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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
HOLIDAY CREEK PLANNED COMMUNITY**

THIS DECLARATION of Covenants, Conditions and Restrictions (the "Declaration") is made this 4th day of March, 2001, by Holiday Home Builders, Inc., a Colorado corporation (hereinafter referred to as the "Declarant").

RECITALS:

A. Declarant is the owner of certain real property located in Arapahoe County, Colorado (the "Common Interest community") described more particularly on Exhibit A attached hereto, made a part hereof and incorporated herein by reference, and Declarant desires to create thereon an exclusive residential community with permanent parks, open spaces, walkways, trails and other facilities for the benefit of said community through the granting of specific rights, privileges, and easements of enjoyment which may be shared and enjoyed by all residents thereof.

B. This Common Interest Community shall be a Planned Community as defined by the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq.

C. Declarant desires to insure the attractiveness of the individual lots and community facilities within the Common Interest community to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the Common Interest community, and to provide for the maintenance of said parks, open spaces, walkways, trails and other community facilities. In order to achieve this, Declarant is desirous of subjecting the Common Interest Community to the covenants, conditions, restrictions, easements, charges and liens set forth herein, each and all of which is and are for the benefit of the Common Interest Community and each Owner thereof.

D. The Declarant further intends that such parks, playgrounds, open spaces, walkways, trails, areas, underdrains and facilities as may be included within the Common Interest Community will be owned and maintained for the benefit of all of the residents of the Common Interest community, and such areas and facilities are hereinafter designated "Common Elements."

E. In order to preserve, protect and enhance the values and amenities of the Common Interest Community, and to insure the residents' enjoyment of the specific rights, privileges and

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easements in the Common Elements, Declarant has deemed it desirable to create a legal entity which shall be delegated and assigned the powers of owning, maintaining and administering all or various portions of the Common Elements, and also administering and enforcing the provisions of this Declaration, together with collecting, disbursing and accounting for the assessments and charges herein contemplated. To this end, the Declarant has caused the Holiday Creek Homeowners Association, Inc. to be incorporated under the laws of the State of Colorado as a non-profit corporation for the purpose of exercising the aforesaid functions with respect to the Common Elements, as hereinafter described.

NOW, THEREFORE, the Declarant declares that all of the real property described in Exhibit A hereto shall be held, transferred, sold, conveyed, leased and occupied subject to the covenants, conditions, restrictions, easements, charges, liens and rights hereinafter set forth or set forth in the Plat, all of which shall run with the land. In addition, Declarant hereby submits the real property described in Exhibit A hereto to the provisions of the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101, et seq., as same may be amended from time to time (the "Act"). In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable.

ARTICLE I DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit or there shall be a specific statement to the contrary) shall have the following meanings:

A. "The Association" shall mean and refer to the Holiday Creek Homeowners Association, Inc., a Colorado non-profit corporation, its successors and assigns.

B. "Common Elements" shall mean and refer to each of the following parcels of real property identified on the Plat, Tract(s) A,B,&C, Holiday Creek Subdivision Filing #1, together with all improvements, personal property, or facilities now or hereafter constructed or situated thereon. "Common Elements" shall also mean and refer to all private streets or roadways contained within the Common Interest Community and shown on the Plat for access to and from the Lots, specifically including the streets or roadways identified on the Plat as South Tower Way, East Bates Drive, East Bethany Place, and South Andes Way together with any improvements, personal property, or facilities now or hereafter constructed or situated thereon. The "Common

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Elements" are subject to the notes, covenants, and other conditions set forth in the Plat.

C. "Common Interest Community" shall mean and refer to the real estate described in Exhibit A attached hereto. The Common Interest Community shall be known as Holiday Creek and shall be a planned community as defined by the Act.

D. "Common Lot Fence" shall mean and refer to any fence (other than a Perimeter Fence): (i) which separates two or more Lots and each side of which adjoins one or more Lots, (ii) which separates one or more Lots from portions of the Common Elements and on one side adjoins one or more Lots and on the other side adjoins portions of the Common Elements, or (iii) which separates one or more Lots from a public street, a public right-of-way, or from property outside of the Common Interest Community and on one side adjoins one or more Lots and on the other side adjoins a public street, a public right-of-way, or property outside of the Common Interest community.

E. "Common Lot Fence Owner" shall mean and refer to any owner of a Lot whose Lot adjoins a Common Lot Fence.

F. "Declarant" shall mean and refer to Holiday Home Builders, Inc., a Colorado corporation, its successors and assigns, if such successors and assigns are specifically assigned any of the Declarant's rights hereunder by instrument duly recorded in the Arapahoe County, Colorado, land records.

G. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time.

H. "Dwelling" shall have the same meaning as "Residence."

I. "Executive Board" shall mean and refer to the governing body of the Association.

J. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the office of the Clerk and Recorder of the County of Arapahoe, Colorado, encumbering any Lot having priority of record over all other recorded liens except those liens made superior by statute. "First Mortgage" shall also mean and refer to any executory land sales contract having the afore stated priority wherein the Administrator of Veterans' Affairs, an officer of the United States of America, is identified as the seller, whether such contract is recorded or not and whether such contract is owned by the said Administrator or has been assigned

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by the said Administrator and is owned by the Administrator's assignee or by a remote assignee concerning which executory land sales contract the records of the office of the Clerk and Recorder of the County of Arapahoe, Colorado, show the said Administrator as having the record title to the Lot subject to such Executory Land Sales Contract. "First Mortgage" shall not include a judgment lien, mechanics' lien, tax lien, or other similar involuntary lien or encumbrance upon a Lot.

K. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage or any successor to the interest of any such person under such First Mortgage.

L. "Lot" shall mean and refer to Lots 1 through 65, inclusive, Holiday Creek Subdivision Filing #1, as shown on the Plat. The number of Lots in the Common Interest Community is 65. Declarant does not reserve the right to create additional lots. The identification number and boundaries of each Lot are as shown on the Plat. For the purposes of the Act, the term "Lot" shall have the same meaning as the term "Unit" as defined by the Act.

M. "Member" shall mean and refer to each Owner of a Lot: membership in the Association shall be appurtenant to, and may not be separated from, ownership of the Lot.

N. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is apart of the Common Interest community, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

O. "Perimeter Fence" shall mean and refer to any fence which separates portions of the Common Elements from a public street, a public right-of-way, or from property outside of the Common Interest Community, and on one side adjoins portions of the Common Elements and on the other side adjoins a public street, a public right-of-way, or property outside of the Common Interest community.

P. "Plat" shall mean and refer to the plat for Holiday Creek Subdivision Filing #1 as it is now or shall hereafter be recorded in the records of the office of the Clerk and Recorder of the County of Arapahoe, Colorado, as same may be amended from time to time.

Q. "Residence" shall mean and refer to any single family detached dwelling located within the Common Interest community.

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ARTICLE II
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:
POWERS OF ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership. The Association shall have one class of voting membership:

Members shall be all Owners of Lots, including Declarant. Each Member shall be entitled to one vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Section 3. Reservation. Notwithstanding the foregoing voting rights, Declarant hereby reserves the right to appoint the officers and members of the Executive Board for the maximum period permitted by the Act. Members of the Executive Board shall serve for such terms of office as are set forth in the Articles of Incorporation and Bylaws of the Association. This reserved right shall terminate upon the first to occur of the following events:

- a. sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than Declarant; or
- b. two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business; or
- c. Two (2) years after any right to add new units was last exercised.

Section 4. Surrender of Right to Appoint. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of Declarant control, but, in that event, Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

Section 5. Composition of Executive Board. Notwithstanding the provisions of Article II, section 3, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the

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Lots to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than Declarant; not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board shall be elected by Owners other than Declarant.

Section 6. Removal of Member of Executive Board. The Members, by a vote of not less than 67% of Members present at any meeting of the Members at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by Declarant. Declarant may remove any number of the Executive Board and any officer of the Association appointed by Declarant.

Section 7. Delivery of Association Property. Within sixty (60) days after the Owners other than Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held or controlled by Declarant as required by applicable law.

Section 8. Association Powers. The Association shall have all the rights and powers accorded a unit owners association under the Act and such additional rights and powers as are herein designated or as may be necessary and proper to manage the business and affairs of the Association. The Association may assign its future income only upon approval by majority vote of the Members at a meeting duly called for that purpose.

ARTICLE III PROPERTY RIGHTS IN THE COMMON ELEMENTS

Section 1. Owners' Easements and Rights of Enjoyment. Subject to the provisions hereinafter set forth in this Article III, every Owner of the Association shall have a non-exclusive right and easement of enjoyment in and to the Common Elements and the improvements located thereon, which easement shall be appurtenant to and shall pass with the title to every Lot within the Common Interest community.

Section 2. Title to Common Elements. Declarant may retain the legal title to any portion or all of the Common Interest Community to be conveyed to the Association and to be designated as Common Elements until such time as it has completed improvements thereon and until such time as in the opinion of Declarant

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the Association is able to maintain the same, but, notwithstanding the foregoing, Declarant hereby covenants that it shall convey all of its interest in and to the Common Elements to the Association not later than thirty (30) days after the termination of its reserved rights as stated in Article II, Section 3, hereof.

Section 3. Extent of Owners' Rights and Easements. The rights and easements of enjoyment created hereby shall be subject to the rights of the Association and Declarant pursuant to this Declaration and the Act, and to the notes, covenants, and other conditions set forth in the Plat.

Section 4. Extension of Rights and Benefits. Every Member of the Association shall have the right, subject to rules and -regulations promulgated by the Executive Board, to extend the rights and easements of enjoyment vested in such Member under this Article to each of such Member's tenants, guests, household employees and to each family member who resides with such Member of the Association within the Common Interest Community and to such other persons as may be permitted by the Association.

ARTICLE IV SPECIAL DECLARANT RIGHTS

Section 1. Reservation of Rights. Declarant reserves the following rights:

a. The right to complete or make improvements indicated on the Plat, or permitted by this Declaration or any development plan approved by the county of Arapahoe, Colorado;

b. The right to maintain no more than one sales office, one management office, and four models (of no more than 2100 square feet each) on Lots, in Residences or on the Common Elements, and the right to relocate same to any Lot, Residence, or area of the Common Elements located within the 'Common Interest community;

c. The right to maintain signs within the Common Interest Community to advertise the Common Interest community or Lots or Residences located therein;

d. The right to use and to permit others to use easements through the Common Elements as may be reasonably necessary for the purpose of discharging and exercising Declarant's obligations and rights under the Act and this Declaration;

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e. The right to appoint or remove any officer of the Association or member of the Executive Board as set forth in Article II of this reservation; and

f. The right to exercise any other right or privilege accorded a declarant pursuant to the Act or accorded Declarant under this Declaration.

Section 2. Limitation on Reserved Rights. Unless sooner terminated by a recorded instrument signed by Declarant, any right reserved in this Article IV may be exercised by Declarant with respect to any portion of the Common Interest Community for the maximum period of time specified by the Act.

ARTICLE V **COVENANTS FOR MAINTENANCE AND ASSESSMENT**

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot within the Common Interest Community, including Declarant, by acceptance of a deed therefore, whether or not it shall be so expressed therein, or by acceptance of any other conveyance thereof (except a conveyance in connection with the establishment of a mortgage) shall be deemed to covenant and agree to pay to the Association: (1) annual assessments; (2) special assessments for capital improvements or maintenance thereof; (3) special assessments in connection with an Owner's failure to perform the required exterior maintenance or improvement of his property; (4) special assessments to provide for costs incurred by virtue of unforeseen emergencies; and (5) such other assessments as may be permitted by the Act. The annual assessments or charges may, at the discretion of the Executive Board, include a reserve for: future capital improvements to the Common Elements; replacement of and repairs to the improvements located on the Common Elements. All assessments herein provided for shall be assessed by the Association. The annual assessment shall be levied on an annual basis, and a special assessment may be levied from time to time when and as determined by the Association. All the assessments described above, together with such interest thereon, reasonable attorneys' fees and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, subject to foreclosure in accordance with applicable law. Each such assessment, together with interest, late charges, reasonable attorneys' fees and costs of collection thereof shall also be the personal obligation of the person or persons who are the Owner(s) of such property at the time when the assessment falls due, and in the event that there is more than one Owner

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thereof, such obligation shall be joint and several. The lien for each unpaid assessment shall attach to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on each Lot for assessments 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 subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 2. Purpose of and Use of Annual Assessments or Charges. The annual assessments or charges levied under this Article V as provided for in section 1 above shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the residents of the Common Interest Community, including, without limitation: (1) for the acquisition of improvements to and maintenance of the Common Elements (including, but not limited to, the payment of taxes and insurance thereof, and the repair, replacement and additions thereof, the cost of labor, equipment, and materials relating thereto, and management and supervision thereof) ; and (2) for the provision of services to the Owners or the Association, including, but not limited to, garbage and trash collection, snow removal, landscaping, horticultural maintenance, security services and for such other needs of the Association and Owners as may arise, including a reasonable provision for contingencies and replacements. It shall be the obligation of the Association to at all times keep all of the Common Elements in good condition and to properly maintain the same.

Section 3. Maximum Annual Assessment. Until commencement of the second annual assessment period, the maximum annual assessment shall be one hundred seventy dollars (\$170.00) per Lot.

a. Effective with commencement of the second and each subsequent annual assessment period, the maximum annual assessment may be increased effective each annual assessment year in conformance with the rise, if any, of the Consumer Price Index published by the U.S. Department of Labor, Washington, D.C., for All Items and Major Group Figures for All Urban Consumers (1967=100), for the one-year period ending with the preceding month of December or in an amount

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ten (10%) percent greater than the previous annual assessment, whichever is greater. In the event the aforesaid Consumer Price Index is not published, for whatever reason, then the increase in the maximum annual assessment, as provided herein, shall be calculated by using a substantially comparable index designated by the Executive Board of the Association.

b. Effective with commencement of the second and each subsequent annual assessment period, the maximum annual assessment may be increased above that established by the Consumer Price Index formula for the next succeeding annual assessment year and at the end of each such annual assessment period, for each succeeding annual assessment year, provided that any such increase shall have the assent of two-thirds (2/3) of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting setting forth the purpose therefore.

c. At any time and from time to time, the Executive Board may, after consideration of the projected maintenance costs and other financial needs of the Association, and upon written notification to each Owner of the amount of the actual assessment to be levied, fix the actual assessment per each Lot at an amount less than the maximum.

d. The Association shall maintain an adequate reserve fund out of the annual assessments for the maintenance, repair and replacement of those elements or portions of the Common Elements that must be maintained, repaired or replaced on a periodic basis.

Section 4. Special Assessments for Capital Improvements and Emergencies. In addition to the annual assessments described above, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction or reconstruction; any unexpected repair or replacement of a described capital improvement upon the Common Elements, including the necessary fixtures and personal property related thereto; and any construction or reconstruction, unexpected repair or replacement, including land rehabilitation and restoration, due to any emergencies.

Section 5. Capital Contributions for Improvements, Repairs and Replacements. In addition to the annual or special assessments described above, the Association may levy in any

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assessment year, either as part of the annual assessment or the special assessment, an amount to be set aside as a reserve for future capital expenditures, including major repairs to or replacements of improvements located on the Common Elements or for the future construction of improvements on the Common Elements. Any funds so collected shall be designated by the Executive Board as capital contributions to the Association by the members thereof and shall be segregated and placed in a separate bank account of the Association to be utilized solely for the purposes aforesaid.

Section 6. Special Assessments for Failure to Properly Maintain a Lot or Misconduct of Unit Owner. In the event that the Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in the manner required by this Declaration, the Association shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the same and the exterior of the buildings and any other improvements erected thereon in the manner contemplated by the above provisions. The cost of such exterior maintenance shall thereupon be added to and become part of the annual assessments to which such Lot is subject and shall likewise be a lien on such Lot, which assessment may be collected as provided in this Article V. If any common expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Lot.

Section 7. Annual Assessment of Vacant or Unimproved Lots. Each Owner of a vacant or unimproved Lot, including Declarant, shall pay one-fourth (1/4) of the amount of the annual assessment paid by the Owners of improved Lots or Lots with Dwellings located thereon.

Section 8. Budget and Payment. Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Executive Board shall mail by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget, not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by majority vote of the Members, the budget shall be deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The annual assessment shall be due and payable in installments at such times as the Executive Board may determine. An amount equivalent to three months' assessments shall be deposited with

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the Association at the time of the first conveyance of any Lot from the Declarant to any purchaser thereof, which deposit shall not bear interest and may be retained by the Association as working capital and as security for the payment of annual and special assessments. Separate due dates may be established by the Executive Board for special assessments, as defined herein, provided that at least thirty (30) days prior written notice shall be provided to the Owners of such due dates.

Section 9. Effect of Non-Payment of Assessments and Personal Liability of Owner. If an assessment is not paid on the date when due (being the date specified in Section 8 hereof) then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection thereof, as hereinafter provided, thereupon become a continuing lien on the property of the Owner which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, it shall be the personal obligation of the then Owner to pay such assessment and such personal obligation shall continue even though the Owner's interest in the property shall be transferred.

If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the due date at the rate of twenty-one percent (21%) per annum (or the maximum rate permitted by law, whichever is less), and the Association may bring legal action against the Owner personally obligated to pay the same, or foreclose the lien against the property and there shall be added to the amount of such assessment all costs incurred by the Association in foreclosing the lien or in collecting the amount owing, including any reasonable attorneys' fees.

Section 10. Rate of Assessment. Except as provided in section 7 of this Article V, or otherwise specifically set forth in this Article V, the total annual and special assessments levied and assessed by the Association shall be allocated to each Lot uniformly on the basis of a fractional portion of such total assessments, such portion of the total assessments allocated to each Lot being a fraction, the numerator of which is one and the denominator of which is the total number of Lots within the Common Interest community.

ARTICLE VI

APPROVAL OF PLANS

Section 1. Architectural Review Committee.

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a. There is hereby established an Architectural Review Committee consisting of three (3) members. The Architectural Review Committee shall be appointed by the Executive Board of the Association and may include as members the officers, directors or employees of Declarant. The vote of a majority of the members shall constitute the action of the Architectural Review Committee. The Architectural Review Committee shall have the right to employ consultants to assist in the performance of its functions hereunder. All expenses of the Architectural Review Committee shall be paid by the Association.

b. No dwelling or other improvements shall be constructed, erected, placed, altered, maintained or permitted on any Lot or on the Common Elements, nor shall any construction or excavation whatsoever be commenced or materials, equipment or construction vehicles be placed on any Lot owned by any person or entity other than Declarant until plans and specifications with respect thereto (in manner and form satisfactory to the Architectural Review Committee showing the proposed improvements, plot layout and all exterior elevations, materials and colors, landscaping, grading, easements and utilities, and such other information as may be requested by said committee) have been submitted to and been approved in writing by the Architectural Review Committee. Such plans and specifications shall be submitted in writing and be signed by the Owner or the Owner's authorized agent.

c. Approval shall be based, among other things, on: suitability of exterior design, colors and materials, relation of the proposed improvements to the natural topography, grade and finished ground elevation; relation of the structure to that of neighboring structures and natural features of the Common Interest community; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Architectural Review Committee shall have the right to require and approve landscaping plans. The Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

d. If the Architectural Review Committee fails either to approve or to disapprove such plans and specifications (including resubmission of disapproved plans and specifications which have been revised) within Sixty (60) days after the same have been submitted to it (provided that all required information has been submitted), it shall be conclusively presumed that said plans and specifications

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have been approved subject, however, to the restrictions contained in Article IX hereof. The Architectural Review Committee shall notify the Owner in writing upon receipt of all required plans and specifications and the aforesaid 60-day period shall commence on the date of such notification.

e. Any failure by the Architectural Review Committee to approve or disapprove any construction, improvement or alteration of any Lot or Common Element by the Owner or the Owner's authorized agent, which was not properly submitted to the Architectural Review Committee as provided by this Article, shall not be deemed to be an approval of the construction, improvement or alteration. The Architectural Review Committee shall retain its right to approve or disapprove the construction, improvement or alteration as provided in this Article. The Architectural Review Committee shall have one-hundred twenty (120) days from the date it first discovers any construction, improvement or alteration on any Lot or Common Element, the plans of which were not properly submitted, to approve or disapprove said construction, improvement or alteration. If the Architectural Review Committee disapproves any construction, improvement or alteration, the Owner shall have ten (10) days after receipt of notification of disapproval to remove said construction, improvement or alteration. Removal shall be at the sole expense of the Owner. The Owner shall comply with the decision of the Architectural Review Committee and shall take any action required by the Architectural Review Committee for approval.

f. Neither the Architectural Review committee, nor Declarant, nor their respective successors or assigns, shall be liable in damages to anyone submitting plans to the Architectural Review Committee for approval, or to any owner affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every owner or other person who submits plans to the Architectural Review Committee for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Architectural Review Committee or Declarant to recover any such damages. Approval by the Architectural Review Committee shall not be deemed to constitute compliance with the requirements of any local building codes, and it shall be the responsibility of the Owner or other person submitting plans to the Architectural Review Committee to comply therewith. Additionally, it is solely

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the responsibility of the Owner to ensure that proper drainage of the Lot is maintained and that any construction, improvement or alteration have no adverse effect on drainage on any Lot within the Common Interest Community.

Section 2. Development by Declarant. The provisions of Section 1 of this Article VI shall not apply to Declarant's development of the Common Interest community or to its or construction of Residences or improvements within the Common Interest Community.

ARTICLE VII **ENFORCEMENT**

Section 1. Abatement and Suit. In the event of any violation or breach of the provisions of the Declaration, the Association in its own behalf, or in behalf of the Owners shall have the right: (1) to enter upon the portion of the Common Interest community wherein said violation or breach exists and summarily to abate and remove, at the expense of the Owner in violation, any structure, thing or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof; (2) to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of the provisions herein to enjoin or prevent them from doing so; (3) to cause said violation to be remedied or to recover damages for said violation; and (4) to impose a monetary penalty on the offending Owner of \$50.00 per day that the violation remains extant after ten (10) days' notice to said Owner.

Section 2. Deemed to Constitute a Nuisance. Every violation of this Declaration or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefore by law or equity against an Owner shall be applicable against every such violation.

In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the reasonable attorneys' fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

Failure to enforce any of the provisions of this Declaration herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to

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enforce any other provisions thereof, and the above-named entities shall not be liable therefore.

Section 3. Rules and Regulations. The Association shall have the right to promulgate and adopt reasonable rules and regulations to carry out the purpose and intent of the protective covenants set forth in Article IX hereof and the other provisions of this Declaration. The Architectural Review Committee shall have the right to adopt architectural standards, sign standards, construction regulations and such other rules and regulations as it deems necessary or appropriate. All such rules, regulations and standards may be modified from time to time in the reasonable discretion of the Association or the Architectural Review Committee.

ARTICLE VIII

INSURANCE

Section 1. Insurance on Common Elements. The Association shall maintain insurance covering all insurable improvements located or constructed upon the Common Elements. The Association shall maintain the following types of insurance to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance:

a. A policy of property insurance covering all Common Elements and property that must become a Common Element, with a "Replacement Cost Endorsement" providing that any claim shall be settled on a full replacement cost basis without deduction for depreciation. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

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

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard all risk endorsement, where such is available. The deductible for such insurance shall not exceed Ten Thousand Dollars (\$10,000.00) or one percent (1%) of the face amount of the policy, whichever is less, and the Association shall include sufficient funds to cover such deductibles in its operating reserve account.

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b. A comprehensive policy of general liability insurance covering all of the Common Elements, insuring the Association in an amount not less than One Million Dollars (\$1,000,000) covering bodily injury, including death of persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insurers for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles; such coverage may also include, if applicable, garage keeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use.

c. A policy providing adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association. Such fidelity coverage or bonds shall meet the following requirements:

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

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

d. If the Common Elements or any portion thereof is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on the Common Elements has been made available under the National Flood Insurance Program, then such a policy of flood insurance on the Common Elements in an amount at least equal to the lesser of:

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

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e. A policy covering errors and omissions of officers and directors of the Association, in such amounts and containing such provisions as may from time to time be deemed necessary or desirable by the Executive Board of the Association.

f. In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including but not limited to personal liability insurance to protect Executive Board members and officers of the Association from personal liability in relation to their duties and responsibilities in acting as Executive Board members and officers on behalf of the Association.

All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Member of the Association and shall provide that the policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the insured, as well as to the First Mortgagees of each Lot. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to any First Mortgagee of a Lot, upon written request. The insurance shall be carried in blanket forms naming the Association as the insured, as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any such Owner's membership in the Association.

Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are common expenses. First Mortgagees shall have the right, jointly or severally, to pay all overdue premiums on any hazard insurance policy or to secure new hazard insurance coverage upon the lapse of such policy for the Common Elements, and any such First Mortgagee making such payment shall be owed immediate reimbursement therefore from the Association.

Section 2. Damage to Common Elements. In the event of damage to or destruction of all or a portion of the Common Elements due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Elements damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Association

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value, reasonable enjoyment and quality of the Common Interest community.

(2) No portion of any improvement shall be occupied as living quarters prior to the substantial completion of the construction of the entire dwelling as evidenced by a temporary or final certificate of occupancy ("CO") therefore. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. However, anything herein to the contrary notwithstanding, temporary facilities may be constructed for purposes of housing sales and construction personnel with regard to the sale and construction of Lots and Residences within the Common Interest Community as long as said temporary facilities conform to applicable law and receive prior written approval from the Architectural Review Committee.

(3) No oil, drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or within any Lot. No derrick or other structure designed for use in boring for oil, natural or other minerals shall be erected, maintained or permitted upon any Lot. No Lot Owner shall be permitted to drill a well intended for the extraction of water from the ground, nor construct a septic or sewage disposal system on any Lot without prior approval of the Architectural Review Committee. Declarant shall install or cause to have installed water distribution and sewer collection lines to a point proximate to the property line of each Lot or in the roads adjacent thereto, and connection by the Lot Owner to the facilities shall be mandatory.

(4) A Lot shall be used exclusively and solely for residential purposes (except as provided in Subsection 1(a) (2) of this Article IX). Each primary dwelling constructed on a Lot shall be comprised of a minimum of one thousand one hundred fifty (1150) square feet for a single story "ranch style" dwelling and one thousand one hundred (1100) square feet for a multi-story dwelling, (with the first story of any multi-story dwelling above the ground level to be comprised of a minimum of five hundred (500) square feet) with such minimum square footage to be exclusive of any garages, patio, basements or accessory buildings. The Architectural Review Committee shall have the right to modify the minimum square foot requirements of Article IX,

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shall cause such Common Elements to be promptly repaired and reconstructed, using the insurance proceeds and the proceeds of a special assessment which, notwithstanding the provisions of Article V, section 4 to the contrary, may be levied without a vote of the Members. The amount of such assessment shall be equal to the amount by which the cost of repair or reconstruction exceeds the sum of the insurance proceeds available and shall be assessed equally for each Lot. The assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Lot, and the improvements thereon, and shall be enforced and collected as provided in Article V hereof.

Section 3. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance.

Section 4. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Executive Board of the Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association.

ARTICLE IX

PROTECTIVE COVENANTS

The Common Interest Community is, and shall be, held, transferred, sold, conveyed, leased and occupied subject to the protective covenants, conditions and restrictions set forth in this Article IX, all of which shall run with the land; provided, however, that in the event of any conflict between the requirements of this Article IX and the requirements of any applicable zoning code or ordinance, the more restrictive of the two shall govern.

Section 1. Lots.

a. Permitted Uses.

(1) The owner of any Lot shall not suffer or permit any noxious or offensive activity to be conducted, carried on or practiced thereon or within any dwelling or accessory building constructed thereon or otherwise use or employ such Lot site and improvements for any purpose that will constitute an annoyance to the neighborhood or a nuisance as provided by law, or that will detract from the residential

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section 1(a) (4) for good cause shown. Each primary dwelling constructed on a Lot shall otherwise comply with the minimum setback requirements of this Declaration and the zoning codes or ordinances of Arapahoe County, Colorado.

(5) In order to preserve the natural quality and aesthetic appearance of the Common Interest community, all homes shall be constructed primarily of stone, brick, stucco or wood, and fencing or plantings simulating fencing shall be discouraged on any Lot or Lot line (except for dog runs) and may be permitted only after approval of the Architectural Review Committee of the color, material and design thereof in accordance with the procedures set forth in Article V hereof to insure that such fencing or planting will be in keeping with the character of the Common Interest Community. The Architectural Review Committee shall have the right to prohibit fencing on any corner Lot and shall have the right to adopt uniform fencing standards for the Common Interest Community. Security fencing in connection with any swimming pool and fences utilized in connection with any tennis court or recreation facilities must likewise have the prior approval of the Architectural Review Committee as above-described.

(6) Clothes line or equipment intended for children's recreational use, such as swing sets and slides, shall be placed within the Lot in such a manner as to be reasonably screened from view from roads, the Common Elements or other Lots, whether by fencing or other screening approved by the Architectural Review Committee. The location of such equipment on a Lot shall also require prior approval of the Architectural Review Committee, which shall have the right to waive or vary the screening requirement if the equipment is placed on a Lot in such a manner as to minimize the exposure thereof.

(7) No exterior antenna or similar improvement such as a satellite dish shall be permitted on any Lot, which is visible from neighboring Lots, the Common Elements or roads without the approval of the Architectural Review Committee.

(8) No elevated tanks or appurtenances of any kind shall be erected, placed or permitted upon any part of a Lot. Any tank used in connection with any dwelling and any type of refrigeration or heating apparatus must be located underground or concealed by appropriate fencing or screening to be approved by the Architectural Review Committee. There shall be no roof mounted swamp coolers allowed.

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(9) No basketball hoop or backboard shall be installed upon or attached to any dwelling or improvement except in a manner as to be reasonably screened from view from roads, Common Elements, and other Lots. The location of said basketball hoop or backboard shall require prior approval of the Architectural Review Committee.

(10) All electric, telephone, television, radio and other utility lines shall be placed underground when extended from the street or Lot line to any dwelling or other improvement on a Lot.

(11) No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of dwellings and other improvements located thereon or essential to the function of community services, and except wind chimes which cannot be heard on a neighboring Lot, shall be placed or used on any Lot or on the Common Elements.

(12) All vacant Lots shall be maintained in a clean condition with all weeds and grass thereon periodically trimmed with such Common Interest community free at all times of trash and rubbish.

(13) No light shall be emitted from any Lot or dwelling or recreational facility, which is unreasonably bright or causes an unreasonable nuisance or glare to or on any other Lot or neighboring property. Tennis court lighting is hereby expressly prohibited.

(14) No solar panels shall be utilized in any improvements constructed on the Common Interest Community.

b. Special Lot Restrictions.

(1) Height and Setback. All dwellings and improvements of any kind will be set back from the boundaries of the Lot as provided by the setback limitations set forth in the zoning code of Arapahoe County, Colorado, and the final development plan for the Common Interest Community. In the event that a variance is requested from Arapahoe County, Colorado, of any setback or height limitations, a like variance must also be obtained from the Architectural Review Committee before such improvements may be constructed on a Lot.

(2) Restrictions on Double Frontage Lots. The Architectural Review Committee shall have the right to

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designate the direction in which a dwelling shall face if constructed on a double frontage Lot and shall determine the location of all curb cuts for driveways.

(3) Fencing Requirements.

(i) The owner of Lot 1 Blk 1 which is adjacent to Tract A shall not remove the wrought iron fence installed adjacent to Tract B without the prior written consent of the Architectural Review Committee. The owner of Lot 25 Blk 2 which is adjacent to Tract B shall not remove the wrought iron fence installed adjacent to Tract A without the prior written consent of the Architectural Review Committee.

(ii) Each owner shall be responsible for the maintenance and upkeep of any fence erected on such owner's lot.

(iii) Each owner shall be responsible for the maintenance and upkeep at any retaining wall erected on such owner's lot.

(4) General. The restrictions and limitations, if any, set forth in section 1(b)(1) and (2) of this Article IX are in addition to but not in lieu of the other restrictions and limitations contained in the Declaration and in any applicable zoning code or ordinance. In the event of any inconsistency or conflict between the provisions hereof and the provisions of any applicable zoning code or ordinance, the more restrictive provisions shall govern. To the extent that no inconsistency or conflict with any applicable zoning code or ordinance is created, the restrictions set forth in this section (1) (b) may be varied or waived by the Architectural Review Committee at its discretion upon good cause shown.

c. Pets. No domestic animals or fowl totaling more than three (3) generally recognized house or yard pets shall be allowed outside of the residence of any Lot. If an Owner chooses to keep house or yard pets, said Owner shall at all times have them under his or her control, whether within the Owner's Lot or in any other location within the Common Interest Community. Animals shall not be permitted to roam at will, and at the option of the Association, steps may be taken to control any animals not under the immediate control of their Owners, including the right to impound animals not under such control and charge substantial fees to their Owner for their return. The Association shall have

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the right to adopt further rules and regulations to enforce this provision.

d. Horses and Livestock. No horses or livestock shall be kept or otherwise maintained within Lots.

e. Landscaping and Maintenance.

(1) Lot Owners shall within one year of closing landscape the rear yard of their Lots. The Architectural Review committee shall retain the right to require that trees or shrubs on a Lot be located or trimmed so as to preserve or enhance the view from other Lots within the immediate vicinity.

(2) No Lot shall be used or maintained as a dumping ground for rubbish. No garbage or trash or other waste shall be placed anywhere other than in covered sanitary containers which shall be maintained in good and clean conditions and to the extent possible must be screened from view from roads, the Common Elements or other Lots by plantings, fences or in such other manner as approved by the Architectural Review Committee. No waste shall be burned upon any Lot. All garbage and trash collection and disposal shall be in strict compliance with the rules of the Association.

(3) No exterior fires shall be permitted except for barbecue fires contained within receptacles designed for that use. No coal or other type fuel, which gives off smoke, excepting wood and charcoal, shall be used for heating, cooking or any other purpose within a Lot.

(4) A Lot and all improvements thereon shall be maintained at all times by the Owner in good condition and repair. The Owner shall cause all dwellings and other improvements to be refinished, resurfaced or repaired periodically as effect of damage, deterioration or weather becomes apparent. Appearance, color, type of painting or stain or other exterior conditions shall not be changed without prior approval of Architectural Review Committee. The appropriate repairs and replacements shall be made as often as necessary. Unsightly conditions shall constitute a nuisance as defined in Section (a)(1) hereof.

(5) At the time of or as soon as reasonably possible following the closing on any lot but not later than twelve (12) months, the Lot shall be suitably landscaped with grass, shrubs and trees. Thereafter, all grass, shrubs and

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trees shall be kept and maintained in an attractive, healthy, live and growing condition, and all dead or diseased grass areas, shrubs and trees shall be promptly removed and replaced with suitable replacement landscaping. Each Lot Owner shall maintain the landscaping as approved by the Architectural Review Committee upon his Lot in good condition. An owner shall remove weeds promptly and water and trim lawns and shrubs as often as the same shall become necessary, and otherwise remove waste materials from his Lot, whether said Lot is vacant or improved. All landscaping shall comply with the requirements of any structural warranty, which applies to the Dwelling, and all City and County Zoning requirements.

(6) The Association shall be responsible for repairing, maintaining, and replacing Perimeter Fences and all wrought iron fences adjacent to common elements and the costs thereof shall be a part of the annual assessments levied by the Association.

f. Automobile, Boat and Camper Parking.

(1) Trucks, trailers, mobile homes, truck campers, boats and commercial vehicles shall not be kept, placed or maintained upon any Lot, road, street, or driveway or for longer than 72 consecutive hours. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any dwelling or other improvement permitted by this Declaration. Commercial vehicles engaged in the delivery or pick-up of goods or services shall be exempted from the provisions of this paragraph providing that they do not remain within a Lot in excess of the reasonable period of time required to perform such commercial function.

(2) Each dwelling shall include at least two completely enclosed and two outside parking spaces within the Lot. Temporary parking shall be permitted on roads and streets only in areas designated by the Architectural Review Committee and may be prohibited by the Association or the Declarant from time to time in order to permit the clearance of snow accumulation on and maintenance of the roads and streets.

(3) No trailer, vehicle or boat shall be constructed, reconstructed or repaired upon any Lot in such a manner that

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such activity is visible from neighboring Lots, Common Elements or roads.

g. Signs. No signs whatsoever shall be permitted within any Lot, with the exception of those listed below:

(1) Signs required by legal proceedings.

(2) Signs of the type usually used by contractors, subcontractors and tradesmen may be erected during the authorized time of construction; provided that such signs are the style, color and material approved by the Architectural Review Committee at its sole discretion.

(3) Residential identification signs shall be constructed of materials, which are compatible with the architecture of the area, and these shall be subject to the approval of the Architectural Review Committee prior to erection thereof.

(4) "For Sale" signs and large community marketing signs on vacant Lots or for homes under construction must be of the style, color and materials approved by the Architectural Review Committee. with reference to "For Sale" or "For Rent" signs for residential resales, the same may be erected upon a Lot, provided that no more than one sign is erected and that such sign does not exceed a total face area of six (6) square feet unless otherwise approved in advance in writing by the Architectural Review Committee.

(5) No sign shall exceed a height of eight (8) feet from grade.

(6) The Architectural Review Committee shall have the right to promulgate standards for color, style, materials and location of the foregoing signs (except signs required by legal proceedings) and in such event, all signs shall conform therewith.

h. Drainage Easements. A non-exclusive drainage easement for drainage purposes is hereby excepted and reserved on the boundaries of all Lots for storm water drainage purposes. Said easement shall be landscaped by the owner of the Lot on which the easement is located, but no improvement may be constructed thereon other than landscaping improvement; and all such landscaping improvements shall require the prior approval of the Architectural Review Committee. No Owner shall modify the grade or landscaping of such easement once constructed without the prior written approval of the Architectural Review Committee. No

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fences or any other permanent structures, including landscaping which prohibits the flow of storm water runoff, will be permitted within any drainage easement.

i. Show Homes. No Owner or other person, except Declarant, its successors and assigns, may utilize any Lot or dwelling constructed thereon for the purposes of a show home without the consent of Declarant being first obtained. The term "show home" shall mean and refer to a home used for the purposes of sale of similar homes constructed or to be constructed in residential developments other than the Common Interest Community or other homes within the Common Interest community.

j. Commercial Use. No business building, machine shop or other industrial or commercial structure or building devoted to commercial or public enterprises shall be erected or used on any Lot, and no business which attracts any customers or clients to a Lot shall be conducted or carried on or be practiced upon any Lot or within any dwelling or accessory building constructed thereon, except that buildings may be erected and used by Declarant, its successors, assigns or designees for use in developing and marketing the common Interest Community.

k. Easements. Easements for the installation, repair, maintenance and replacement of utilities, television cables and/or drainage facilities over and across portions of the Lots are reserved as shown on the Plat. within these easements, no improvements, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation, repair, maintenance and replacement of any utilities or cables or which may change the direction of flow or obstruct or retard the flow of water through any drainage channels located in the easements or through drainage channels stemming from said easements. Notwithstanding the foregoing, all easement areas located on each Lot and all improvements constructed thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 2. Subdivision and Combining of Lots. No Lot may be divided or subdivided or a fractional portion thereof sold or conveyed so as to be held in divided ownership, except that adjoining Lot Owners may sell or purchase adjoining property to accomplish relocation of the boundary line between such Lots if first approved in writing by the Architectural Review Committee, if such sale and purchase will not cause a resulting violation of any setback, building or other restriction contained herein, and if such steps are taken as are necessary to comply with the building and zoning and subdivision codes for the County of

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Arapahoe. In such cases, the new boundary line thus established shall be deemed anew boundary line between the respective Lots but no setback line or easement established with respect to the former boundary line shall be shifted or changed by reason of the change of boundary line. Two (2) or more adjoining Lots which are under the same ownership may also be combined and developed as one (1) Lot, but only if first approved in writing by the Architectural Review Committee and if such approvals as may be necessary are obtained from the County of Arapahoe. Setback lines along the common boundary line of the combined parcels shall be deemed removed and easements created or established along the common boundary line of the combined Lots may be changed without the consent of any person entitled to the use thereof if no improvements have been constructed in such easements provided that the written consent of the Architectural Review Committee be first obtained. The Architectural Review Committee shall have the right to require alternative easements to be granted or created by the Owner of the combined Lots. If setback lines are removed or easements are changed along the common boundary line of the combined Lots, the combined Lots shall thereafter be deemed one (1) Lot, and may not thereafter be split or developed into two (2) or more Lots. Further, in the event that two (2) or more adjoining Lots are combined hereunder, they shall be deemed one (1) Lot for the purpose of voting rights pursuant to Article II and assessments pursuant to Article V hereof.

Section 3. Common Elements.

a. No noxious or offensive activity shall be carried on at any of the Common Elements, nor shall anything be done or placed therein which may be or become a nuisance or cause unreasonable embarrassment, disturbance or annoyance to Owners in the enjoyment of their Lots or the Common Elements.

b. All uses of the Common Elements shall be subject to rules and regulations of the Association as promulgated and revised by the Executive Board thereof from time to time.

c. No improvement, excavation or other alteration shall be made so as to alter the Common Elements from its natural or existing state at the time of conveyance by Declarant to the Association unless approved in advance by the Architectural Review Committee or the Declarant.

d. Areas within the Common Elements to be utilized for recreational facilities may be so developed by either Declarant or the Association subject only to prior approval of the Architectural Review Committee.

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e. Uses of the undeveloped and unimproved Common Elements shall be limited to those activities which do not materially injure or scar the Common Elements or the vegetation thereon, substantially increase the cost of maintenance thereof, or cause unreasonable embarrassment, disturbance or annoyance to Owners in their enjoyment of their lots or the Common Elements unless sanctioned or approved by the Architectural Review Committee.

f. There shall be no camping or picnicking in the Common Elements except in those areas specifically designated by the Association for that purpose.

g. There shall be no fires started or maintained in the Common Elements, except fires started by the Association or its employees incidental to the maintenance of the Common Elements and except for cooking and campfires in those areas designated for that use and in recreational facilities in which the same shall expressly be permitted.

h. No domestic animals shall be permitted on the Common Elements except generally recognized house or yard pets accompanied by and under the control of their Owners, and Owners shall be responsible for removing said pet's excrement from the Common Elements. Animals shall not be allowed to roam at will on the Common Elements; and, at the option of Declarant and/or the Association, steps may be taken to control any animals not under the immediate control of their Owners, including the right to impound animals not under such control and charge substantial fees to the Owners for their return. Further, the Association shall have the right to assess any Owner who does not remove his pet's excrement from the Common Elements for the cost of such removal, but in no event less than Twenty-five (\$25.00). Such assessment shall be a lien on the responsible Owner's Lot. Declarant and the Association shall have the right to adopt further rules and regulations to enforce such provisions.

i. The use of snowmobiles, motorcycles or other motorized vehicles off the roadways is expressly prohibited within the Common Elements except as required for emergency and maintenance purposes.

j. Use of bicycles shall be limited to the roads and bike trails provided for their use.

ARTICLE X EASEMENTS.

Section 1. Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, employees and

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assigns upon, across, over, in and under the Common Elements and a right to make such use of the Common Elements, as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

Section 2. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Elements, for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity and master, cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair, and maintain water and sewer pipes, gas, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements, without conflicting with the terms hereof; provided, however, that such right and authority shall cease and terminate upon conveyance by Declarant of the last lot to the first Owner thereof (other than Declarant). The easement provided for in this section 3 shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

Section 3. Rights of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant for access, ingress, and egress over, in, upon, under and across the Common Elements, for the temporary storage thereon by Declarant or Declarant's designees of construction material, dirt, and similar items, and for the temporary placement thereon of construction trailers and equipment by Declarant or Declarant's designees as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Declarant's rights, whether arising under Colorado law or reserved in this Declaration, or for the purpose of construction of Residences, sales offices, management offices, and other improvements or structures by Declarant or Declarant's designee.

Section 4. Easements Deemed Created. All conveyances of lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article X, even though no specific reference to such easements or to this Article X appears in the instrument for such conveyance.

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ARTICLE XI
FIRST MORTGAGEES

Section 1. Member and First Mortgagee Approval.
Notwithstanding anything to the contrary set forth elsewhere in this Declaration, the Association shall not, unless it has obtained the prior written consent of at least seventy-five percent (75%) of the Members and ninety percent (90%) of the First Mortgagees of Lots:

a. by act or omission, change, waive, or abandon any scheme of architectural control, or enforcement thereof, as set forth in this Declaration, regarding the design or maintenance of the Common Elements,

b. fail to maintain full current replacement cost fire and extended insurance coverage on the Common Elements,

c. use hazard insurance proceeds for Common Elements property losses for purposes other than to repair, replace, or reconstruct such property,

d. by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer any property owned, directly or indirectly, by the Association for the benefit of the Owners (excluding the granting of permits, licenses and easements for public utilities, roads or other purposes consistent with the intended use of such property and reasonably necessary or useful for the proper maintenance or operation of the Common Interest Community or the Association),

e. change the method of determining the obligations, assessments, dues, or other charges, which may be levied against an Owner,

f. add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which establish, provide for, govern or regulate any of the following, provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for clarification only,

(1) voting rights;

(2) assessments or assessment liens;

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

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

(5) rights to use of the Common Elements;

(6) responsibility for maintenance and repair of any portion of the Common Elements;

(7) boundaries of any Lot;

(8) interests in the Common Elements;

(9) convertibility of Lots into Common Elements or of Common Elements into Lots;

(10) leasing of Residences;

(11) imposition of any right of first refusal or similar restriction on the right of any Owner to sell, transfer or otherwise convey his Lot;

(12) any provisions which are for the express benefit of First Mortgagees, or insurers or guarantors of First Mortgages; or

g. terminate professional management and assume self-management of the Association when professional management has previously been required by a First Mortgagee or insurer or guarantor of such a First Mortgage;

h. terminate the legal status of the Common Interest Community, provided that this subsection (h) shall not apply to amendments to this Declaration, the Articles of Incorporation or Bylaws of the Association made as a result of destruction, damage or condemnation of the Common Interest Community or improvements thereon;

i. restore or repair the Common Interest Community, or any portion thereof, including, but not limited to, improvements located thereon, after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration and the most recent plans and specifications for the Common Interest community and the construction of improvements thereon;

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j. terminate the legal status of the Common Interest Community after substantial destruction or a substantial taking in condemnation of the Common Interest Community.

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

a. any condemnation loss or casualty loss, which affects a material portion of the Common Elements;

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

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

d. any proposed action, which would require the consent of a specified percentage of First Mortgagees as, provided in this Article XI.

Section 3. Financial Statement. The Association shall provide a financial statement for the immediately preceding fiscal year, free of charge to the party so requesting, to any First Mortgagee, or any insurer or guarantor of a First Mortgage, within a reasonable time after written request therefore by any such party.

ARTICLE XII GENERAL PROVISIONS

Section 1. Determination of Allocated Interests. The allocated interests (as defined by the Act) designated herein have been calculated in accordance with the following formulas:

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a. The number of votes in the Association on the basis of one vote per Lot.

b. The proportionate liability of each Lot for annual and special assessments on the basis of a fraction, the numerator of which is one and the denominator of which is the total number of Lots within the Common Interest Community.

Section 2. Conflicts of Provisions. In case any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 3. Condemnation. In the event proceedings are initiated by any government or agency thereof seeking to take by eminent domain the Common Elements, any material part thereof or any interest therein, any improvement thereon, or any material interest therein, the Association shall give prompt notice thereof, including a description of the part of or interest in the Common Elements or improvement thereon sought to be so condemned, to all First Mortgagees of Lots, all insurers and guarantors of First Mortgages, all Members, and to the Declarant. The Association shall have full power and authority to defend in said proceedings, and, if practicable, to represent the Owners in any negotiations, settlements and agreements with a condemning authority for acquisition of the Common Elements or part thereof as the attorney-in-fact for the Owners (the Owners, by their acceptance of a deed or other instrument of conveyance, hereby constituting and appointing the Association their attorney-in-fact for such purposes), but the Association shall not enter into any such proceedings, settlement or agreements pursuant to which the Common Elements or any part thereof or any interest therein is relinquished, without giving all First Mortgagees of Lots, all Members and Declarants at least fifteen (15) days prior written notice thereof.

In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of apart of or all of the Common Elements, the award made for such taking, if such award is sufficient to repair and restore the Common Elements, shall be applied by the Association to such repair and restoration. If such award is insufficient to repair and restore the Common Elements or if the full amount of such award is not expended to repair and restore the Common Elements, the Association shall disburse the net proceeds of such award to the Owners with each Lot being allocated an equal portion of such

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proceeds, provided that the Association shall first payout of the share of each Owner the amount of any unpaid liens or encumbrances. No provision of this Declaration or of any other document relating to the Common Interest Community shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee pursuant to a First Mortgage in the case of a distribution to an Owner of insurance proceeds or condemnation award for losses to or taking of Common Elements.

Section 4. No Representations. Except as expressly set forth herein, Declarant makes no representations regarding use of the Common Interest Community and the restrictions placed thereon by these covenants, by the County of Arapahoe, or by other governmental authorities. Declarant makes no representations as to the existence, preservation or permanence of any view from any Lot. Further, nothing contained herein shall be construed to constitute an obligation of Declarant to complete the development of all of the Lots covered by this Declaration or any assurance that Declarant will develop any other properties other than as specifically set forth in this Declaration.

Section 5. Duration and Amendment.

a. This Declaration, every provision hereof and every covenant, condition, restriction and reservation contained herein shall run with and bind the Common Interest Community and shall continue in full force and effect for a period of twenty (20) years from the date hereof, and shall thereafter be automatically extended for successive periods of ten (10) years unless otherwise terminated or modified as hereinafter provided.

b. The Declaration or any provision hereof, may not be terminated, extended, modified or amended, as to the whole of the Common Interest Community or any portion thereof, without the written consent of a majority of the Members of the Association, if any, at the time of such termination, extension, modification or amendment. A written notice of any proposed termination, extension, modification or amendment shall be sent by registered mail to every Member of the Association at least sixty (60) days in advance of any action taken. If no response to the written notice is received by the Association, approval by the non-responding proposed member of termination, extension, modification or amendment shall be conclusively presumed. Such termination, extension, modification or amendment shall be immediately effective after such written notice has been given upon recording a written instrument in the office of the Clerk and recorder of Arapahoe, County, Colorado,

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reflecting that the required consents have been obtained, which instrument is executed and acknowledged by the President or vice President of the Association.

c. Notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any lending institutions, then subject to the following sentence of this Section, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees of Lots. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to termination of the Declarant's reserved right to appoint the Executive Board of the Association as provided in Article II, section 3 hereof.

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

Section 6. Registration by Owner of Mailing Address. Each Owner and First Mortgagee of a Lot and each insurer or guarantor of a First Mortgage shall register his mailing address with the Association, and, except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands, or other notices intended to be served upon the Executive Board of the Association or the Association shall be sent by certified mail, postage pre-paid, to 18523 E. Bates Drive, Aurora, CO 80013, until such address is changed by the Association.

Section 7. Severability. All of the provisions contained in this Declaration shall be construed together, but if it shall at any time be held that anyone of such provisions, or any part thereof, is or has become invalid, or for any reason is or has become unenforceable, no other provision, or any part thereof, shall be thereby affected or impaired.

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Section 8. Benefits and Burdens. The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Declarant, the Association and the Owners located within the Common Interest community and their respective heirs, successors, personal representatives and assigns.

Section 9. Waiver. The failure of any person or entity designated herein to enforce any provision of this Declaration shall in no event be deemed to be a waiver of the right to do so for any subsequent violations. Moreover, the right to enforce any other provisions of this Declaration shall not be waived by such a failure, nor shall there be any liability therefore.

Section 10. Singular and Plural. Words used herein, regard- less of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

Section 11. Dedication of Common Elements. Declarant in recording this Declaration, has designated certain areas of land as Common Elements for the common use and enjoyment of Owners for recreation and other related activities. The Common Elements are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Owners, as more fully provided in this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal as of the day and year first above written.

CARRIE M. BARBER
NOTARY PUBLIC
STATE OF COLORADO
ATTEST: My Commission Expires

DECLARANT:

HOLIDAY HOME BUILDERS, INC.

By
Its

Solomon B. Rein pres.

STATE OF COLORADO)
Arapahoe)
CITY AND COUNTY OF DENVER)

Subscribed and sworn to before me in the County of Arapahoe, State of Colorado, this 17th day of March, 2001, by Solomon B. Rein as President of Holiday Home Builders, Inc.

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My commission expires:

Carrie M. Barber
Notary Public

