

REVISED
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
OF
THE PARK AT KISSING CAMELS ESTATES

THIS REVISED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of The Park at Kissing Camels Estates (hereinafter "Revised Declaration") is to be effective as of the date on which it is recorded.

WITNESSETH:

WHEREAS, the property described in Exhibit "A" attached hereto (hereinafter called the "Property") was subject to a certain Declaration of Covenants, Conditions and Restrictions of The Park at Kissing Camels Estates dated March 10, 1981, and recorded with the Clerk and Recorder of El Paso County, Colorado, in Book 3451, at Page 906 et_ seg., wherein Camels Ridge Development Corporation was the Declarant, and the First National Bank of Colorado Springs recorded an Amended and Restated Declaration of Covenants, Conditions and Restrictions of The Park at Kissing Camels Estates on October 13, 1984, in Book 3929 beginning at Page 416 of the El Paso County real property records (both of these declarations are hereinafter collectively called the "Prior Declaration");

WHEREAS, as Section 7 of Article XI allows the Prior Declaration to be amended by an instrument signed by not less than seventy-five percent (75%) of the Members; and

WHEREAS, at least seventy-five percent (75%) of the Members, as shown by their signatures on the CONSENT OF OWNERS attached hereto and incorporated herein by this reference, have approved this Revised Declaration, which amends and restates the prior Declaration.

NOW, THEREFORE, the undersigned Owners hereby declare that the prior Declaration is hereby amended, restated and revised in its entirety and that all of the Property, as hereinafter described, with all appurtenances, facilities and Improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, and assigns.

ARTICLE I
DEFINITIONS

Section 1.1 "Association" shall mean and refer to The Park at Kissing Camels Estates Homeowners Association, a Colorado nonprofit corporation, organized under the laws of the State of Colorado, its successors and assigns.

Section 1.2 "Owner" means any person, corporation, partnership, association, contract seller or other legal entity or any combination thereof, who owns the record fee simple interest, in one or more Lots, and shall include the purchaser under any executory land sales contract wherein the Administrator of Veterans Affairs is seller, whether recorded or not, and whether owned by said Administrator or his assigns. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any other Lot merely as security for the performance of an obligation, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 1.3 "Property" shall mean and refer to that certain real property described on Exhibit "A" hereto, together with all appurtenances thereto and all improvements now or hereafter thereon.

Section 1.4 "Improvement" shall mean any thing or device, including related improvements, such as accessory buildings, painting, fences, trees and landscaping, the placement of which upon any building site might affect its architectural appearance, including by way of illustration and not limitation, any dwelling, building, garage, porch, shed, greenhouse, driveway, walk, patio, swimming pool, tennis court, fence, wall, tent, covering, antenna, mailbox, solar collector or outdoor lighting.

Section 1.5 "Common Area" shall mean and refer to all that certain real property which is described on Exhibit "B" attached hereto and incorporated herein by this reference.

Section 1.6 "Lot" shall mean and refer to any of the lots shown on any recorded plat of the Property, together with all appurtenances thereto and improvements now or hereafter thereon.

Section 1.7 "Declarant" shall mean and refer to the Association, its successors and assigns. "Prior Declarant" shall mean and refer to either Camels Ridge Development Corporation or the First National Bank of Colorado Springs, their agents, employees, contractors, successors and assigns, as appropriate.

Section 1.8 "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.9 "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the real property records of the office of the Clerk and Recorder of El Paso County, Colorado, and by which a Lot or any part thereof is encumbered.

Section 1.10 "First Mortgage" shall mean a Mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First Mortgage.

Section 1.11 "Mortgagee" means any person or entity, or any successor or assign thereof, which holds or owns a Mortgage. The term shall also include the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not, but if not recorded, then written notice thereof shall be delivered to the Secretary of the Association.

Section 1.12 "Architectural Control Committee" shall mean the committee of three or more persons appointed by the Board to review and approve the plans for all improvements constructed on the Property.

Section 1.13 "Townhome" shall mean an attached or detached single family residential dwelling improvement constructed and located upon a Lot.

Section 1.14 "Board" shall mean the Board of Directors of the Association.

ARTICLE II PROPERTY RIGHTS IN THE COMMON AREA

Section 2.1 Title to the Common Area. The Common Area was conveyed to the Association by the Prior Declarant contemporaneously with the recording of the Prior Declaration and has been owned by the Association, subject to the provisions of this Revised Declaration and the Association's Amended and Restated Articles of Incorporation, Revised Bylaws and rules and regulations.

Section 2.2 Nondivision of Common Area. The Common Area shall remain undivided and shall not be subject to partition by the Owners. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action deigned to cause a division of the Common Area. Each Owner specifically agrees not to institute any action therefore. Further, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the parties violating the same,

the actual attorney fees, costs and other damages which the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and management of the Common Area. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Lot between the Owners thereof, but such legal partition shall not affect any other Lot, nor shall any such partition sever any part thereof from such Lot as a whole.

Section 2.3 Owners' Common Area Easement of Enjoyment. Subject to the limitations and restrictions of this Revised Declaration, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, including without limitation the right of ingress and egress to and from the Owner's Lot, and such easement shall be appurtenant to and shall pass with the title to every Lot without the necessity of additional reference.

Section 2.4 Extent of Owners' Common Area Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to enforce the restrictions contained in Article VII of this Revised Declaration and to promulgate and publish rules and regulations which each Owner, his family members, guests, tenants and contractors shall strictly comply with, including but not limited to the right of the Association to establish reasonable charges for the use of all or a portion of the Common Area if deemed necessary.

(b) The right of the Association, as provided in its Amended and Restated Articles of Incorporation and Revised Bylaws, to suspend the voting rights and the right of an Owner to the use of any Association facilities within the Common Area for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations.

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

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for public or utility purposes, subject to the provisions of Article X hereof and subject to such conditions as may be imposed by the public entity, for example, if any interior streets are private and have not been built to City or County specifications and so might not be accepted by them.

(e) The right of the Association to borrow money for the purpose of improving the Common Area and, with written consent of seventy-five percent (75%) of the Members entitled to vote, to mortgage all or part of the Common Area as security for any such loan.

(f) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure.

Section 2.5 Other Easements.

(a) Utility Easements. Notwithstanding any provision of this Revised Declaration to the contrary, the Association, acting through the Board, reserves the right to create, grant and transfer nonexclusive easements in, under, over, across, through and upon the Common Area for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including but not limited to any gas, electric, water or sewer line, mains or laterals, any telephone and cable television lines, any heating or cooling installations, any master television antenna system and any other necessary and related facilities. The foregoing easements shall include, without limitation, the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and easements; all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Association shall have the right to grant such easement on the Property without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the Property, including but not limited to any easement granted in the recorded subdivision map. The Association shall thereupon perform any and all duties imposed by such easement and agreements, including without limitation the cost of any repairs, relocation or maintenance imposed thereby.

(b) Association Easement. A nonexclusive easement is hereby granted to the Association, its officers, agents, employees and assigns upon, across, over, in and under the Common Area and any Lot as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Revised Declaration or otherwise, including without limitation, any maintenance required or permitted hereunder, and inspection, maintenance, repair, replacement, construction or reconstruction of any facilities on the Common Area.

(c) Emergency Easement. A nonexclusive easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties.

(d) Common Wall Easement. Each Owner, his agents and contractors are granted a nonexclusive easement for the purpose of maintenance, construction, reconstruction and repair, in over, under and upon adjacent Lots and in and upon adjacent Townhomes for purposes of common wall repair or maintenance, in accordance with Section 5.5, upon reasonable notice to the Owners thereof. Any damage occasioned to the adjacent Lot or improvements, including the dwelling unit thereon, in exercising said easement shall be the responsibility of the Owner whose negligent or wrongful acts or omissions caused such damage.

(e) Exterior Wall Easement. Each Owner, his agents and contractors are granted a nonexclusive easement in, over, under and upon the adjacent Common Area and Lot for the purpose of maintenance, construction, reconstruction and repair of any exterior wall on such Owner's Lot, provided, however, that such Owner shall be liable for any damage to the Common Area or Lot, which shall be restored to its condition prior to such work.

(f) Easement for Encroachments. If any part of the Common Area or any Common Area improvement or structure encroaches upon a Lot or Lots, a valid easement for such encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Lot or any Townhome, or other structure related thereto encroaches upon the Common Area, or upon any adjoining Lot or Lots, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. In the event that a Townhome or structure related thereto is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the Townhome due to such construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Townhome or related structure constructed on the Property, by error in the plat, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof. Such encroachments and easements shall not be considered or construed to be title defects or encumbrances either on the Common Area or on the Lots. In interpreting any and all provisions of this Revised Declaration, subsequent deeds, Mortgages, or other security instruments relating to Lots and Townhomes, the actual location of a Townhome, and related structures, shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Lot, Townhome, and related structure, as indicated on the plat. Notwithstanding the foregoing, the Owner of a Lot shall not hereafter construct any encroachment upon any other Lot or the Common Area without the prior written approval of the Board.

(g) Easement for Foundations. Owners of adjoining Lots shall have mutual easements of horizontal and vertical support for the foundations on which adjacent walls or their Improvements rest, and similar easements for support from the Common Area, and benefiting the Common Area shall also exist.

(h) Easement for Ingress and Egress. Each Owner, his agents and guests are hereby granted a nonexclusive easement over the Common Area for the purpose of vehicular and pedestrian ingress to and egress from such Owner's Lot. If any of the streets or roadways upon the Property are private streets, the Association, acting through the Board, shall have the right to relocate any portion of them, but only if it provides all Owners with reasonable access to their Lots, and the Association, acting through the Board, may also dedicate any portion of any private street or roadway upon the Property as a public right-of-way, in which case, if accepted by a public entity, the Association's obligations for repair and maintenance of the road shall cease.

Section 2.6 Delegation of Use. Any Owner may delegate, in accordance with the Revised Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, his guests, or contract

purchasers who reside on his Lot. Each Owner shall, to the maximum extent permitted by law, be liable for any damage done to the Common Area by his family, tenants, guests, contractors, or contract purchasers and for any breach of the Association's rules and regulations by such persons.

Section 2.7 Nondedication of Common Area. The Association, in recording this Revised Declaration, continues the designation of certain areas of land as Common Area intended for the common use and enjoyment of Owners for access, recreational and other related activities. The Common Area is not dedicated hereby for use by the general public, but is dedicated to the common use and enjoyment of the Owners, as more fully provided in this Revised Declaration.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Membership. Every Owner of a Lot, which is subject to assessment hereunder shall be a Member of the Association as provided in this Revised Declaration, the Amended and Restated Articles of Incorporation and the Revised Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership.

Section 3.2 Voting Rights. Each membership shall be entitled to one (1) vote for each Lot owned. When more than one 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 vote be cast with respect to any such Lot. Any corporation, partnership or other legal entity, which is an Owner, may designate a person to act on its behalf to exercise all rights of a Member or Owner, including without limitation, the right to serve as a member of the Board of Directors of the Association. Any vote, approval or consent of Owners or First Mortgagees or both under this Revised Declaration shall be based upon one (1) vote per Lot.

Section 3.3 Nonliability of Association and Others. The Board of Directors, the officers and committees of the Association, but not including its independent contractors or managing agents, shall not be liable in damages or otherwise to any person whatsoever for any act or omission done as an officer, director, agent or representative on behalf of the Association, except for willful misconduct done in bad faith or gross negligence and shall be indemnified from all such liability as provided in the Association's Revised Bylaws.

Section 3.4 Association's Membership in Kissing Camels Property Owners Association ("KCPOA") The Association shall apply for, and if admitted, shall become a member of the KCPOA. As a result of such membership, the Association may be subject to an assessment which shall in turn be levied upon the Members as a part of the annual assessment pursuant to Sections 4.3 through 4.5 herein.

ARTICLE IV COVENANT FOR ASSESSMENTS

Section 4.1 Creation of the Obligation for Assessments. Each Owner, for each Lot owned within the Property, by acceptance of a deed therefore, or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines, and other sums which are described in this Revised Declaration and which shall be both a personal obligation of the Owner and a lien against his Lot as provided herein. Each Owner shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees and other sums attributable to them and/or their Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by nonuse of the Common Area or the facilities contained therein, by abandonment or leasing of his Lot, or by asserting any defenses, matters or claims against the Association, the Prior Declarant or any other person or entity. In addition to the foregoing assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Lot, as well as all charges for separately metered utilities servicing his Lot. The charges for any utilities which are master metered, if any, shall be included in the annual common expense assessments levied by the Association.

Section 4.2 Purpose of Assessments. 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 Area and the Lots as more specifically provided herein, including without limitation, maintenance of the exteriors of the Townhomes as more specifically provided herein.

Section 4.3 Annual Assessments. The annual assessment shall comprise of an assessment for the Operating Fund and the Reserve Fund. The annual assessment for the Operating Fund shall include all expenses, to the extent that such expenses are the responsibility of the Association, as more specifically provided herein, and shall include, but shall not be limited to the following common expenses:

- (a) maintenance expenses;
- (b) irrigation system maintenance;
- (c) common utilities;
- (d) insurance;
- (e) annual assessment of the KCPOA;
- (f) administrative expenses, such as wages, legal and accounting fees;
- (g) creation of reasonable contingency and replacement funds;

(h) any other costs, expenses and fees which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Revised Declaration.

The Association shall also have authority, to the extent it deems proper, to provide any other services requested by particular Owners, but only on a contract basis under which those Owners pay the cost thereof. The Association may enter into cooperative arrangements for provision of services with other homeowner associations in the surrounding area and may assume responsibility for that part of the cost fairly attributable to this Property.

Section 4.4 Fixing Assessments. For the fiscal year ended June 30, 1998, the baseline annual assessment shall be \$4,056.00 for developed Lots and \$1,050.00 for vacant Lots. Each year thereafter the Association's Board of Directors shall fix the annual assessment at an amount deemed sufficient to meet the needs of the Association, including without limitation, adequate reserves and contingency funds.

Section 4.5 KCPOA Assessment. As a part of the annual assessment authorized above, the Association may levy, in any assessment year an amount equal to a pro rata share of the assessment levied upon the Association by the KCPOA. The pro rata share shall be a uniform charge for all Lots, as set forth in Section 4.8 herein, sufficient to meet the total assessment levied upon the Association by the KCPOA.

Section 4.6 Special Assessments. In addition to the annual assessment 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 an emergency situation or of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures related thereto, and any Improvements and fixtures upon any Lot.

Section 4.7 Procedure for Assessment Under Section 4.6. Any assessment under Section 4.6 of this Article shall be made pursuant to the procedures for special assessments set forth in the Revised Bylaws of the Association.

Section 4.8 Amount of Assessment. Except as provided herein, both annual and special assessments must be fixed at an equal, uniform rate and amount for each and every Lot, sufficient to meet the expected needs of the

Association, provided however, any Lots, which are vacant, may, at the discretion of the Board of Directors, be assessed or charged an amount not less than twenty-five percent (25%) of the annual and special assessment or other charge rate for the other Lots.

Section 4.9 Assessment Procedure.

(a) Annual Assessments. No later than fifteen (15) days before the beginning of each annual assessment period, the Board of Directors of the Association shall set the total annual assessments based upon an advance budget of the operating fund and reserve fund requirements needed by it to satisfy the expected annual needs of the Association in order to provide services to the Owners, provide maintenance as specified in this Revised Declaration, accumulate reserve funds, and in general provide for the administration and performance of its duties during the following assessment year. The annual assessments shall be payable in quarterly installments (the "quarterly assessment") on the first day of each calendar quarter, unless the Board otherwise directs. The Association shall cause to be prepared, delivered or mailed to each Owner, at least ten (10) days in advance of each annual assessment period, a statement setting forth the annual and quarterly assessments.

(b) Special Assessments and Other Sums. Special assessments and other sums imposed hereunder shall be due and payable on the date specified by the Board in written notice to each Owner, but such date shall not be less than ten (10) days after such notice is sent. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenant, contractor, or guests, or any breach by any of such parties of any of the provisions of this Revised Declaration, the Association's Revised Bylaws or the Association's rules and regulations, and the same is not paid for by insurance, or in the event that the Board imposes any fine, the sum thereof shall be deemed to be a special assessment against such Owner and his Lot and shall be enforceable as provided herein, except that such assessment shall not require any vote of the Members nor require an equal, uniform rate of assessment.

(c) Notice. Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the Owner or his Lot for such assessment, but if notice is not given, the date when payment shall be due shall be deferred to a date after such notice is given.

Section 4.10 Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as to any lien hereunder as of the date of its issuance, except for bad faith or notice or knowledge to the contrary.

Section 4.11 Effect of Nonpayment of Assessments-Remedies of the Association.

(a) General. Any assessments, which are not paid when due, shall be delinquent. If any assessment is not paid when due, the Association may impose a late charge/administrative fee for each delinquent assessment. The amount of the late charge shall be as set forth in the rules and regulations of the Association. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot, and/or may suspend the delinquent Owner's right to vote and the right to use the Common Area. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorneys' fee, together with the expenses, late charges and costs of the action.

(b) Lien. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation with interest thereon at the rate of eighteen percent (18%) per annum, an administrative charge per unpaid assessment or other sum, court costs and all other collection costs, and reasonable attorneys' fees, shall be a charge on the interest of the Owner in that Lot and shall be a continuing, perpetual lien, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made. All payments on an account shall be first applied to interest, the late charge, any costs or fees, and then to the assessment payment first due. The Board may enforce such lien by filing with the Clerk and Recorder of the County in which the Property is located a statement of lien with respect to the Lot, setting forth the purported name of the Owner, the legal description of the Lot, the name of the Association and the amount of delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer or authorized agent of the Association, and notice thereof shall be mailed to the Owner of the Lot, at the address of the Lot or at such other address as the Association may have in its

records for the Owner of the Lot. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorneys' fees, administrative charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the Board may proceed to foreclose the statement of lien in the same manner as provided for in the foreclosure of mortgages under the statutes of the State of Colorado. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from suing the Owner personally liable therefore or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums, which are not fully paid when due, or from exercising any right or remedy.

(c) Authority. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

Section 4.12 Subordination of the lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a First Mortgage of record (including deed of trust). Sale or transfer of any Lot shall not affect the lien for said assessments except that transfer of title to any Lot pursuant to foreclosure of any such First Mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of assessments which became due prior to any such transfer, or foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure. No such transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien thereof, provided, however, that in the event of a foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First Mortgage shall not be liable for the unpaid charges and assessment that accrue prior to acquisition of title, except to the extent of six (6) months of assessments as provided by the Colorado Common Interest Ownership Act (C.R.S. 38-33.3-316).

Section 4.13 Notice to Mortgagees and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under this Revised Declaration and/or the Revised Bylaws of the Association, which is not cured within sixty (60) days, after the Board of Directors has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall grant to each First Mortgagee the right to examine the books and records of the Association at any reasonable time.

Section 4.14 Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Lot subject to this Revised Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

Section 4.15 Exempt Property. The following Property subject to this Revised Declaration shall be exempt from the assessments created herein: (a) all Property dedicated to and accepted by local public authority, and (b) the Common Area.

ARTICLE V MAINTENANCE

Section 5.1 Association Maintenance. It shall be the responsibility of the Association to maintain an attractive appearance of all of the Property by undertaking, to a reasonable extent, the maintenance functions specified in this Section and by enforcing the maintenance obligations of Members as defined by this Revised Declaration. To this end, and subject to any rules of the Association's Board as described in subsection(e) below, it shall be the responsibility of the Association to provide the following maintenance services:

(a) All repair, replacement, improvement and maintenance of the Common Area and all Improvements located thereon.

(b) Maintenance of installed turf grass on all Lots. Such maintenance shall include mowing, irrigating, application of lawn chemicals and such other maintenance as is deemed to create a uniform and pleasing appearance of the individual Lots and the Common Area. The Association's responsibilities shall not extend to the creation of new lawns or to the installation of new or improved irrigation systems on individual Lots.

(c) Prepare (including washing, scraping, caulking and similar preparatory services as needed) and paint the exterior surfaces, of all buildings on the Property. Exclusions:

- fences
- window wells
- screen surfaces
- roof
- front door, deck and patio floor surfaces when the paint color or the material required differs from that being used to paint the exterior surface of the Townhome
- wrought iron fixtures
- light fixtures.

The Association shall paint or restain the exterior of all Townhomes as often as necessary to keep such exterior from having a weather-beaten or worn-down appearance, but at least once every five (5) years.

(d) Maintain driveways on individual Lots, including repaving and sealcoating when and as deemed necessary by the Association.

(e) The Association's Board of Directors, in its sole discretion, may adopt rules and regulations regarding the respective maintenance responsibilities of the Association and the Owners; such rules shall be subject to review by the Owners at their annual meeting.

(f) The Association may also undertake, but shall have absolutely no obligation to undertake, such emergency repairs as the Board of Directors believe necessary to prevent imminent danger to life or property.

(g) The Association may assist Owners in obtaining contractor bids for Townhome exterior repairs and replacements if requested. The Owner is responsible for entering into contracts, accepting work completion and making payments to the contractors, and the Association shall have absolutely no liability or responsibility therefore.

Section 5.2 Willful or Negligent Damage. In the event that the need for maintenance or repair described in Section 5.1 is caused, in the sole determination of the Board through the willful or negligent acts or omissions of any Owner, his family, guests, tenants, contractors, or invitees or other persons or parties acting with the consent of any of the foregoing, including without limitation, pets or animals, the cost of such maintenance shall be the personal obligation of such Owner, shall be added to and become part of the assessment to which the Owner and the Lot of such Owner is subject and shall become a lien against such Owner's interest in the Lot as provided in Article IV of this Revised Declaration.

Section 5.3 Access at Reasonable Hours. For the purpose of performing maintenance referred to in Section 5.1, and inspections related thereto, the Board of Directors of the Association, through its duly authorized agents, contractors, or employees shall have the right to enter upon any Lot and exterior Improvements thereon at reasonable hours on any day, and such entry shall not be deemed a trespass. In performing repairs or maintenance authorized under this Article, the Association shall not be liable for any loss, cost or damage caused by its action, except on account of its gross negligence or willful misconduct

Section 5.4 Owner Maintenance.

(a) Except as provided in Section 5.1, the Owner shall be responsible for any and all maintenance, repairs and replacements, including without limitation, maintenance of his Townhome or his Lot and any doors,

windows, foundations, siding and wood, structural components, roofs, fences, vents, fixtures, furnishings, equipment and appliances located thereon, any patio or deck, brick work, gutters and downspouts. All utilities, fixtures and equipment installed within a Lot, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or utility service, nor do any act nor allow any condition to exist which will adversely affect the use and enjoyment of the other Lots or the provision of utility services to such Lots.

(b) No Owner shall, in whole or in part, change the exterior appearance of his Townhome or Lot or change the landscaping on his Lot by the addition or removal of any item thereon without the prior written approval of the Architectural Control Committee, and such approved landscaping and/or any other improvement installed by an Owner shall be maintained by that Owner. An Owner shall not paint or stain the exterior of his/her Townhome without the prior written approval of the Architectural Control Committee.

(c) Except as provided in subsection (f) of this Section, the individual Owner, shall have total responsibility, including all related costs, for the repair or replacement, or both, of the roof or portion of the roof (in the case of a duplex unit) above that Owner's Townhome. The term roof shall be understood to include, but not be limited to, associated flashings, skylights, vents, shingles, structure, and other portions of the roof.

(d) The Owner shall determine when the Townhome exterior, including roof, is in need of repair or replacement, except in cases where the Townhome exterior is obviously a detriment to the general good appearance of the area and other Townhomes. In that circumstance, the Association's Board of Directors shall determine repair or replacement needs, and the Owner shall comply with the Board's direction.

(e) The Association shall provide detailed specifications for roofing materials and installation to be followed by the Owner. The Association may assist in obtaining contractor bids and awarding contracts, if the Owner desires. The Association may provide contractor supervision during construction and provide inspection and contract approval, provided however, the Association shall not have any responsibility or liability for negligent, defective or wrongful work or construction.

(f) Notwithstanding the provisions of subsections (a), (c), (d) and (e) of this Section, the Association shall continue to maintain insurance coverage upon the Townhomes in accordance with the provisions in the Revised Declaration and Revised Bylaws, and the insurance proceeds shall be used as required by said Revised Declaration and Revised Bylaws.

(g) If an Owner fails to fulfill his responsibilities under this Section, the Board may, at its option, take such action as it deems appropriate, after ten (10) days notice to such Owner, except in emergencies, including without limitation, performing the Owner's obligations, and any costs resulting therefrom shall be an assessment against such Owner and his Lot and shall be due and payable by the Owner thereof.

Section 5.5 Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhomes and which is a common wall between Townhomes on separate Lots shall constitute a party wall, and the adjacent Owners shall hold such wall in common with each other, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. The dividing wall between the Townhomes may be a "two hour fire wall" in lieu of two "one hour fire walls", and all Owners hereby agree that no alterations shall be made to such wall and no penetrations of any kind are permitted in such wall.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and if the Association does not restore such wall with insurance proceeds or a special assessment, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owners

to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provisions of this Section, an Owner who, by a negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5.6 Management Agreements. The Association may enter into agreements for professional management of the Association's business. Each Owner shall be bound by the terms and conditions of any management agreement entered into by the Association. Any agreement for professional management of the Association's business shall provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days prior, written notice, and shall have a maximum term of one (1) year.

ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE

Section 6.1 Composition of Committee. The Architectural Control Committee shall consist of three (3) persons appointed by the Board of Directors of the Association, provided however, the Board may appoint itself to be and constitute that Committee. A majority of the Committee may designate a representative to act for it. It shall be the duty of the Committee, and it shall have the power, by the exercise of its best judgment, to determine that all structures, improvements, construction, decoration and landscaping on the Property conform to and harmonize with the existing surroundings and structures. For convenience, the Architectural Control Committee shall herein sometimes be referred to in this Revised Declaration as the "Committee".

Section 6.2 Review by Committee. No structure, accessory building, tennis court, yard ornament, swimming pool, antennae, flag pole, fence, wall, house number, mail box, exterior lighting, or other improvement shall be constructed or maintained upon the Property, no alteration, restaining, or repainting to the exterior of a Townhome shall be made, no landscaping performed, and no Owner shall change the exterior appearance of the Lot or Townhome nor enclose, by means of screens or otherwise, any balcony, porch or patio, unless complete plans, specifications, and lot plans therefore, showing the exterior design, height, square footage, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Committee, and a copy of such plans and specifications as finally approved, shall be deposited with the Committee.

Section 6.3 Procedures

(a) The Committee shall approve or disapprove all plans and requests within thirty (30) days for modifications and within sixty (60) days for new home construction after such plans and requests have been submitted. In the event the Committee fails to take action within sixty (60) days after plans have been received by the Committee, approval will not be required, and this Article will be deemed to have been fully complied with. A majority vote of the members of the Committee is required for approval or disapproval of proposed Improvements. The Committee shall maintain written records of all applications submitted to it and of all actions taken. In approving or disapproving the plans submitted to it, the Committee shall take into consideration the design, style and construction of the proposed building or alteration, its location upon the Property, the harmony of its design, architecture and location with the terrain and surrounding neighborhood, and shall determine whether such proposed building is consistent with the general terrain, the architecture of other buildings located upon the properties subject to this Revised Declaration and whether or not the construction or alteration of said building will adversely affect or decrease the value of other Lots and/or dwellings because of its design, location, height or type of material used in construction. The Committee may make reasonable requirements of the Owner, including the submission of additional plans, to insure conformance of such building or alteration when erected with these restrictions and covenants and with the plans submitted and approved. All construction or alterations performed on any Lot or the Common Area will conform to the approved plans and specifications. The Committee may require such changes as may be necessary to conform to the general purposes as herein expressed. The Committee shall be responsible for enforcing compliance of the approved plans with these covenants and restrictions.

(b) The Committee shall have authority to grant variances from the provisions of this Revised Declaration in cases of conditions wherein the strict enforcement of these restrictions would result in unusual hardship. Subject to the Provisions of this Section 6.3, the Committee shall be the sole and exclusive judge of whether or not said hardship exists.

(c) Whenever the Committee disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be met by alterations acceptable to the Committee.

(d) All plans submitted to the Committee shall be left on file with the Committee.

(e) It is the intent of this Revised Declaration that the Committee shall exercise broad discretionary powers hereunder, provided however, any decision by the Committee may be appealed to the Board within thirty (30) days of such decision; any decision which is not appealed within that time or any decision by the Board shall be final and conclusive as provided in Section 11.12 of this Revised Declaration.

(f) The Board shall resolve all questions of interpretation under this Article. The provisions of this Article shall be interpreted in accordance with their general purpose and intent as herein expressed.

ARTICLE VII RESTRICTIONS

Section 7.1 General Plan. It is the intention of this Revised Declaration to establish and impose a general plan for the improvement, development, use and occupancy of the Property, all thereof in order to enhance the value, desirability, and attractiveness of the Property and to serve and promote the sale thereof and the use and enjoyment thereof.

Section 7.2 Leases. Any lease agreements between an Owner and a lessee shall provide that the terms of such lease shall be subject in all respects to the provisions of this Revised Declaration, the Amended and Restated Articles of Incorporation, the Revised Bylaws and the rules and regulations of the Association. The Owner shall be obligated to provide copies of such documents to the lessee at the time of consummation of the lease, and the Owner shall have the obligation to enforce compliance by the lessee. Any failure by the lessee to comply with the terms and provisions of such documents shall be a default under the lease. Further, all leases shall be in writing, and a copy thereof shall be provided to the Association upon request. After notice and an opportunity for hearing, the Board of Directors may require an Owner to evict any tenant who has repeatedly violated any provision of this Revised Declaration, the Amended and Restated Articles of Incorporation, the Revised Bylaws, or the rules and regulations. No hotel or transient uses and no time-sharing or other forms of interval ownership will be permitted if such are determined by the Board to result in a pattern of short-term occupancies of a Townhome by several different nonrelated users.

Section 7.3 Residential Use. Each Lot shall be occupied and used as a private dwelling for the Owner, the members of his family, guests and tenants for residential purpose only. All Lots shall be used solely for single-family residential purposes, and no Lot shall be used for any business, manufacturing or commercial purpose whatsoever; provided, however, if the appropriate zoning so allows and if proper written approval of the Board is obtained, an Owner may use a specifically designated portion of his Lot as a home business office, which approval may thereafter be withdrawn or terminated by the Board at any time and may be subject to such conditions as the Board may impose.

Section 7.4 Animals. No horses, cattle, sheep, goats, pigs, snakes, reptiles, insects, birds, fish, rabbits, poultry or other animals of any description shall be kept or maintained on any Lot, except that Owners may keep not more than three domestic animals which are bona fide household pets so long as such pets are not kept for commercial purpose, do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, and are kept in compliance with all existing applicable local ordinances and any rules and regulations of the Association. An Owner, family member, tenant or guest is responsible for any damage caused by his pet and shall be obligated to clean up after his pet while it is on the Property. All pets shall be kept on leash and attended by their owners when present in the Common Area. The Board may institute such rules as it deems advisable

for the control of pets and may impose such fines as are necessary, in its sole discretion, to enforce such rules and this Revised Declaration, including without limitation, prohibitions and restrictions on pets and pet related activities.

Section 7.5 Structures. All buildings or structures erected upon the Property shall be of new construction, and no buildings or structures shall be moved from other locations onto the Property, and no subsequent buildings or structures other than townhome buildings shall be constructed. No temporary house, shed, storage structure, trailer, tent, garage or outbuilding shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any residence be in any manner occupied until made to comply with all requirements, conditions and restrictions herein set forth. The work of constructing, altering or remodeling any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof.

Section 7.6 Signs and Miscellaneous Structures. No advertising or signs of any character shall be erected, placed, permitted or maintained on any Lot other than a name plate of the occupant and a street number. All types of refrigerating, cooling or heating apparatus shall be concealed, except as approved by the Committee.

Section 7.7 Lots to be Maintained. Each Lot at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that same are visible from any neighboring Lot or street. No condition shall be permitted within any Townhome, balcony, porch, patio or deck which is visible from other Townhomes or the Common Area and which is inconsistent with the design and integrity of the Project as determined by the Board in its sole discretion; such conditions include, but are not limited to, window treatments, draperies, shades and hangings, and articles on balconies, porches, patios, decks or Common Area or visible through a window. All drapes, shades, blinds and other window coverings shall be white when viewed from the outside, unless prior written approval of the Committee is obtained.

Section 7.8 Lots Not to be Subdivided. No Lot or Lots shall be subdivided, except for the purpose of combining portions with an adjoining Lot, provided that no additional building site is created thereby. No less than one entire Lot, as conveyed, shall be used as a building site.

Section 7.9 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be permitted upon any Lot or the Common Area which violates federal, state or local laws or regulations, including without limitation, zoning or nuisance laws. No electronic or radio transmitter of any kind shall be operated upon the Property. No aerials, antennae, satellite dishes or comparable electronic devices shall be installed upon the exterior of any Lot or used for the reception or transmission of electronic signals, except for garage door openers and except for small (one meter or less) satellite dishes and telecommunication devices as specifically authorized by the Federal Telecommunications Act of 1996, but all such devices shall be subject to such review and prior approval by the Committee as permitted by law.

Section 7.10 No Hazardous Activities. No activities shall be conducted on the Property which are or might be unsafe or hazardous to any person or property or might cause the cancellation or diminution of insurance or an increase in insurance premiums. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon any of the Property, and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

Section 7.11 No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on any Lot which is noxious or offensive to others.

Section 7.12 Restrictions on Parking and Storage.

(a) Except as specifically authorized by the Board or as permitted in garages or carports, if any, no part of the Property, including but not limited to streets, driveways, or parking areas, and no part of the streets adjoining the Property shall be used as a parking, storage, display or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat, or accessories thereto, truck larger than 3/4 ton, bus, or self-contained motorized recreational vehicle or vehicles similar to any of the foregoing as determined by the Board,

except as provided by the Association's rules and regulations for temporary expedience for loading, delivery or emergency. The Association, if it so desires, may designate within the Property an area where Owners may park trucks, recreational vehicles, towed trailers, boats and similar vehicles, and all such vehicles shall be parked only within that designated area. This restriction, however, shall not restrict trucks or other commercial vehicles within the Properties which are necessary for the construction of Townhomes or the maintenance of the Common Area or Lots or making deliveries or performing services.

(b) No abandoned or unsightly vehicles shall be stored or parked upon any part of the Property or any street adjoining the Property, but excluding any area designated for such purpose by the Board. In the event that the Board shall determine, in its sole discretion, that a vehicle is an abandoned or unsightly vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within seventy-two (72) hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, housetrailer or other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of five (5) days or longer, and "unsightly vehicles" shall include unlicensed, unrepaired, or unkempt vehicles as determined by the Board in its discretion.

(c) Garage doors, if any, shall be kept closed at all times except when in immediate use for ingress or egress of motor vehicles and except when in immediate use for access to public utility meters which shall not be obstructed in any way whatsoever.

Section 7.13 Clotheslines and Storage. Outside clotheslines or basketball hoops and backboards, whether on buildings or free standing, carports, patio covers or similar structures and storage sheds shall not be allowed.

Section 7.14 Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, on the Common Area, or on any Lots unless placed in a suitable container suitably located, solely for the purpose of garbage pickup. All trash and refuse containers, except when placed as noted above for the sole purpose of garbage pickup on a specific day, will be kept inside garages. No garbage or trash cans or receptacles shall be maintained in an exposed and unsightly manner. The burning of trash in outside incinerators, barbecue pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Property. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 7.15 Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers, boats, or vans may be performed on any Lot unless it is done within completely enclosed structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining Lots. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer or motor-driven cycle, together with those activities normally incident and necessary to such washing and polishing.

Section 7.16 Tanks. No tanks of any kind, either elevated or buried, shall be erected, placed or permitted upon any Lot.

Section 7.17 Underground Electric Lines. All electric, television, radio and telephone line installations and connections shall be placed underground, except for power substations and switching stations which shall be adequately screened from view and except for customary surface devices for access or control, and except that during the construction of a residence, the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction and which shall be subject to the Committee's prior written approval.

Section 7.18 Use of Common Area.

(a) No use shall be made of the Common Area which will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Area.

(b) The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

(c) No use shall ever be made of the Common Area which will deny ingress or egress for a substantial period of time to those Owners having access thereon to a public street or to their Lots.

INSURANCE ARTICLE VIII

Section 8.1 Common Insurance. The Association shall obtain and maintain at all times, to the extent reasonably obtainable, insurance policies covering the following risks:

- (a) Casualty. A policy of property insurance covering all insurable personal property owned by the Association, and all insurable Improvements located upon the Common Area and the Townhomes, together with all fixtures and appliances attached thereto, except those items described in Section 8.4 and except for the value of the land, foundation, excavation and other items normally excluded, with a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and including an "Inflation Guard Endorsement" and an "Agreed Amount Endorsement". The Association may also purchase a "Demolition Endorsement" and "Increased Cost of Construction Endorsement" and/or a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:
 - (b) loss or damage by fire and other hazards covered by the standard all risk form, including without limitation, endorsements for vandalism and malicious mischief, and
 - (i) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.
 - (ii) Public Liability. Comprehensive general liability and property damage insurance in such limits as the Board of Directors of the Association may, from time to time, determine, but not in an amount less than \$500,000.00 for bodily injury, per person, per occurrence and umbrella liability limits of \$1,000,000.00 per occurrence covering claims for bodily injury and \$50,000.00 for property damage arising out of one occurrence or \$1,000,000.00 combined single limit coverage. To the extent reasonably obtainable, coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether owned, nonowned or hired) on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Common Area and the Townhomes by the Association, off-premises employee coverage, its officers, directors, agents, employees, representatives and the Owners, water damage liability, contractual liability, and liability for property of others.
 - (iii) Workmen's Compensation. Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.
 - (iv) Fidelity Insurance. The Association shall purchase adequate fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Such policy shall cover any person or entity handling funds of the Association, including, but not limited to, employees of the professional manager and name the Association as the named insured or obligee, and shall also contain endorsements thereto covering any persons who serve the Association without compensation. Such fidelity coverage or bonds shall name the Association as an obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.
 - (v) Officers' and Directors' Personal Liability Insurance. To the extent obtainable, appropriate Officers' and Directors' personal liability insurance shall be obtained by the Association to protect the

Officers and Directors from personal liability in relation to their duties and responsibilities in acting as such Officers and Directors on behalf of the Association.

(vi) Flood. If the Property is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Property in an amount which is the lesser of the maximum amount

of insurance available under the Act or the aggregate replacement value of the improvements located upon the Property.

(vii) Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Project.

Section 8.2 Annual Review. At least annually and prior to obtaining any insurance policy required under Section 8.1, the Board of Directors shall obtain an estimate of the full replacement value of all Improvements on each Lot, including all buildings, fixtures, Improvements and service equipment located thereon, and of the Common Area Improvements including landscaping and underground facilities, without deduction for depreciation, for the purpose of determining the amount of insurance required under that Section. The amount of such insurance shall be shown in the Association's annual report. Upon written challenge by the Owners of three or more Lots that the Association's estimate of maximum replacement value is too low, the Association shall call a special meeting to determine what the insurance coverage will be. In any event, each Owner of a Lot is responsible for the adequacy of the insurance coverage carried for the protection of himself or his Lot, and each Owner may, at his own expense, have the amount or extent of his coverage increased.

Section 8.3 Form of Issuance.

(a) The Property insurance shall be carried in blanket policy form, shall name the Association (pursuant to Section 9.1) as the insured, and shall provide that the proceeds shall be paid to the Association for the benefit of and in trust for the Association, the Owners and their First Mortgagees, as their interests may appear, shall additionally insure and identify the interest of each Owner and the First Mortgagee, and shall provide a standard, noncontributory mortgagee clause in favor of each First Mortgagee which has given the Association written notice of its lien.

(b) To the extent reasonably possible, all insurance policies shall:

(i) be obtained from responsible companies duly authorized and licensed to do insurance business in the State of Colorado, and having a Best's Insurance Report rating of "A" or better;

(ii) provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, and Owners;

(iii) provide that the insurance cannot be canceled, invalidated, or suspended on account of the conduct of the Association, its officers, directors, employees and agents;

(iv) provide for a waiver of any defense based on co-insurance;

(v) provide that the policy of insurance shall not be terminated, canceled or substantially modified without at least thirty (30) days' prior written notice to the Association, the Owners, and the First Mortgagees which have given notice of their liens, and

(vi) provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of a particular Owner guilty of a breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy as to the interest of all

other insured Owners or the Association not guilty of any such act or omission shall not be invalidated or suspended and shall remain in full force and effect.

(c) On written request the Association shall furnish by certificate or otherwise, a copy of any insurance policy, identifying the interest of the Owner in question, to any Owner or First Mortgagee, together with proofs of payment of premiums. Further, the Association may require the insurer to furnish each Owner and First Mortgagee with a certificate of insurance.

(d) Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice. Any loss falling within the deductible portion of the policy shall be borne by the affected Owner.

Section 8.4 Owner's Personal Property and Liability Insurance. Each Owner shall be solely responsible, at his expense, for all insurance covering all loss or damage to any and all fixtures, appliances, furniture, furnishings, or other personal property owned, supplied, maintained or installed by the Owner and also covering liability for injury, death or damage occurring within his Lot. Such insurance shall contain waivers of subrogation and shall be so written that the insurance obtained by the Association shall not be affected or diminished thereby. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance. If at any 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.

ARTICLE IX DAMAGE, DESTRUCTION, CONDEMNATION AND MERGER

Section 9.1 Attorney-in-Fact. All of the Owners and First Mortgagees irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place and stead for the purposes of dealing with the Property in the event of the destruction, damage or condemnation, including the repair, replacement and improvement of any buildings, fixtures, Improvements and service equipment located on the Property (but excluding any furniture, furnishings or other personal property installed by the Owners). Title to and/or the lease of any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any Owner of a deed, lease or other instrument of conveyance from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. The proceeds of any insurance collected shall be available to the Association, in trust and for the sole benefit of the Owner or Owners whose Property was damaged or destroyed and their First Mortgagee, for the purpose of repair, restoration, reconstruction or replacement as provided in this Revised Declaration. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact, to deal with the Property upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by at least two-thirds (2/3's) of the Owners and at least two-thirds (2/3's) of the First Mortgagees; said approval shall be based upon one (1) vote per Lot.

Section 9.2 Damage to Common Area. In the event of damage to or destruction of all or a portion of the Common Area 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 Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Area, the Association shall present to the Members a notice of a special assessment for approval by the membership in accordance with Section 4.6 and 4.7 hereof. If such special assessment is approved, the Association shall levy and collect it as provided by Article IV and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds shall be applied fully to complete such repairs or reconstructions as can be paid for.

Section 9.3 Damage or Destruction of Townhomes.

(a) In the event of damage or destruction to a Townhome due to fire or other insured disaster, the insurance proceeds, if sufficient to reconstruct the Improvements, shall be applied by the Association, as attorney-in-fact, to

such reconstruction, and the Improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the Improvements. Any such repair, restoration or reconstruction shall comply with the requirements for new construction under this Declaration established by the Architectural Control Committee and such construction must be approved by that Committee. The annual assessments set forth in Article IV shall not be abated during the period of insurance adjustments and repair and reconstruction.

(b) If the insurance proceeds are insufficient to repair and reconstruct any or all of the damaged or destroyed Townhomes, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made only against the Owners of the damaged or destroyed Townhomes and their Lots. Such special assessment shall be made by the Board of Directors without a vote of the Owners and shall be a debt of each such Owner and a lien on his Lot and may be enforced and collected as is provided in Article IV. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the Improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment.

(c) Notwithstanding any provision to the contrary, if two-thirds (2/3's) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) and two-thirds (2/3's) of the Owners have given their prior written approval, the Association shall provide that the Owners and First Mortgagees of any or all of the destroyed or damaged Townhomes may agree that such Townhomes shall forthwith be demolished and all debris and rubble caused by such demolition removed from the Lot, and the Lot regraded and landscaped to the satisfaction of the Architectural Control Committee. The cost of such demolition work and landscaping, together with all taxes, liens and encumbrances and any costs in repairing any party walls, shall be paid for by any and all available insurance proceeds, with any deficiency thereof to be paid by the Owner(s) of the applicable Townhome. Any excess insurance proceeds shall then be disbursed to such Owner and his First Mortgagee jointly. If the Association decides, at its option, to purchase the regraded Lot, utilizing the insurance proceeds or other funds, said Owner shall convey merchantable title to his Lot to the Association, free and clear of all liens, encumbrances, assessments, and taxes (except as prorated), for its fair market value as determined by an M.A.I. Appraisal, the cost of which shall be paid by the Owner of the applicable Townhome, with the appraiser thereof to be named by the Association. Upon the Association's acquisition of the Lot, said Lot shall become part of the Common Area.

Section 9.4 Condemnation. In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain, the Common Area, any part thereof or any interest therein, any improvement thereon, or any interest therein, with a value (including loss of value to the balance of the Common Area and Improvements thereof), as reasonably determined by the Association in excess of \$10,000.00, the Association shall give prompt notice thereof, including a description of the part of or interest in the Common Area or Improvement thereon sought to be so condemned, to all First Mortgagees and to all Owners. The Association shall have full power and authority to defend in said proceedings, but the Association shall not enter into proceedings, pursuant to which the Improvement thereon or any part thereof or interest therein is relinquished without giving all First Mortgagees of Lots and all Owners, 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 a part or all of the Common Area, the award made for such taking shall be applied towards the repair and restoration of the Common Area, and the Association shall arrange for the same and shall disperse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that seventy-five percent (75%) or more of the Owners do not duly and promptly approve the repair and restoration of such Common Area, the Association shall disburse the net proceeds of such award jointly to the Owners and their respective First Mortgagees at the rate of one (1) equal share per Lot. No provision of this Revised Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee in the case of a distribution to an Owner of insurance proceeds or condemnation awards for losses to or taking of Lots or Common Area, or both.

Section 9.5 Excess Insurance Proceeds. With the prior written approval of two-thirds (2/3's) of the First Mortgagees (based upon one (1) vote for each First Mortgage held), and two-thirds (2/3's) of the Owners, any insurance proceeds remaining after any repairs or reconstructions are completed shall be paid to each Owner and his

First Mortgagee jointly at the rate of one (1) equal share per Lot. Without such approval, any excess insurance proceeds shall be placed in the Association's reserves.

Section 9.6 Notice of Loss to First Mortgagees. Provided that a First Mortgagee has, in writing, requested the following information with respect to a Lot upon which said First Mortgagee holds the First Mortgage and has furnished the Association with the address to which said First Mortgagee wants the information sent, then in the event that there shall be any damage to or destruction of: (a) any Improvement on the Lot on which such First Mortgagee holds the First Mortgage, which shall be in excess of Ten Thousand Dollars (\$10,000.00) and/or (b) the Common Area which shall be in excess of Ten Thousand Dollars (\$10,000.00), then timely written notice of any such damage or destruction shall be given by the Association to such First Mortgagee.

Section 9.7 Merger. The Association may merge with one or more homeowner's associations in the surrounding area on such terms and conditions as may be agreed to by two-thirds (2/3's) of all Owners and two-thirds (2/3's) of all First Mortgagees. The surviving entity in any such merger or affiliation shall be the Association for purposes of this Revised Declaration.

ARTICLE X ADDITIONAL RESTRICTIONS

Section 10.1 Restrictions Upon Association and Owners. Unless at least two-thirds (2/3's) of the First Mortgagees (based upon one (1) vote for each First Mortgage owned or held) and two-thirds (2/3's) of all Owners have given their prior written approval, neither the Association nor the Owners shall be empowered or entitled to do any of the following:

- (a) by act or omission, seek to abandon or terminate this Revised Declaration or any scheme of architectural control, or enforcement thereof, as set forth in this Revised Declaration, regarding the design or maintenance of the Lots, Improvements thereon, or the Common Area;
- (b) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the Common Area, except for the granting of utility easements as provided by Section 2.5(a) hereof;
- (c) fail to maintain full, current replacement cost, fire and extended insurance coverage on the Lots and Common Area, and such other insurance as is required under this Revised Declaration; or
- (d) use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction of such Improvements as herein provided.

ARTICLE XI GENERAL PROVISIONS

Section 11.1 Acceptance of Provisions of All Documents. The conveyance, acceptance or encumbrance of a Lot or the improvements thereon shall be deemed to include the acceptance of all provisions of this Revised Declaration, the Amended and Restated Articles of Incorporation of the Association and the Association's Revised Bylaws and rules and regulations, all of which shall be binding upon each Owner, his heirs, personal representatives, family, guests, tenants, successors, assigns, and everyone having an interest in the Lot without the necessity of inclusion of an express provision in the instrument of conveyance or encumbrance.

Section 11.2 Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Revised Declaration. In any enforcement action, the Association shall be entitled to recover its reasonable attorney's fees and expenses from the other party. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In addition to all other remedies, the Board of Directors shall have the right, after notice and an opportunity of hearing, to impose upon any Owner a fine in a reasonable amount for a breach of the provisions of this Revised Declaration, the Revised Bylaws and/or the Association's rules and regulations.

Section 11.3 Non-Waiver. Any forbearance or failure to enforce any provisions of this Revised Declaration shall not operate as a waiver of any such provision or of any other provision of this Revised Declaration or of any subsequent enforcement of any such provision. The rights and remedies of the Association are distinct and cumulative to any other right or remedy hereunder or afforded by law, statute or equity and may be exercised concurrently, independently or successively without effect or impairment upon one another.

Section 11.4 Cumulative. Each of these covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

Section 11.5 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 11.6 Conflicts of Provisions. In case of conflict between this Revised Declaration and the Amended and Restated Articles of Incorporation or the Revised Bylaws, this Revised Declaration shall control.

Section 11.7 Duration and Amendment. Each and every provision of this Revised Declaration shall be binding upon each and every Owner, his heirs, successors, assigns and personal representatives and shall run with and bind the land for a term of twenty (20) years from the date of recording of this Revised Declaration, after which time this Revised Declaration shall be automatically extended for successive periods of ten (10) years each. This Revised Declaration may be amended, modified or terminated by an instrument signed by not less than seventy-five percent (75%) of all Owners, whose approval shall be duly certified by an officer of the Association and duly recorded in the office of the Clerk and Recorder of the county in which the Property is located; provided however, (a) that any section in this Revised Declaration which requires a particular percentage of Owners and/or Mortgagees may be amended only by written consent of that percentage of those parties, (b) that this Section may be amended by an instrument signed ninety percent (90%) of all Owners, and one hundred percent (100%) of all First Mortgagees who have given the Association notice of their lien, and (c) that the Association's Board of Directors hereby reserves the right to a make such amendments without vote of the Owners, as may be required to correct any typographical or clerical error, or to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association. Each Owner and each Mortgagee by accepting a deed, mortgage or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power by the Board to make, execute and record any such amendments.

Section 11.8 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for routine notices, all other notices or demands intended to be served upon an Owner shall be either hand delivered to the Owner's Lot or sent by either first class 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 Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the registered agent of the Association at his address filed with the Secretary of State of the State of Colorado, together with a copy addressed to the Secretary of the Association at his registered address.

Section 11.9 Effect of Revision. Upon the recording hereof, this Revised Declaration shall entirely and completely replace, supersede, restate, and amend the Prior Declaration.

Section 11.10 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 11.11 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of the Revised Declaration nor the intent of any provisions hereof.

Section 11.12 Board to Resolve Ambiguities. If any doubt or question shall arise concerning the true intent or meaning of any of this Revised Declaration, the Board of Directors of the Association shall, by resolution, determine the proper construction of the provision in question and such resolution shall fix and establish the meaning, effect and

application of the provision. The Board's decision shall be final, conclusive and binding on all parties, except for gross negligence and willful misconduct.

Section 11.13 Governing Law. This Revised Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with the statutes and laws of the State of Colorado.

IN WITNESS WHEREOF, the Association and undersigned Owners hereunto set their hands and seals as of the day and year written below.

THE PARK AT KISSING CAMELS ESTATES HOMEOWNERS" ASSOCIATION, a Colorado non-profit corporation

President

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 27th day of August, 1998 by James E. Christopherson as President respectively of The Park at Kissing Camels Estates Homeowners Association.

Witness my hand and official seal.
My commission expires: 5-5-2002

Notary Public

EXHIBIT "A"

THE PARK AT KISSING CAMELS, Filing No. 2, according to the plat thereof recorded in Plat Book V3, at Page 156, El Paso County, Colorado, except Tract "B" shown thereon.

EXHIBIT "B"

Tract "A" in THE PARK AT KISSING CAMELS ESTATES, Filing No. 2, according to the plat thereof recorded in Plat Book V3, at Page 156, El Paso County, Colorado.

**CONSENT/CERTIFICATE
OF THE BOARD OF DIRECTORS OF
THE PARK AT KISSING CAMEL ESTATES HOMEOWNERS ASSOCIATION**

This Consent of the Board of Directors of The Park at Kissing Camel Estates Homeowner's Association, Inc., (the "Association"), is to be effective when duly signed. The undersigned constitute all the members of the Board of Directors.

All of said Board of Directors have agreed and consented that the action of the Board of Directors be adopted as of the date set forth below and have waived, pursuant to Section 7-23-110 of the Colorado Revised Statutes (1973), all notice whatsoever of such meeting. All of said Board of Directors have agreed and consented that any and all lawful business transacted hereby, shall be valid and legal and of the same force and effect as if a meeting were held after notice.

Upon motion duly made, seconded and carried unanimously, the Board of Directors adopted the following resolutions:

RESOLVED, the Revised Declaration to which this consent is attached, is hereby adopted and approved by the Board of Directors and declared to supersede all prior Declarations and Amendments.

FURTHER RESOLVED, the President and Secretary are hereby authorized and directed to sign and record the said Revised Declaration.

FURTHER RESOLVED, that the Association hereby certifies that at least seventy-five (75%) percent of the members have approved said Revised Declaration as shown by the ballots attached hereto and the originals of which shall be placed in the Association's books and records.

APPROVED :

BOARD OF DIRECTORS :

CERTIFICATE OF RESOLUTION

Edw T Long, Secretary of The Park at Kissing Camel Estates Homeowner's Association, Inc. (the "Association"), hereby certify that the foregoing is a full, true, and correct copy of a consent of the Board of Directors of the Association, duly and regularly passed and adopted by unanimous consent of all of the Board of Directors of the Association as required by law.

In witness whereof, I have set my hand as such secretary, and affixed the seal of the Association.

DATED this 1st day of Aug 1998.

[SEAL]

Secretary