests of the undersigned under said Deed of Trust as above referenced and under any other deeds of trust or other security agreements for the benefit of the undersigned with regard to the planned community described in the Declaration to the covenants, terms and conditions of the Declaration and Plat.

Colorado State Bank and Trust, NA,
a Colorado Corporation

By: [signature]
Name: Darin Visscher
Its: V.P.

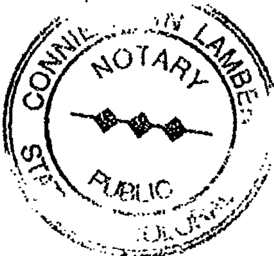
STATE OF Colorado )
) ss.
COUNTY OF Denver )

The foregoing instrument was acknowledged before me this 22nd day of December, 2006 by Darin Visscher as Vice President of Colorado State Bank and Trust, NA, a Colorado Corporation.

Witness my hand and official seal.

My commission expires: 12/18/2010.

(S E A L)




[signature]
Notary Public

241563.8

# EXHIBIT A
# TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF LAKE FRONT

## LEGAL DESCRIPTION OF THE REAL PROPERTY SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT (FIRST PHASE)

Lots 18, 19, 23, 24, 40, 41, 42 and 43 according to The Broadlands Filing No. 20, City and County of Broomfield, State of Colorado, recorded on March 21, 2005 at Reception No. 2005003480 in the records of the Clerk and Recorders' Office, City and County of Broomfield, State of Colorado.

**EXHIBIT B**
**TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT**

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**LEGAL DESCRIPTION OF THE COMMON AREAS SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT**

---

Tracts A, B and D, according to The Broadlands Filing No. 20, City and County of Broomfield, State of Colorado, recorded on March 21, 2005 at Reception No. 2005003480 in the records of the Clerk and Recorders' Office, City and County of Broomfield, State of Colorado;

AND

Tract C, according to The Broadlands Filing No. 20-Replat A, City and County of Broomfield, State of Colorado, recorded on May 25, 2006 at Reception No. 2006006604 in the records of the Clerk and Recorders' Office, City and County of Broomfield, State of Colorado.

2007000130 01/03/2007 03:02P COV
72 of 82 R 411.00 D 0.00 City&Cnty Broomfield

# EXHIBIT C
# TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT

## LEGAL DESCRIPTION OF THE REAL PROPERTY WHICH MAY BE SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT IN LATER PHASES (EXPANSION PROPERTY)

Lots 1-11(inclusive), 12-17(inclusive), 20-22(inclusive), 25-30(inclusive), 31-39(inclusive), 44-80(inclusive), according to The Broadlands Filing No. 20, City and County of Broomfield, State of Colorado, recorded on March 21, 2005 at Reception No. 2005003480 in the records of the Clerk and Recorders' Office, City and County of Broomfield, State of Colorado;

AND

Lots 81-85(inclusive), according to The Broadlands Filing No. 20-Replat A, City and County of Broomfield, State of Colorado, recorded on May 25, 2006 at Reception No. 2006006604 in the records of the Clerk and Recorders' Office, City and County of Broomfield, State of Colorado.

# EXHIBIT D
# TO
# THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT

## COMMON AREAS LIMITED WARRANTY

### COMMON AREAS LIMITED WARRANTY
### Lake Front

| | |
|---|---|
| Association's Name: | Lake Front Homeowners Association, Inc. (the "Association") |
| Description of Common Area Improvements: | Those certain "Common Area Improvements" as defined in the Declaration of Covenants, Conditions and Restrictions of Lake Front ("Declaration") and deeded by Declarant under the Declaration to the Association. |
| Warrantor: | Remington Homes Co., a Colorado corporation; Attn: Ronald Hauptman |
| Warrantor's Address and phone: | 9468 W. 58th Avenue, Arvada, CO 80002. (303) 420-2899 |
| Warranty Commencement Date: | Date of completion of construction or installation of the Common Area Improvements. |

I

ALL TERMS NOT DEFINED HEREIN SHALL HAVE THE SAME MEANINGS AS SET FORTH IN THE DECLARATION.

THE ASSOCIATION, AND ALL OWNERS (AS THE TERM "OWNERS" IS DEFINED IN THE DECLARATION), UNDERSTAND AND AGREE THAT THE LIMITED WARRANTY DESCRIBED HEREIN SHALL BE THE SOLE AND EXCLUSIVE WARRANTY GIVEN TO THE ASSOCIATION IN CONNECTION WITH THE COMMON AREA IMPROVEMENTS. THIS LIMITED WARRANTY SHALL APPLY ONLY TO THOSE COMMON AREA IMPROVEMENTS AS DEFINED IN THE DECLARATION AND DEEDED TO THE ASSOCIATION BY THE DECLARANT UNDER THE DECLARATION. THIS LIMITED WARRANTY SHALL NOT APPLY TO ANY COMMON AREA IMPROVEMENTS FOR WHICH THE ASSOCIATION MAY HAVE MAINTENANCE RESPONSIBILITIES BUT DOES NOT OWN.

AS TO THE LAKE FRONT PLANNED COMMUNITY (INCLUDING THE LOTS AND THE COMMON AREAS), THIS LIMITED WARRANTY IS IN LIEU OF ALL WARRANTIES OF ALL

PARTIES IN CONNECTION WITH THE CONSTRUCTION OF THE COMMON AREA IMPROVEMENTS, EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, WORKMANLIKE CONSTRUCTION HABITABILITY, CONFORMANCE WITH LOCAL BUILDING CODES, OR FITNESS FOR A PARTICULAR PURPOSE).

AS TO ANY PERSONAL PROPERTY AND AS TO ANY CONSUMER PRODUCT (AS THAT TERM MAY BE DEFINED UNDER APPLICABLE FEDERAL, STATE OR LOCAL LAWS OR THEIR IMPLEMENTING REGULATIONS, INCLUDING WITHOUT LIMITATION THE MAGNUSON-MOSS WARRANTY ACT) THAT MAY BE A PART OF OR LOCATED IN THE PLANNED COMMUNITY (INCLUDING WITHOUT LIMITATION APPLIANCES, UTILITY SYSTEMS AND ANY PERSONAL PROPERTY OR FIXTURES WITHIN THE PROJECT), WARRANTOR NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

II

A. To Whom Given. This Limited Warranty is extended to the above-named Association only, and not to the Association's successors and assigns (including but not limited to successor trustees and successor assignees of beneficial interests of a trust), or successors in interest including future owners. This Limited Warranty is non-transferable and all of Warrantor's obligations under it terminate if title to the Common Area Improvements is transferred.

B. Coverage. For one (1) year, beginning on the Warranty Commencement Date as stated above (the "Warranty Period") or such applicable shorter periods as hereinafter specified, Warrantor warrants that all Common Area Improvements work and materials on the Common Area Improvements provided by or through Warrantor will be free from defects due to faulty materials or workmanship, subject to the exclusions, limitations and provisions of this Limited Warranty. No representative of Warrantor has the authority to expand the scope of, or extend the duration of, this Limited Warranty or to make agreements with respect hereto.

C. Warrantor's Performance. If a defect occurs in an item that is covered by this Limited Warranty, Warrantor's obligation shall be limited, at Warrantor's option, to repair, replace, or pay the Association the reasonable cost of repairing or replacing, the defective item. Warrantor's total, aggregate liability under this Limited Warranty is limited to the replacement value of the Common Area Improvements. Steps taken by Warrantor to correct defects shall not act to extend the terms or duration of this Limited Warranty. Warrantor shall not be obligated to remedy any defects that are covered by this Limited Warranty unless the Association notifies Warrantor in writing of the defect before the expiration of the Warranty Period.

D. Insurance. In the event Warrantor repairs or replaces, or pays the cost of repairing or replacing any defect covered by this Limited Warranty for which the Association is covered by insurance, upon request by Warrantor, the Association shall assign the proceeds of such insurance to Warrantor to the extent of the cost to Warrantor of such repair, replacement or payment.

III
WARRANTY LIMITATIONS AND EXCLUSIONS

This Limited Warranty is subject to the following terms, conditions, limitations and exclusions, all of which are an integral part hereof.

A. Cracks, chips, dents, scratches, mars, spots, stains, tarnishing, frays, snags or tears in, on or of the following, to the extent applicable to the Common Area Improvements, are excluded from this Limited Warranty. Any damage occurring upon occupancy is excluded from this Limited Warranty.

B. Appliances, equipment, personal property, fixtures and consumer products (as that term may be defined under applicable federal, state and local laws, or their implementing regulations) that may be installed or contained in the Common Area Improvements are excluded from this Limited Warranty and Warrantor hereby specifically disclaims and excludes any express or implied warranties of any nature, including any implied warranty of merchantability or fitness for a particular purpose, with respect to such items.

C. This Limited Warranty excludes any damage to the extent it is caused or made worse by:

(i) Negligence, improper care, maintenance or improper operation by anyone other than Warrantor or its employees, agents or subcontractors; or

(ii) Failure to give notice to Warrantor of any defect within a reasonable time; or

(iii) Changes or modifications made by anyone other than the Warrantor, or its employees, agents or subcontractors, including, without limitation changes to the floor plan, designs, work or materials, or of the grading of the ground or drainage patterns on terraces and/or balconies.

D. Any defects in or caused by materials, work, designs or plans supplied by anyone other than Warrantor or its employees, agents or subcontractors are excluded from this Limited Warranty.

E. Normal wear and tear or normal deterioration is excluded from this Limited Warranty.

F. Accidental loss or damage from causes such as, but not limited to: fire, explosion, smoke, water escape, changes which are not reasonably foreseeable in the level of the underground water tables, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood and earthquake are excluded from this Limited Warranty.

G. Any loss or damage that arises from the Common Area Improvements or any part of the Lake Front Planned Community being used for non-residential purposes is excluded from this Limited Warranty.

H. Any particular defect if the Association performs repairs, or causes repairs to be performed, to the defective portion of the Common Area Improvements without first receiving the

prior written consent of Warrantor is excluded from this Limited Warranty.

I. Insect or animal damage is excluded from this Limited Warranty.

J. Walls, terraces, fencing and retaining walls can develop cracks due to characteristics of expanding and contracting of concrete. This is a normal occurrence that cannot be controlled; therefore, such conditions are excluded from this Limited Warranty to the extent applicable to the Common Area Improvements. However, the Association can protect exterior concrete by keeping it free and clear of ice and snow and by not applying salt in any form. All concrete surfaces, including those in precast and prestressed concrete products, may discolor due to temperature, humidity, or light variations in the material composition and discoloration is excluded from this Limited Warranty. Small surface holes caused by air bubbles, color variations, form joint marks and minor chips and spalls are normal and are excluded from this Limited Warranty to the extent applicable.

K. Frozen pipes or sillcocks caused by the failure to drain sillcocks, close shut-off valves, or disconnect garden hoses are excluded from this Limited Warranty to the extent applicable to the Common Area Improvements.

L. Stained woods: Woods, cabinets, paneling, doors, floors, stairs, railings and wood trim all have variations in wood grain and color. These variations cannot be controlled and are excluded from this Limited Warranty to the extent applicable to the Common Area Improvements.

M. Paint: Walls have been painted and are warranted to be in good condition at the time of closing. Thereafter, care and maintenance is the responsibility of the Association and is excluded from this Limited Warranty. Chips, cracks and peeling are conditions that may occur due to causes other than the paint or its application and, therefore, are excluded from this Limited Warranty to the extent applicable to the Common Area Improvements.

N. Natural stone: Natural stone (including but not limited to marble, granite, limestone and slate) is a product of nature and not subject to the same consistency that is typical of manufactured building materials, said consistency is excluded from this Limited Warranty to the extent applicable to the Common Area Improvements. While efforts will be made to limit variations in color, veining, shade and texture within the Common Areas generally, installation, variation cannot be completely controlled and exact matching is not guaranteed or warranted. Stone products may also vary in surface hardness and the rate at which they absorb moisture.

O. Architectural Woodwork and Other Wood Products: Dimensional changes in architectural wood products, and other wood-based products such as plywood, veneers and particleboard may occur and are excluded from this Limited Warranty. Under normal use conditions, all wood products contain some moisture. Wood readily exchanges this moisture with the water vapor in the surrounding atmosphere according to the existing relative humidity. As fluctuations in humidity occur, some dimensional changes in painted or unfinished wood products will occur and are excluded from this Limited Warranty to the extent applicable to the Common Area Improvements.

P. Roadway Improvements: Asphalt roadways containing cracks exceeding 1.4 inch wide will be repaired by Warrantor and Warrantor will repair any depression which retains water in

excess of one (1) inch deep caused by settlement. Extreme heat will cause indentations and surface deterioration if cars or trucks are parked for long periods of time in the same location. Indentations caused by the long term parking of cars or trucks are excluded from this Limited Warranty.

Surface scaling in exterior concrete can result from salt and chemicals used to treat roads. Unless more than fifty percent (50%) of the surface is affected, scaling is not covered under this Limited Warranty. In cases where more than fifty percent (50%) of the surface is affected, Warrantor, for a period of one (1) year, will repair using applicable methods.

Q. Fencing and Retaining Walls: With respect to fencing and retaining walls, this Limited Warranty excludes any damage to the extent it is caused or made worse by:

(i) Use of any improvements or accessories which do not fit, properly receive and/or secure the fencing and/or retaining wall;

(ii) Impact of foreign objects, fire, earthquake, flood, lightning, hail, tornado or other casualty or act of God;

(iii) Movement, distortion, collapse or settling of the ground or structure on which the fencing and/or retaining wall is installed; and

(iv) Any other cause not involving defects in the construction or installation of the fencing and/or retaining walls by Warrantor or materials supplied by Warrantor.

Fencing and retaining walls are not warranted against discoloration or other damage caused by air pollution, mold, fungi, microbes, mildew, exposure to harmful chemicals or normal weathering from the elements. "Normal weathering" is defined as exposure to sunlight, moisture, and extremes of weather and atmosphere which will cause any colored surface to gradually fade, chalk, or accumulate dirt or stains. Warrantor shall have sole discretion to determine, based on reasonable criteria, whether any fencing or retaining wall is suffering from normal weathering.

R. HOA. To the extent that this Limited Warranty addresses maintenance requirements of the Association, the Association acknowledges that these requirements must be met by the Association.

## IV
## HOW TO MAKE A LIMITED WARRANTY CLAIM

A. Submission of Claims to Warrantor. If the Association has a claim under this Limited Warranty, the Association must deliver a written notice to Warrantor on the report form attached hereto, at the address indicated in the report form, prior to the expiration of the Warranty Period. The Association agrees that, except for emergency repairs as defined below and repairs that required prompt attention to avoid further damage, the Association shall attempt to submit requests for warranty repairs at the following two intervals: (1) four months into the Warranty Period; and (2) within one month from the end of the Warranty Period.

B. Notices. All notices or claims to Warrantor must be either (1) personally hand-delivered, (2)

sent by mail, postage prepaid, certified mail, return receipt requested, or (3) sent by facsimile, at the address or fax number listed on the report form attached hereto, or to whatever other address the Warrantor may designate in writing. Any notice hand-delivered as aforesaid shall be deemed received when delivered; any notice faxed shall be delivered as of the date indicated on a fax confirmation report; and any notice mailed as aforesaid shall be deemed received three (3) business days after deposit in the United States mail. Notice of change of address for the Association for receipt of notices shall be sent in the manner set forth in this Section.

C. Action. Within thirty (30) business days of receipt of a notice of defect from the Association, Warrantor shall either, as applicable: (1) commence remedying the defect and pursue such remedy diligently until completion, or (2) notify the Association and Seller in writing of its determination that the alleged defect is not covered by this Limited Warranty.

Notwithstanding any provision to the contrary herein: (1) this Limited Warranty shall in no way limit any extended warranties provided by any contractor to Warrantor, pursuant to the contract documents between contractor and Warrantor, and (2) this Limited Warranty shall in no way affect the period of limitations for warranty claims set forth in the contract documents between contractor and Warrantor.

2007000130 01/03/2007 03:02P COV
of 82 R 411.00 D 0.00 City&Cnty Broomfield

## LIMITED WARRANTY REPAIR REQUEST FORM

**Sent to:**

Remington Homes Co.
Attn: Ronald Hauptman
9468 W. 58th Avenue
Arvada, CO 80002
Facsimile: (303) 425-3004

---

**Date:** ________________

**Select one of the following:**

1. ☐ 4-month report
2. ☐ 1-year report
3. ☐ Other.Explain: ____________________

---

Lake Front Homeowners Association, Inc.

Association Address: ____________________
Phone: ________________

Warranty Repair(s) Requested:
Attached additional pages if necessary.

| Location | Description Of Defect | Date Defect was Discovered |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

**EXHIBIT E**
**TO**
**THE DECLARATION OF COVENANTS,**
**CONDITIONS AND RESTRICTIONS**
**OF**
**LAKE FRONT**

---

**THE RECORDING DATA FOR RECORDED EASEMENTS,**
**LICENSES AND OTHER MATTERS OF RECORD**
**WHICH THE PLANNED COMMUNITY**
**IS SUBJECT TO:**

---

1. Taxes and assessments for the current year, a lien, but not yet due or payable.

2. An undivided 1/2 interest in all oil, gas and other minerals as reserved by Harold C. Hancock and Jane Loy Hancock recorded March 24, 1960 in Book 835 at Page 530 and July 14, 1960 in Book 855 at Page 14, and any and all assignments thereof or interests therein. (Adams County records)

3. An Oil and Gas Lease from Jane Loy Hancock, as Trustee, as Lessor(s) to Martin Exploration as Lessee(s) dated July 17, 1991, recorded May 14, 1991 in Book 3806 at Page 73, and any and all assignments thereof or interests therein. (Adams County records)

4. Covenants, conditions, restrictions, reservations and lien rights, which do not include a forfeiture or reverter clause, set forth in the Declaration, recorded November 25, 1997 in Book 5166 at Page 84 (Adams County records) and annexation of Additional Land recorded April 01, 2005 at Reception No. 2005004135.

5. Terms, conditions, provisions, agreements, easements, notes and obligations contained in the Plat of The Broadlands Filing No. 20 recorded March 21, 2005 at Reception No. 2005003480.

6. Terms, conditions, provisions, agreements, and obligations contained in The Broadlands Filing No. 20 Site Development Plan recorded March 21, 2005 at Reception No. 2005003481.

7. Terms, conditions, provisions, agreements and obligations specified under the Lot Premium and % Premium Memo by and between Community Development Group of Broomfield, LLC and Lakeview by Remington Homes, Inc., recorded April 01, 2005 at Reception No. 2005004139.

8. Terms, conditions, provisions, agreements and obligations specified under the Statement of Rights and Obligations (City of Broomfield Subdivision Agreement for The Broadlands

Filing No. 20) by and between Community Development Group of Broomfield, LLC and Lakeview by Remington Homes, Inc. recorded June 6, 2005 at Reception No. 2005007310.

9. Easements for public utilities, sewer purposes, drainage and other incidental purposes as shown on the plat of said subdivision and as reserved in or created by various instruments of record affecting only the common area.

10. The effect of the Map of The Broadlands Filing No.20-Replat A, recorded May 25, 2006 at Reception No. 2006006604 (affects Common Area).

11. Terms, conditions, provisions, agreements and obligations contained in the Slab-on-Grade Acknowledgment recorded October 3, 2006 at Reception No. 2006013028 and on October 9, 2006 at Reception No. 2006013338 (affects Lot 41).

12. Terms, conditions, provisions, agreements and obligations contained in the Slab-on-Grade Acknowledgment recorded October 3, 2006 at Reception No. 2006013029 and on October 9, 2006 at Reception No. 2006013339 (affects Lot 42).

2007000130 01/03/2007 03:02P COV
82 of 82 R 411.00 D 0.00 City&Cnty Broomfield

# EXHIBIT F
# TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF LAKE FRONT

## ARBITRATION PROCEDURES

1. All Claims subject to arbitration shall be decided by a single private party arbitrator to be appointed by the parties.

2. If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the Arbitration Notice, the presiding judge of the District Court in which the Planned Community is located shall appoint a qualified arbitrator upon application of a party.

3. No person shall serve as the arbitrator where that person has any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Arbitrator Disclosure"). If any party objects to the service of any arbitrator within fourteen (14) days after receipt of that Arbitrator's Disclosure, such arbitrator shall be replaced in the same manner in which that arbitrator was selected.

4. The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in the County in which the Planned Community is located unless otherwise agreed by the parties.

5. Except as modified herein the arbitration shall be conducted pursuant to the then current Construction Industry Rules of Arbitration of the American Arbitration Association to the extent applicable, but shall not be conducted or administered by the American Arbitration Association.

6. No formal discovery shall be conducted in the absence of an order of the arbitrator or express written agreement among all the parties.

7. Unless directed by the arbitrator, there will be no post-hearing briefs.

8. The Arbitration Award shall address each specific Claim to be resolved in the arbitration, provide a summary of the reasons therefore and the relief granted, and be rendered promptly after the close of the hearing and no later than fourteen (14) days from the close of the hearing, unless otherwise agreed by the parties. The award shall be in writing and shall be signed by the arbitrator.

9. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorneys' fees.