

**NOTICE TO CLOSING AGENTS: THIS IS A FEE-ASSESSED SUBDIVISION.  
CHECK WITH THE HOMEOWNERS ASSOCIATION FOR FEE SCHEDULE.**

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR  
EAGLE RIDGE OF WELD COUNTY HOMEOWNERS' ASSOCIATION  
(a Common Interest Community)**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE RIDGE OF WELD COUNTY HOMEOWNERS' ASSOCIATION is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1999, by L. J. SCHUSTER, LLC, a Colorado limited liability company, hereinafter referred to as "the Declarant."

**RECITALS**

A. The Declarant is the owner of that certain real property located in the City of Greeley, County of Weld, State of Colorado, legally described on Exhibit "A" attached hereto and incorporated herein by reference ("the Real Estate").

B. The Declarant desires to create a Common Interest Community on the Real Estate, pursuant to the Colorado Common Ownership Act, C.R.S. § 38-33.3-101, et seq., as it may be amended from time to time ("the Act"), in which portions of the Real Estate will be designated for separate ownership and the remainder of which will be owned by an Association of Lot Owners.

C. The Declarant has caused to be incorporated under the laws of the State of Colorado EAGLE RIDGE OF WELD COUNTY HOMEOWNERS' ASSOCIATION, a nonprofit corporation, for the purpose of exercising the functions herein set forth.

**ARTICLE I. SUBMISSION OF REAL ESTATE**

The Declarant hereby publishes and declares that the Real Estate shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors, and assigns. Additionally, Declarant hereby submits the Real Estate to the provisions of the Act. In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable.

## **ARTICLE II. DEFINITIONS**

Section 1: "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

Section 2: "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.

Section 3: "Architectural Control Committee" shall mean and refer to the committee or committees established to review and approve plans for the construction of improvements on Lots as set forth in Article IX of this Declaration.

Section 4: "Association" or "Lot Owners' Association" shall mean and refer to a Lot owners' association organized and existing under Section 38-33.3-301 of the Act.

Section 5: "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.

Section 6: "Common Elements" shall mean and refer to any real estate within the Common Interest Community owned or leased by the Association, other than a Lot.

Section 7: "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Lot pursuant to this Declaration.

Section 8: "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

Section 9: "Common Interest Community" shall mean and refer to the Real Estate described on Exhibit "A" attached hereto and incorporated herein by reference, including any Real Estate which may subsequently be added to and become a part of the Common Interest Community, which said Real Estate is described on Exhibit "B" attached hereto and incorporated herein by this reference.

Section 10: "Dealer" shall mean and refer to a Person in the business of selling Lots for such Person's own account.

Section 11: "Declarant" shall mean and refer to any Legal Entity, Person, or group of Persons acting in concert who:

- (a) As a part of a common promotional plan, offers to dispose of to a Purchaser such Declarant's interest in a Lot not previously disposed of to a Purchaser; or
- (b) Reserves or succeeds to any Special Declarant Right.

Section 12: "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats of the Real Estate recorded in the Clerk and Recorder's office of Weld County, Colorado.

Section 13: "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Lot, but the term does not include the transfer or release of a security interest.

Section 14: "Executive Board" shall mean and refer to the Executive Board of the Association.

Section 15: "Identifying Number" shall mean and refer to a symbol or address that identifies only one (1) Lot or Lot Owner in the Common Interest Community.

Section 16: "Lot" shall mean and refer to a physical portion of the Common Interest Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Declaration. The term "Lot" as used in this Declaration shall have the same meaning as the term "Unit" as used in the Act.

Section 17: "Lot Owner" shall mean and refer to the Declarant or other Person who owns a Lot but does not include a Person having an interest in a Lot solely as security for an obligation. The Declarant is the Owner of any Lot created in the Declaration until that Lot is conveyed to another Person. The term "Lot Owner" as used in this Declaration shall have the same meaning as the term "Unit Owner" as used in the Act.

Section 18: "Mortgagee" shall mean and refer to any Person who has a security interest in a Lot and who has provided written notice of such interest to the Association. "First Mortgagee" shall mean and refer to a Mortgagee who has a security interest in a Lot prior to all other security interests except the security interest for real property taxes and assessments made by Weld County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community. "Eligible Mortgagee" or "Eligible Insurer" shall mean and refer to a First Mortgagee or the insurer or guarantor

of a Security Interest held by a First Mortgagee that has given written notice to the Association of its Security Interest and has requested notice of certain actions to be taken by the Association as provided in Article XII hereinafter.

Section 19: "Person" shall mean and refer to a natural person, a corporation, a partnership, an association, a trust, or any other entity or combination thereof.

Section 20: "Plat" shall mean and refer to the Plat of the Real Estate recorded in the office of the Clerk and Recorder of Weld County, Colorado, and all recorded amendments thereto.

Section 21: "Purchaser" shall mean and refer to a Person, other than a Declarant or a Dealer, who, by means of a transfer, acquires a legal or equitable interest in a Lot, other than:

- (a) A leasehold interest in a Lot of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or
- (b) A security interest.

Section 22: "Real Estate" shall mean and refer to the Real Estate described on Exhibit "A" attached hereto and incorporated herein by reference.

Section 23: "Residence" shall mean and refer to a single-family residential dwelling constructed on a Lot.

Section 24: "Residential Use" shall mean and refer to use for dwelling purposes.

Section 25: "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are (a) adopted by the Architectural Control Committee after approval by the Declarant or the Executive Board; (b) adopted by the Executive Board; or (c) adopted by vote of a majority of the votes entitled to be cast by the members present in person or by proxy at an annual or special meeting at which a quorum is present for the regulation and management of the Common Interest Community, including any amendment to those instruments.

Section 26: "Security Interest" shall mean and refer to an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of

lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 27: "Single-family" shall mean and refer to any individual or group of persons related by blood or marriage or any unrelated group of not more than three (3) persons living together in a Residence.

### **ARTICLE III. COMMON INTEREST COMMUNITY**

Section 1: Name. The name of the Common Interest Community is EAGLE RIDGE.

Section 2: Association. The name of the Association is EAGLE RIDGE OF WELD COUNTY HOMEOWNERS' ASSOCIATION.

Section 3: Planned Community. The Common Interest Community is a planned community.

Section 4: County. The name of every county in which any part of the Common Interest Community is situated is Weld County, Colorado.

Section 5: Legal Description. A legal description of the Real Estate included in the Common Interest Community is set forth on Exhibit "A" attached hereto and incorporated herein by reference.

Section 6: Maximum Number of Lots. The maximum number of Lots that the Declarant reserves the right to create within the Common Interest Community is seven hundred (700).

Section 7: Boundaries of Lots. The boundaries of each Lot are set forth on the Plat of the Real Estate. The Plat sets forth the Lot's Identifying Number.

Section 8: Allocated Interests. The Common Expense Liability and votes in the Association shall be allocated among the Owners as follows:

- (a) Each Owner's share of the Common Expenses shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Lots within the Common Interest Community.
- (b) Each Owner shall be entitled to one (1) vote for each Lot owned.

Section 9: Recording Data. All easements and licenses to which the Common Interest Community is presently subject are shown on the Plat. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to the terms of this Declaration.

Section 10: Notice. Notice of matters affecting the Common Interest Community may be given to Lot Owners by the Association

or by other Lot Owners in the following manner: notice shall be hand delivered or sent prepaid by United States mail to the mailing address of each Lot or to any other mailing address designated in writing by the Lot Owner. Such notice shall be deemed given when hand delivered or when deposited in the United States mail.

#### **ARTICLE IV. ASSOCIATION**

Section 1: Authority. The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws as amended from time to time.

Section 2: Powers. The Association 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 Common Interest Community. The Association may assign its future income, including its rights to receive the Common Expense Assessments, only by the affirmative vote of the Lot Owners of Lots to which at least a majority of the votes in the Association are allocated at a meeting called for that purpose. The Association may adopt Rules and Regulations for the regulation and management of the Common Interest Community.

Section 3: Declarant Control. The Declarant, or persons designated by him, may appoint and remove the officers and members of the Executive Board of the Association for a period of ten (10) years after this Declaration is recorded in the office of the Clerk and Recorder of Weld County, Colorado. The period of Declarant control as herein set forth is subject to the limitations of Sections 38-33.3-303(5), (6), and (7) of the Act.

#### **ARTICLE V. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

Section 1: Special Declarant Rights. Declarant hereby reserves the right for a period of ten (10) years after this Declaration is recorded in the office of the Clerk and Recorder of Weld County, Colorado, to perform the acts and exercise the rights hereinafter specified ("the Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- (a) Completion of Improvements. The right to complete improvements indicated on the Plat.
- (b) Exercise of Developmental Rights. The right to exercise any Development Right reserved in Article VI of this Declaration.

- (c) Sales Management and Marketing. The right to maintain one (1) sales office, one (1) management office, signs advertising the Common Interest Community, and models. The Declarant shall have the right to determine the number of models and the size and location of the sales office, management office, and models. The Declarant shall also have the right to relocate the sales office, management office, and models from time to time at its discretion. After the Declarant ceases to be the Owner of a Lot, the Declarant shall have the right to remove any sales office, management office, or model from the Common Interest Community.
- (d) Construction Easements. The right to use the Common Elements for the purpose of making improvements within the Common Interest Community or within Real Estate which may be added to the Common Interest Community.
- (e) Control of Association and Executive Board. The right to appoint or remove any officer of the Association or any Executive Board member.
- (f) Amendment of Declaration. The right to amend the Declaration in connection with the exercise of any Development Rights.
- (g) Amendment of Plat. The right to amend the Plat in connection with the exercise of any Development Rights.

Section 2: Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 1 above, Declarant also reserves the following additional rights ("the Additional Reserved Rights"):

- (a) Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Common Elements for purposes including, but not limited to, streets, paths, walkways, drainage, recreation areas, parking areas, and to create other reservations, exceptions, and exclusions over, across, and upon the Common Elements for the benefit of and to serve the Lot Owners within the Common Interest Community.
- (b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal



with contracts and agreements for the use, lease, repair, maintenance, or regulation of Common Elements, which may or may not be a part of the Common Interest Community for the benefit of the Lot Owners and/or the Association.

- (c) Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 3: Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in Weld County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

#### **ARTICLE VI. RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS**

Section 1: Expansion Rights. Declarant expressly reserves the right to subject all or any part of the property described in Exhibit "B" attached hereto and hereby incorporated herein by reference ("the Development Property") to the provisions of this Declaration upon the substantial completion of subdivision improvements on the Development Property. The consent of the existing Lot Owners or Mortgagees shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation, at its sole option.

Section 2: Development and Withdrawal Rights. Declarant expressly reserves the right to create additional Lots and Common Elements, to subdivide the Lots, and to convert Lots into Common Elements on all or any portion of the Real Estate if such Real Estate is reserved for future development on the Plat. Declarant may exercise its Development Rights on all or any portion of the reserved property in whatever order of development Declarant, in its sole discretion, determines. If all or any part of the Development Property is submitted to this Declaration, this right to reserve property for future development shall apply to such property as well. Declarant expressly reserves the right to withdraw all or any portion of the Real Estate that is reserved for future development on the Plat from the Common Interest Community by recording a document evidencing such withdrawal in the office of the Clerk and Recorder of Weld County, Colorado. The Real Estate withdrawn from the Common Interest Community shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Common Interest Community. Declarant shall prepare and record in the office of the Clerk and Recorder of Weld County, Colorado, whatever documents are necessary to evidence such easements.

Section 3: Amendment of the Declaration. If Declarant elects to submit the Development Property, or any part thereof, to this Declaration, Declarant shall record an Amendment to the Declaration containing a legal description of the Development Property, or portion thereof to be submitted to this Declaration, and reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Lot will be apportioned according to the total number of Lots submitted to the Declaration. The Allocated Interests appurtenant to each Lot in the Common Interest Community, as expanded, shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Lots within the Common Interest Community, as expanded.

Section 4: Supplement to the Plat. Declarant shall, contemporaneously with the amendment of this Declaration, file a supplement to the Plat showing the Development Property or portion thereof to be submitted to this Declaration and the Lots and Common Elements created within the Development Property or portion thereof to be submitted to this Declaration.

Section 5: Interpretation. Recording of amendments to the Declaration in the office of the Clerk and Recorder of Weld County, Colorado, shall automatically (i) vest in each existing Lot Owner the reallocated Allocated Interests appurtenant to such Owner's Lot; and (ii) vest in each existing Mortgagee a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Lot. Upon the recording of an amendment to the Declaration, the definitions in this Declaration shall automatically be extended to encompass and to refer to the Real Estate, as expanded. The Development Property, or any part thereof, shall be added to and become a part of the Real Estate for all purposes. All conveyances of Lots after such expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any amendment to the Declaration. Reference to the Declaration in any instrument shall be deemed to include all amendments to the Declaration without specific reference thereto.

Section 6: Maximum Number of Lots. The maximum number of Lots in the Common Interest Community, as expanded, shall not exceed the number set forth in Article III, Section 6, above or the maximum number of Lots allowed by any governmental entity having jurisdiction over the Real Estate, pursuant to any development plan for the Real Estate and the Development Property, whichever is less. Declarant shall not be obligated to expand the Common Interest Community beyond the number of Lots initially submitted to this Declaration.

Section 7: Construction Easement. Declarant expressly reserves the right to perform construction work, store materials on Common Elements, and the future right to control such work and the right of access thereto until its completion. All work may be performed by Declarant without the consent or approval of any Lot Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Real Estate for the purpose of furnishing utility and other services to the Development Property. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements. If Declarant grants any such easements, the Plat will be amended to include reference to the recorded easement.

Section 8: Reciprocal Easements. If all or part of the Development Property is not submitted to this Declaration, or if property is withdrawn from the Common Interest Community ("the Withdrawn Property"): (i) the Lot Owner(s) of the Development Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance, and emergencies over and across the Common Interest Community; and (ii) the Lot Owner(s) in the Common Interest Community shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance, and emergencies over and across the Development Property and Withdrawn Property. Declarant shall prepare and record in the office of the Clerk and Recorder of Weld County, Colorado, whatever documents are necessary to evidence such easements. Such recorded easement(s) shall specify that the Lot Owners of the Development Property and the Withdrawn Property and the Lot Owners in the Common Interest Community shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location, and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 9: Termination of Expansion and Development Rights. The expansion and development rights reserved to Declarant, for itself and its successors and assigns, shall expire ten (10) years from the date of recording this Declaration, unless the expansion and development rights are (i) extended as allowed by law or (ii) reinstated or extended by the

Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion and development rights by Declarant.

Section 10: Transfer of Expansion and Development Rights. Any expansion, development, or withdrawal right created or reserved under this Article for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in Weld County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

Section 11: Special Provisions for the Development Property. If all or any portion of the Development Property is added to the Common Interest Community of which there is no guarantee, there may be tracts within the Development Property that will require special treatment, and the Declarant reserves the right to give such land this special treatment. Further, it is acknowledged that, in the Development Property, lot size may be smaller or larger; home occupation may be expanded; architectural design, including, but not limited to, materials, landscaping, and fencing, may be more or less restrictive from those imposed by the Architectural Control Committee in regulating the Real Estate; and in general, the neighborhood may be changed to meet changing times, demand, and market conditions. The Declarant reserves the right to make all such changes as it, in its sole discretion, deems desirable when including Development Property in the Common Interest Community. Until this Declaration is amended to include Development Property, the Development Property not included shall be absolutely free of any covenants, restrictions, conditions, burdens, or reservations of this Declaration.

#### **ARTICLE VII. ASSESSMENT FOR COMMON EXPENSES**

Section 1: Common Expenses Prior to Assessments. Until the Association makes a Common Expense Assessment, the Declarant shall pay all common expenses.

Section 2: Personal Obligation of Owners for Common Expenses. After Assessments are made by the Executive Board, the Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Common Expense Assessments imposed by the Association to meet the estimated Common Expenses.

Section 3: Purpose of Assessment. The Assessments levied by the Association shall be used exclusively to promote the

recreation, health, safety, and welfare of the Owners and for the improvement and maintenance of the Common Elements.

Section 4: Amount of Assessment. The amount of the Assessment for the estimated Common Expenses which shall be paid by each Owner shall be determined by dividing the aggregate sum the Association reasonably determines to be paid by all Owners by the total number of Lots within the Common Interest Community, and the Owner of each Lot shall pay his or her proportionate share of such aggregate sum.

Section 5: Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment shall be \_\_\_\_\_ Dollars (\$\_120\_) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index for the Denver/Boulder region (published by the Department of Labor, Washington, D.C.) for the preceding month of July.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased above that established by the Consumer Price Index formula by a vote of the Owners for the next succeeding two (2) years, and at the end of each such period of two (2) years, for each succeeding period of two (2) years, **provided that** any such change shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose. The limitations hereof shall not apply to any change in the maximum and basis of the Assessments undertaken as an incident to a merger or consolidation in which the Association participates.
- (c) The Executive Board may fix the annual Assessment at an amount not in excess of the maximum.

Section 6: Special Assessments for Capital Improvements. In addition to the annual Assessments authorized 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,

reconstruction, repair, or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7: Notice and Quorum for any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes of the Owners shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8: Uniform Rate of Assessment. Annual and special Assessments shall be fixed at a uniform rate for all Lots.

Section 9: Date of Commencement of Annual Assessments; Due Dates. The annual Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot by the Declarant to a Purchaser. Unless the Declarant is paying all assessments as provided in Section 1 above, (in which event no Annual Assessments shall commence during the period of time that Declarant is paying all said Assessments). The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Executive Board shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Executive Board. The Executive Board may, at its discretion, permit annual assessments to be payable in equal monthly, quarterly, or other periodic installments, as determined by the Executive Board.

Section 10: Exempt Property. All properties dedicated to and accepted by a local public authority and all properties owned by a charitable or nonprofit organization exempt from payment of property taxes by the laws of the State of Colorado shall be exempt from the Assessments created herein, except no land or improvements devoted to residential use shall be exempt from said Assessments.

Section 11: Reserve Fund. Upon the sale, transfer, or conveyance of a Lot, the purchaser or transferee of the Lot shall deposit with the Association as a reserve fund an amount equal to one-third of the annual assessment established by the Executive Board for the year in which the transfer occurs. If, at any time, an Owner is in default in the payment of any assessments due to the Association, the Association shall have the right to use said reserve, or as much thereof as may be necessary, to pay any delinquent amount owed to the Association and to reimburse the Association for any expenses incurred by the Association in collecting delinquent assessments from the Owner. In such event, the Owner shall, upon written demand of the Association, promptly remit to the Association a sufficient amount of cash to restore the reserve to its original amount. In the event the reserve account is not used to make delinquent payments, then it shall be refunded to the Owner upon the sale of the Owner's Lot without interest. The Association shall have the right to commingle the reserve account with other funds of the Association and shall have no obligation to retain the reserve funds in a separate account or pay interest on the reserve funds. The reserve account shall not be deemed to be liquidated damages, and if claims of the Association against an Owner exceed the reserve account, the Owner shall remain liable for the payment of the balance of such claims to the Association.

#### **ARTICLE VIII. LIEN FOR NONPAYMENT OF COMMON EXPENSES**

Any Assessment, charge, or fee provided for in this Declaration or any monthly or other installment thereof which is not fully paid within ten (10) days after the date due shall bear interest at a rate determined by the Executive Board. In addition, the Executive Board may assess a late charge thereon. Any Owner who fails to pay any Assessment, charge, or fee of the Association shall also be obligated to pay to the Association, on demand, all costs and expenses incurred by the Association, including reasonable attorney's fees, in attempting to collect the delinquent amount. The total amount due to the Association, including unpaid Assessments, fees, charges, fines, interest, late payment penalties, costs, and attorney's fees, shall constitute a lien on the defaulting Owner's Lot as provided in the Act. Said lien shall have the priority provided for in Section 38-33.3-116 of the Act. The Association may bring an action, at law or in equity, or both, against any Owner personally obligated to pay any amount due to the Association or any monthly or other installment thereof and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against a delinquent Owner to recover a money judgment for unpaid amounts due to the Association or monthly or other installments thereof may be

commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien.

**ARTICLE IX. ARCHITECTURAL CONTROL**

Section 1: Architectural Control Committee(s).

- (a) Membership. The Architectural Control Committee shall consist of three (3) persons. The members of the Architectural Control Committee shall be appointed by the Declarant. At such time as the Declarant is no longer the Owner of one or more Lots within the Common Interest Community, then the members of the Architectural Control Committee shall be appointed by the Executive Board from among the Owners. The Declarant may voluntarily surrender the right to appoint members of the Architectural Control Committee. The Declarant may establish two separate Architectural Control Committees, one for all new construction, and one for modification to existing construction. The Declarant shall have the same right to appoint the members of each Committee as set forth above and may voluntarily surrender the right to appoint one or both Committees. Initially, the Declarant appoints the following persons as the members of the Architectural Control Committee: LEO J. SCHUSTER, JOCELYN R. CARNEY, and TERRY L. HEYNE.
- (b) Purpose. The Architectural Control Committee is established for the purpose of maintaining within the Common Interest Community a consistent and harmonious general character of development and a style and nature of building design and visual appeal consistent with the natural beauty and features of the Common Interest Community. A majority of the members of the Architectural Control Committee may designate a representative to act for it. In the event of a vacancy in the Architectural Control Committee, a majority of the remaining members shall have full authority to fill such vacancy. The members of the Architectural Control Committee shall not be entitled to any compensation for services rendered pursuant to this Declaration; provided, however, that members of the Architectural Control Committee shall be reimbursed by the Association for all costs and expenses incurred in performing their duties pursuant to the terms of this Declaration.



Section 2: Approval. No building, fence, wall, or other structure shall be erected, placed, or altered on any Lot until the plans and specifications, along with a plot plan, have been approved by the Architectural Control Committee, which plans and specifications shall, among other things, show the size and height of the structure; the type of exterior material, color, and finish; exterior design; existing structures, if any, and location of the structures with respect to utility lines and facilities, property lines, streets, topography, and finished grade. The Architectural Control Committee shall have the right to hire an architect or engineer to assist the committee in reviewing any plans or specifications submitted to the committee and the applicant shall be obligated to pay the fee of such architect or engineer, in an amount as determined by the Architectural Control Committee's Rules and Regulations.

The Architectural Control Committee shall have the right to establish rules and regulations specifying the procedures, standards, and guidelines for the appeal of any decision of the Committee. While the Declarant has the right to appoint members of the Architectural Control Committee, the Declarant shall approve any such rules and regulations prior to their use and implementation. If the Declarant has surrendered its right to appoint the Committee or there is no person acting as Declarant, and no person holding Declarant rights, the Executive Board shall approve all rules and regulations prior to their use and implementation.

Approval by the Architectural Control Committee shall be in writing or indicated by endorsement on the plans and specifications submitted for approval. In the event the Architectural Control Committee fails to approve or disapprove the plans and specifications submitted to it by the Owner of a Lot within forty-five (45) days after submission of the plans and specifications, then such approval shall not be required and shall be deemed to have been given. However, no building or other structure shall be erected or allowed to remain on any Lot which violates any of the covenants or restrictions herein contained. The issuance of a building permit or license by the City of Greeley, Colorado, or other governmental authority having jurisdiction over the Common Interest Community shall not prevent or prohibit the Architectural Control Committee or an Owner from enforcing the terms and provisions of this Declaration; and approval by the Architectural Control Committee of plans and specifications submitted to it shall not constitute any representation that such plans and specifications comply with applicable zoning ordinances or building codes.

Section 3: Construction. Construction of a Residence or other structure approved by the Architectural Control Committee

shall commence within three (3) months after approval of the plans and specifications, and the Owner shall thereafter proceed diligently with such construction. The exterior of any such structure shall be completed within nine (9) months of the date of commencement of construction. The Architectural Control Committee may grant an extension of the foregoing time periods for good cause and when such extension is requested by the Owner. Upon approval of plans and specifications for the construction of a Residence on a Lot, the Owner of the Lot shall deliver to the Architectural Control Committee an amount as determined by the Architectural Control Committees Rules and Regulations, to be held by the Architectural Control Committee as a deposit ("the Deposit"). The Deposit shall be returned to the Owner within thirty (30) days after the Residence has been completed and all excess debris removed from the Lot and adjacent sidewalks, streets, and common areas. If the exterior of the Residence is not completed within nine (9) months after the date of commencement of construction, then the Owner shall forfeit the Deposit. If the Residence is completed within nine (9) months of commencement of construction, but the Owner has failed to complete construction in strict conformity with the approved Plans and Specifications or all excess debris has not been removed from the Lot and adjacent streets, sidewalks, and Common Areas within such time period, then the Architectural Control Committee shall have the right, but not the obligation, to enter upon the Lot if necessary and complete the improvements in conformity with the approved Plans and Specifications or remove such excess debris and deduct the cost of such work from the Deposit. The balance of the Deposit, if any, shall be returned to the Owner within thirty (30) days after all excess debris has been removed from the Lot and adjacent streets, sidewalks, and Common Areas. Nothing in this section shall be interpreted to preclude the Architectural Control Committee or the Executive Board from seeking any other legal or equitable remedy against the Owner.

Section 4: Liability. The Architectural Control Committee shall not be liable to any Owner for any loss, cost, expense, or damage, including attorney's fees, suffered by such Owner as a result of any decision made by the Architectural Control Committee unless such action is taken with malice against an Owner.

Section 5: Land Use and Building Type. No building or other structure shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single-family Residence or one (1) Duplex per Lot, with attached garage and one (1) shed per Lot, except Duplex Lots, which may have two (2) sheds. Any shed to be constructed on a Lot shall meet the following requirements: The shed shall be located behind a five-foot (5') redwood or cedar privacy fence; the high point of the shed shall

not extend more than four feet (4') above the five-foot (5') privacy fence; the shed shall not exceed eighty (80) square feet in size; the shed shall be painted the same color as the Residence; and the shed shall have the same roofing material as the Residence. Placement of the shed on the Lot must be approved by the Architectural Control Committee. Sheds may be denied approval if they could cause drainage problems or block neighbors' views. Playground equipment may be constructed on a Lot. Playground equipment need not be constructed behind a privacy fence.

Section 6: Building Sites. No Residence shall be erected, altered, or permitted to remain on any Lot of the Common Interest Community unless the ground floor thereof, exclusive of open porches and garages, is not less than eight hundred ninety (890) square feet.

Section 7: Garages. Each Residence shall include an attached garage having space for not less than one (1) nor more than three (3) automobiles.

Section 8: Height of Buildings. No building shall exceed two and one-half (2 1/2) stories in height.

Section 9: Roof. The roof of each Residence shall have a minimum 5/12 pitch and a minimum overhang of twelve (12) inches.

Section 10: Color. All colors on the exterior of a Residence must be approved in writing by the Architectural Control Committee. Shingles are to be Tamko Weathered Wood or similar manufacturer and color.

Section 11: Fences. Any fence to be constructed on a Lot must be approved by the Architectural Control Committee. All fences must not exceed five feet (5') high as measured from final grade, must be constructed of redwood or cedar wood, and must conform to the standard subdivision design. The Architectural Control Committee shall provide the fence detail information to any Owner requesting such information.

Section 12: Clotheslines. Any clothesline to be installed on the Common Interest Community must be approved by the Architectural Control Committee and must be retractable.

Section 13: Sod. The front yard of each Lot shall be sodded with grass sod or seeded within ten (10) months of the issuance of a certificate of occupancy and thereafter maintained.

Section 14: Siding. All siding shall be a maximum of eight inches (8") in width.

Section 15: Setbacks. No building or other structure, except fences, shall be constructed within the minimum setbacks established by applicable City codes and regulations.

Section 16: Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, by example and not limitation, satellite dishes in excess of eighteen inches (18") in diameter, shall be erected, used, or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, unless approved by the Architectural Control Committee. Satellite dishes which do not exceed eighteen inches (18") in diameter shall be permitted below the eave of the roofline on sides or rear of a Residence but shall not be permitted on the front elevation of a Residence.

Section 17: Storage of Vehicles. Boats, campers, motor homes, trailers, machines, and inoperable automobiles shall not be stored or permitted to remain on any Lot, except within fully-enclosed garages or within fenced areas behind the front setback of the Residence. Only one (1) recreational vehicle may be stored outside a garage, not to exceed thirty feet (30') in length and nine feet (9') in height, and must be stored within a five-foot (5') fence. Any boat, camper, motor home, trailer, or other vehicle stored within fenced areas behind the front setback of the Residence may not exceed nine feet (9') in height. For purposes of this provision, any disassembled or partially disassembled car, truck, or other vehicle or any car, truck, or other vehicle which has not been moved under its own power for more than one (1) week shall be considered an inoperable automobile subject to the terms of this provision.

Section 18: Maintenance of Lots and Improvements. Owners of Lots shall keep or cause to be kept all buildings, fences, and other structures and all landscaping located on their property in good repair. Rubbish, refuse, garbage, and other solid, semi-solid, and liquid waste shall be kept within sealed containers, shall not be allowed to accumulate on any Lot, and shall be disposed of in a sanitary manner. No Lot shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, and sanitary condition and shall be stored inside a garage or other approved structure. No trash, litter, or junk shall be permitted to remain exposed upon any Lot and visible from adjacent streets or other Lots. Burning of trash on any Lot shall be prohibited. No lumber or other building materials shall be stored or permitted to remain on any Lot unless screened from view from other Lots and from the streets, except for reasonable storage during construction.

Section 19: Trash Removal. Rubbish, refuse, garbage, and other solid, semi-solid, and liquid waste shall be kept within sealed containers, shall not be allowed to accumulate on any Lot, and shall be disposed of in a sanitary manner. No Lot shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, and sanitary condition and shall be stored inside a garage or other approved structure. No trash, litter, or junk shall be permitted to remain exposed upon any Lot and visible from adjacent streets or other Lots. Burning of trash on any Lot shall be prohibited. No lumber or other building materials shall be stored or permitted to remain on any Lot unless screened from view from other Lots and from the streets, except for reasonable storage during construction.

Section 20: Nuisance. Nothing shall be done or permitted on any Lot which is or may become a nuisance. No obnoxious or offensive activities or commercial businesses or trades shall be conducted on any Lot, except home occupations as defined and permitted by the applicable zoning resolution of the governmental entity having jurisdiction over the Common Interest Community.

Section 21: Household Pets. Household pets, such as dogs and cats, shall be permitted on any Lot, not to exceed four (4) pets total (two [2] of which may be dogs). Said pets shall be restricted by leash or chain or confined by fence within the Lot or properly trained and at all times within the control of and controlled by the Lot Owner. Household pets may not be kept, bred, or maintained on any Lot for commercial purposes. A chain-link dog run may be installed on a Lot; provided, however, that the dog run is located behind a five-foot (5') redwood or cedar privacy fence.

Section 22: Damage or Destruction of Improvements. In the event any Residence or other structure constructed on a Lot is damaged, either in whole or in part, by fire or other casualty, said Residence or other structure shall be promptly rebuilt or remodeled to comply with this Declaration; or in the alternative, if the Residence or other structure is not to be rebuilt, all remaining portions of the damaged structure, including the foundation and all debris, shall be promptly removed from the Lot, and the Lot shall be restored to its natural condition existing prior to the construction of the Residence or other structure.

Section 23: Storage Tanks and Containers. No elevated tanks of any kind shall be erected, placed, or permitted to remain on any Lot unless such tanks are screened from view from other Lots and from the streets by fencing or landscaping in a manner approved by the Architectural Control Committee. All air-

conditioning, refrigeration, cooling, heating, or other mechanical equipment or system which is located outside of a Residence or other structure on a Lot shall be screened from view from other Lots and from the streets by fencing or landscaping approved by the Architectural Control Committee.

#### **ARTICLE X. DRAINAGE**

Section 1: Acknowledgement. The soils within the state of Colorado consist of both expansive soils and low-density soils which will adversely affect the integrity of the Residence if the Residence and the Lot on which it is constructed are not properly maintained. Expansive soils contain clay minerals which have the characteristic of changing volume with the addition or subtraction of moisture, thereby resulting in swelling and/or shrinking soils. The addition of moisture to low-density soils causes a realignment of soil grains, thereby resulting in consolidation and/or collapse of the soils.

Section 2: Moisture. Each Owner of a Lot shall use his or her best efforts to assure that the moisture content of those soils supporting the foundation and the concrete slabs forming a part of the Residence constructed thereon remain stable and shall not introduce excessive water into the soils surrounding the Residence.

Section 3: Grading. Each Owner of a Lot shall maintain the grading and drainage patterns of the Lot as indicated in the subdivision plans on file with the Planning Office of The City of Greeley, Colorado.

Section 4: Water Flow. The Owner of a Lot shall not impede or hinder in any way the water falling on the Lot from reaching the drainage courses established for the Lot and the Common Interest Community.

Section 5: Action by Owner. To accomplish the foregoing, each Owner of a Lot covenants and agrees, among other things:

- (a) **Not** to install improvements, including, but not limited to, landscaping, items related to landscaping, walls, walks, driveways, parking pads, patios, fences, additions to the Residence, outbuildings, or any other item or improvement which will change the grading of the Lot. The installation of such improvements is acceptable so long as the manner of installation is consistent with, and does not change, the grading and drainage patterns of the Lot.

- (b) To fill with additional soil any back-filled areas adjacent to the foundation of the Residence and in or about the utility trenches on the Lot in which settling occurs to the extent necessary from time to time to maintain the grading and drainage patterns of the Lot.
- (c) **Not** to water the lawn or other landscaping on the Lot excessively.
- (d) **Not** to plant flower beds (especially annuals) and vegetable gardens adjacent to or within three (3) feet of the foundation and slabs of the Residence.
- (e) If evergreen shrubbery and grass is used within five (5) feet of the foundation walls, to water the shrubbery and grass by controlled hand watering and to avoid excessive watering.
- (f) To minimize or eliminate the installation of piping and heads for sprinkler systems within five (5) feet of foundation walls and slabs.
- (g) To install any gravel beds in a manner which will assure that water will not pond in the gravel areas, whether due to nonperforated edging or due to installation of the base of the gravel bed at a level lower than the adjacent lawn.
- (h) To install a moisture barrier (such as polyethylene) under any gravel beds.
- (i) To maintain the gutters and downspouts which discharge water into extensions or splash blocks by assuring that (i) the gutters and downspouts remain free and clear of all obstructions and debris; (ii) the water that flows from the extension or the splash block is allowed to flow rapidly away from the foundation and/or slabs; and (iii) the splash blocks are maintained under sill cocks.
- (j) To re-caulk construction joints opening up between portions of the exterior slabs and garage slabs in order to thereby seal out moisture.

Section 6: Disclaimer. The Declarant shall not be liable for any loss or damage to the Residence caused by, resulting from, or in any way connected with soil conditions on any Lot.

## **ARTICLE XI. GENERAL PROVISIONS**

Section 1: Enforcement. Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such judicial proceeding shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such judicial proceedings may be prosecuted by an Owner, by the Architectural Control Committee, or by the Association. In the event it becomes necessary to commence an action to enforce this Declaration, the court shall award to the prevailing party in such litigation, in addition to such damages as the Court may deem just and proper, an amount equal to the costs and reasonable attorney's fees incurred by the prevailing party in connection with such litigation. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration.

Section 2: Duration. This Declaration shall run with the land, shall be binding upon all persons owning Lots and any persons hereafter acquiring said Lots, and shall be in effect in perpetuity unless amended or terminated as provided in the Act.

Section 3: Amendment. Except in the case of amendment of this Declaration by the Declarant as provided in Article V and Article VI hereof or amendment of this Declaration as provided in the Act and except as limited by 38-33.3-217(4) of the Act, this Declaration may be altered or amended at any time by the then record Owners of sixty-seven percent (67%) or more of the Lots so elect through a duly written and recorded instrument.

Section 4: Management of the Common Areas. The Association may obtain and pay for the services of a managing agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper management, operation, and maintenance of the Common Elements; provided, however, that any contract in regard to the hiring or employing of such a managing agent or other personnel shall not be for a term in excess of three (3) years and shall provide that the same shall terminate on sixty (60) days' written notice, with or without cause, and without payment of any termination fee.

## **ARTICLE XII. MORTGAGEE PROTECTION**



Section 1: Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain Security Interests and others as identified in Section 2. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 2: Percentage of Eligible Mortgagees. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean the approval or consent of Eligible Mortgagees holding Security Interests in Lots which in the aggregate have allocated to them such specified percentage of votes in the Association as compared to the total allocated to all Lots then subject to Security Interests held by Eligible Mortgagees.

Section 3: Notices of Actions. The Association shall give prompt written notice to each Eligible Mortgagee and Eligible Insurer of (and each Lot Owner hereby consents to and authorizes such notice):

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Lot in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, as applicable;
- (b) Any delinquency in the payment of Common Expense assessments owed by a Lot Owner whose Lot is subject to a first Security Interest held, insured, or guaranteed, by such Eligible Mortgagee or Eligible Insurer, as applicable, which 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 Eligible Mortgagees as specified in Section 4 below; and
- (e) Any judgement rendered against the Association.

Section 4: Consent and Notice Required.

- (a) Document Changes. Notwithstanding any requirement permitted by this Declaration of the

Act, no amendment of any provision of the Documents by the Association or Lot Owners described in this Subsection may be effective without notice to all Eligible Mortgagees and Eligible Insurers, as required by Section 3 above, and the vote of at least sixty-seven percent (67%) of the Lot Owners (or any greater Lot Owner vote required in this Declaration or the Act) and until approved by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by this Declaration) which affect or modify:

- (1) Voting rights;
- (2) Assessments, assessment liens or priority of assessment liens;
- (3) Reserves for maintenance, repair and replacement of Common Elements;
- (4) Responsibility for maintenance and repairs;
- (5) Reallocation of interest in the Common Elements;
- (6) Redefinition of boundaries of Lots, except that when boundaries of only adjoining Lots are involved, or a Lot is being subdivided, then only those Lot Owners and the Eligible Mortgagees holding Security Interests in such Lot or Lots need approve such action;
- (7) Convertibility of Lots into Common Elements or Common Elements into Lots;
- (8) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (9) Insurance or fidelity bonds;
- (10) Leasing of Lots;
- (11) Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;
- (12) A decision by the Association to establish self-management when professional management

had been required previously by the Document or any Eligible Mortgagee;

(13) Any provision that expressly benefits mortgage holders, insurers or guarantors.

(b) Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions other than rights reserved to the Declarant as Special Declarant Rights, without the notice to all Eligible Mortgagees, and Eligible Insurers as require by Section 3 above, and approval of at least fifty-one percent (51%) (or the indicated percentage) of the Eligible Mortgagees:

- (1) Convey or encumber the Common Elements or any portion thereof, where an eighty percent (80%) Eligible Mortgagee approval is required. (The granting of permanent easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause);
- (2) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation, as to which sixty-seven percent (67%) of the Votes of Eligible Mortgagees is required;
- (3) The granting of any permits, easements, leases, licenses, or concessions through or over the Common Elements; excluding, however, any utility, road, or other easements serving or necessary to serve the Common Interest Community; and excluding any permits, leases, licenses, or concessions for no more than five (5) years;
- (4) The establishment of self-management when professional management has been required previously by the project's documents or by any Eligible Mortgagee.
- (5) The merger of the Common Interest Community with any other common interest community.

- (6) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
- (7) Any action taken not to repair or replace the damaged improvements on the Common Elements.
- (c) The failure of an Eligible Mortgagee or Insurer to respond within thirty (30) days to any written request of the Association delivered by certified or registered mail, "return receipt requested" for approval of an addition or amendment of the Documents wherever Eligible Mortgagee or Insurer approval is required, shall constitute an implied approval of the addition or amendment.
- (d) The approval requirements of this Section 4 do not apply to amendments effected by the exercise of any Special Declarant Rights, Additional Reserved Rights, or Expansion and Development Right.

Section 5: Development Rights. No Development Rights may be exercised or voluntarily abandoned or terminated by the Declarant unless all persons holding Security Interests in the Development Rights consent to the exercise, abandonment, or termination.

Section 6: Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books and records, and financial statement. The Association shall permit any Eligible Mortgagee or Eligible Insurer to inspect the books and records of the Association during normal business hours.

Section 7: Financial Statements. The Association shall provide any Eligible Mortgagee or Eligible Insurer who submits a written request, a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited or shall be reviewed by an independent certified public accountant if:

- (a) The Common Interest Community contains fifty or more Lots, in which case the cost of the audit shall be a Common Expense; or
- (b) An Eligible Mortgagee or Eligible Insurer request it, in which case the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 8: Enforcement. The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

Section 9: Attendance at Meetings. Any representative of an Eligible Mortgagee or Eligible Insurer may attend and address any meeting which a Lot Owner may attend.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

Colorado

L. J. SCHUSTER, LLC, a  
limited liability company

BY: \_\_\_\_\_ Leo J. Schuster, Manager

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF LARIMER    )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1999, by LEO J. SCHUSTER, Manager of L. J. SCHUSTER, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

EXHIBIT "A"

Legal Description of the Real Estate

EXHIBIT "B"

Legal Description of the Development Property