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DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

OF

MONROE PLACE TOWNHOMES

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DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
MONROE PLACE TOWNHOMES

THIS DECLARATION is made and entered into this 16th day of February, 1994, by SOUTH MONROE LIMITED LIABILITY COMPANY, a Colorado limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

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

WHEREAS, Declarant desires to subject and place upon the above-described property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvement, sale and ownership of said property, to the end that a harmonious and attractive development of said property may be accomplished and the health, comfort, safety, convenience and general welfare of the Declarant, its successors and assigns in said property, or any portion thereof, promoted and safeguarded.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed, subject to conditions, restrictions, easements, right-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. Agencies. "Agencies" shall mean and collectively refer to, the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governments, or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities.

Section 2. "Architectural Review Committee" shall mean and refer to the committee appointed by the Declarant or by the Association, as more fully provided in this Declaration.

Section 3. "Association" shall mean and refer to MONROE PLACE TOWNHOMES ASSOCIATION, a Colorado non-profit corporation, its successors and assigns. The Association shall act by and through its Board of Directors and officers.

Section 4. "Common Elements" shall mean and refer to the privacy fences, storm drainage lines, water service lines, sewer lines and appurtenances which service the Townhome Project.

Section 5. "Declarant" shall mean and refer to SOUTH MONROE LIMITED LIABILITY COMPANY, a Colorado limited liability corporation, its successors and assigns, if such successors or assigns should be designated as "Declarant" for any and all purposes provided for in this Declaration, in a notice duly executed by SOUTH MONROE LIMITED LIABILITY COMPANY and recorded in the City and County of Denver, Colorado.

Section 6. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

Section 7. "First Mortgage" shall mean and refer to any unpaid and outstanding, mortgage, deed of trust or other security instrument encumbering a Lot, recorded in the records of the office of the Clerk and Recorder of the City and County of Denver, Colorado, having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgage," for purposes of Article IV, Section 10, and, with respect to notice of cancellation or substantial modification of certain insurance policies, of Article VI, Section 3 hereof, shall also mean and refer to any executory land sale contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America is the seller, whether such contract is recorded or not, and whether such contract is owned by Administrator or has been assigned by the said Administrator and is owned by the Administrators' assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of the City and County of Denver, Colorado, show the said Administrator as having the record title to the Lot.

Section 8. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage (including, for purposes of Article IV, Section 10 and, with respect to notice of cancellation or substantial modification of certain insurance policies, of Article VI, Section 3 hereof, the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sale contract

wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of the City and County of Denver, Colorado, show the said Administrator as having the record title to the Lot), or any successor to the interest of any such person under First Mortgage.

Section 9. "Lot" shall mean and refer to any separate numbered lot shown upon any land survey plat of the Properties or any portion thereof, as the same may be amended from time to time, with the exception of the Common Elements, if any, and any public streets, but together with all appurtenances and improvements now or hereafter thereon.

Section 10. "Member" shall mean and refer to each Owner of a Lot that is subject to assessment hereunder; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 11. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 12. "Properties" shall mean and refer to that certain real property described on Exhibit A hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 13. "Townhome Project" shall mean all of the Lots, Townhome Units and Common Elements which together comprise the Monroe Place Townhomes.

Section 14. "Townhome Unit" shall mean the townhome structure including rear patio area and garage.

ARTICLE II PROPERTY RIGHTS IN THE COMMON ELEMENTS

Section 1. Owner's Easements of Enjoyment. Subject to the provisions of Section 2 of this Article II, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Elements, if any, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Owner's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and Townhome Project and to mortgage said

property as security for any such loan; and

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

(c) The right of the Association to promulgate and publish rules and regulations which each Member shall strictly comply with; and

(d) The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights of a Member 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; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved in writing by the Members entitled to vote two-thirds (2/3) of the votes of each class of membership hereunder, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads and/or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Properties shall not be deemed a transfer within the meaning of this Subsection (e); and

(f) The right of the Association, through its Board of Directors, to enter into, make, perform or enforce: contracts, leases, agreements, licenses, easements and/or rights-of-way, for the use by Owners, other persons, their family members, guests and invitees, of real property, and any facilities or improvements thereto and thereon, for pedestrian and vehicular access, ingress and egress to and from the Properties, any portion thereof, or any other real property, for vehicular parking, or for recreational use and enjoyment; and/or contracts, leases, licenses or other agreements for cable or satellite television service to the Properties, or any portion thereof. Any of such contracts, leases, licenses, agreements, easements and/or rights-of-way, as provided for in this Subsection (f), shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors of the Association, which may include provisions by which the Association covenants and agrees that it shall pay part or all of the costs and expenses of maintaining and repairing such real property, and the facilities and improvements thereto and thereon, providing such cable or satellite television service, or other amounts which the Board determines are reasonably necessary to secure any such contracts, leases, licenses, agreements, easements

and/or rights-of-way, and any such costs and expenses shall be treated by the Association as common expenses pursuant to Article IV hereof.

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

Section 3. Payment of Taxes or Insurance by First Mortgagees. First Mortgagees shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Elements and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Townhome Project, or the Lot which secures said First Mortgage if the policy therefor is held by the Association, and any First Mortgagees making any such payment shall be owed immediate reimbursement therefor from the Association.

ARTICLE III **MEMBERSHIP AND VOTING RIGHTS**

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

Section 2. Classes of Membership. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one 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.

Class B. The Class B Member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned which is neither leased, rented nor otherwise occupied as a residence. Leasing, renting, or allowing entry for residential occupancy shall terminate the Declarant's weighted voting advantage in relation to any Lot so leased, rented, or occupied as a residence, and will limit Declarant in relation to any such Lots to the same voting rights as a Class A Member. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(a) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or

(b) on that date which is three (3) years after the date of recording of this Declaration in the office of the Clerk and Recorder of the City and County of Denver, Colorado; or

(c) written notice by the Declarant to the Secretary of the Association of the Declarant's intent to terminate the Class B membership; provided, however, that in the event there is then more than one Declarant owning Lots, such notice must be signed by all such Declarants.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, except Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association, (1) monthly assessments or charges, (2) special assessments; such assessments to be established and collected as hereinafter provided. Declarant shall have the obligation to pay monthly assessments and charges and special assessments in accordance with Section 6 of this Article IV. The monthly costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant, with all amounts due, from time to time, payable in full when due without notice (except as otherwise expressly provided in this Declaration) or demand, and without setoff or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees and charges attributable to their Lot. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees. The Board of Directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by one of the Directors of the Board or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado. The lien for such unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligations of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such

Owner's successors in title unless expressly assumed by them. The Association's lien on a Lot for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien. The filing of bankruptcy by an Owner shall not prevent the collection by the Association of post-petition assessments upon motion to the bankruptcy court.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Properties, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration, the Articles of Incorporation or Bylaws of the Association, including without limitation the improvement and maintenance of the Common Elements or of any Owner's Lot or the improvements located thereon. Any assessments for master-metered utilities such as water and sewer service, shall be prorated by number of Lots by the Association and billed to each Lot owner either separately or as part of the monthly assessment.

Section 3. Maximum Monthly Assessment.

(a) Subject to the authority of the Board of Directors of the Association to set reduced assessments for the on-time, early, or lump-sum payment of assessments, or portions thereof, the maximum monthly assessment, until commencement of the second fiscal year of the Association, shall be One Hundred Ten and no/100 Dollars (\$110.00) per Lot.

(b) Effective with commencement of the second and each subsequent Association fiscal year, the maximum monthly assessment against each Lot shall be increased effective each fiscal year by the greater of: (1) the percentage increase, if any, in the Consumer Price index published by the U.S. Department of Labor, Washington, D.C., for All Items and Major Group Figures for the Denver, Colorado Metropolitan Area (1967=100), for the one (1) year period ending with the preceding month of April; or (ii) five percent (5%). The aforesaid annual increase in the maximum monthly assessment shall occur automatically upon the commencement of each Association fiscal year without the necessity of any action being taken with respect thereto by the Association. In the event the aforesaid Consumer Price Index is not published, for whatever reason, then the increase in the maximum monthly assessment, as provided herein, shall be calculated by using a substantially comparable index designated by the Board of Directors of the Association.

(c) Effective with commencement of the second and each subsequent Association fiscal year, the maximum monthly assessment may be increased, decreased or remain the same as that established in accordance with Section 3(b) hereof, by a vote of the Members for the next succeeding fiscal year and at the end of each such fiscal year, for each succeeding fiscal year, provided that any such action shall have the assent of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) Subject to the terms and provisions of Section 6 of this Article IV relating to the obligation of the Declarant to pay to the Association amounts sufficient to meet certain shortfalls in assessments, the Board of Directors of the Association may, at any time and from time to time, after consideration of the projected maintenance costs and other financial needs of the Association, fix the actual assessment against each Lot in an amount less than the maximum; provided, however, that written notice of any change in the amount of the actual assessment (whether to an amount less than or equal to the maximum) shall be sent to every Owner at least thirty (30) days in advance of the effective date of such change.

(e) The limitations contained in this Section 3 shall not apply to any change in the maximum, actual and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(f) The Association shall maintain an adequate reserve fund out of the monthly assessments for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles.

Section 4. Special Assessments. In addition to the monthly assessments authorized in this Article IV, the Board of Directors of the Association may levy, in any fiscal year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set equally against each Lot, subject to the rate of assessment on Lots owned by Declarant as more fully provided in Section 6 of this Article IV; and further subject to the authority of the Board of Directors of the Association to set reduced special assessments for the on-time, early, or lump-sum payment of any special assessment or portion thereof.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3(c). Written notice of any meeting called for the

purpose of taking any action authorized under Section 3(c) of this Article shall be sent to all Members not less than 30 days or more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. If a quorum is not present at the second meeting, then a third meeting shall be called, subject to the same notice requirement, and the required quorum at such meeting shall be one Owner from each class of membership. No subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Rate of Assessment. Subject to the authority of the Board of Directors of the Association to set reduced assessments for the on-time, early or lump-sum payment of assessments, or portions thereof, monthly and special assessments shall be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association. Notwithstanding anything to the contrary contained in this Declaration, however, the rate of monthly and special assessments set for the Lots owned by Declarant which are neither leased, rented, nor otherwise occupied as a residence, shall be fixed at one-quarter (1/4) of the assessment rate for the other Lots; provided, however, that at the time any Lot owned by Declarant is leased, rented or occupied as a residence, that Lot shall be assessed at the uniform rate for privately owned Lots. In the event that, prior to the termination of the Class B membership, assessments for monthly common expenses and all other funds of the Association, exclusive of those amounts held for an adequate reserve fund and for the Capital Reserve Account (as defined in Section 9 of this Article IV), fail to equal or exceed the actual expenses incurred by this Association during any particular Association fiscal year, exclusive of reserves or expenses for which the Association has budgeted or allocated reserves because of such partial assessment of the Declarant, then Declarant shall pay a sufficient amount, up to the amount of full parity on such assessments, to the Association to meet any such shortfall, so long as: (a) written notice must be given by the Association to the Declarant within sixty (60) days following the termination of the Association fiscal year for which such payment is sought, and (b) Declarant shall have no obligations for any such shortfall caused by expenditures for capital improvements or by any decrease in assessments, including without limitation the levying of any assessment in an amount less than the maximum during any Association fiscal year, unless the same has previously been approved in writing by Declarant. In the event there is more than one "Declarant," then, subject to the conditions hereinafter stated, each such Declarant shall pay a pro rata share of the aforesaid shortfall, such pro rata share to be based on the total amount of assessments due from each Declarant at such reduced rate

compared to the total amount of assessments due from all Declarants at such reduced rate, during the applicable Association fiscal year.

Section 7. Date of Commencement of Monthly Assessments. The initial monthly assessment shall commence on the day of conveyance of the first Lot by Declarant to the first Owner thereof other than Declarant. The monthly assessments shall be due and payable on the first day of each month, in advance, or on such other dates as determined by the Board. Any Owner purchasing a Lot between monthly due dates shall pay a pro rata share of the last payment due and all of the next month's assessment in advance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors of the Association, and the Board may assess a monthly late charge thereon. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include late charges, as above provided. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his/her Lot.

Section 9. Capital Reserve Account. The Association or Declarant shall require the first Owner and each and every subsequent Buyer of any Lot who purchases that Lot to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly assessment against the Lot in effect at the closing thereof. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall be maintained in a segregated account with other monies assessed for such purposes ("Capital Reserve Account") for the use and benefit of the Association, including without limitation to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the Capital Reserve Account shall not relieve an Owner from making regular payments of assessments as the same become due.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein, including without limitation any fees, costs, late charges or interest which may be levied by the Association in connection with unpaid assessments, shall be subordinate to the lien of any First Mortgage. The sale or transfer of any Lot shall not affect the liens for said assessment charges except that the sale or transfer of any Lot

pursuant to foreclosure of such First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessment charges which became due prior to any such sale or transfer, or foreclosure or any proceeding in lieu thereof; provided, however, that any such delinquent assessment charges, including interest, late charges, costs and reasonable attorney's fees, which are extinguished as provided herein, may be reallocated and assessed to all Lots as a common expense. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, shall relieve such Lot from liability for any assessment charges thereafter becoming due, nor from the lien thereof; provided, however, that in the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First Mortgagee shall not be liable for unpaid assessments or other charges which accrue prior to the acquisition of title to the Lot in question by such First Mortgagee. However, subsequent to such acquisition of title, whether recorded or not, said title holder shall be responsible for payment of all assessments accruing after the date title passed.

ARTICLE V
ARCHITECTURAL REVIEW COMMITTEE

Section 1. Composition of Committee. The Architectural Review Committee shall consist of three (3) or more persons appointed by the Board of Directors of the Association; provided, however, that until all Lots have been conveyed by Declarant to the first Owner thereof (other than Declarant), Declarant may appoint the Architectural Review Committee. A majority of the Committee may appoint a representative to act for it. The power to "appoint," as provided herein, shall include without limitation the power to: initially constitute the membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occupancy of any vacancy therein, for whatever reason; remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof; and each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointer. The Board of Directors of the Association, in its sole discretion, may appoint its own members to act on the Architectural Review Committee.

Section 2. Review by Committee. No structure or any attachment to an existing structure, whether a residence, any building, fences, walls, canopies, awnings, roofs, exterior lighting facilities, solar collectors, athletic facilities, or other similar improvements or attachments, shall be construed, erected, placed or installed upon the Properties, no alteration of the exterior of a residence or other structure shall be made, and no change in any landscaping visible from any public street, shall be performed, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the

structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping visible from any public street, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to be approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sale of Lots or residences in, the Properties. The Architectural Review Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping visible from any public street and alterations to residences, other structures, and property, within the Properties, conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied as part of the common expense assessment against the Lot for which the request for Architectural Review Committee approval was made and, as such, shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection thereof, as more fully provided in this Declaration.

Section 3. Procedures. The Architectural Review Committee shall approve or disapprove all requests for approval within forty-five (45) days after the complete submissions of all plans, specifications, and other materials and information which the Committee may require in conjunction herewith. In the event that the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article V shall be deemed to have complied with in full.

Section 4. Vote and Appeal. A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Architectural Review Committee approves or denies a request for architectural approval, any Owner shall have the right to an appeal of such action to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after the date on which the applicant for such approval receives notice of the representative's action on the application. In the event an application for architectural approval is approved or denied by the Architectural Review Committee, whether pursuant to an original request for approval or an appeal from a decision of a representative of the Committee, any

Owner shall have the right of appeal to the Board of Directors of the Association, if a written request for a hearing on an appeal of the same shall be submitted to the Board of Directors of the Association within thirty (30) days after the date on which the applicant for such approval receives notice of the Architectural Review Committee's action on the application.

Section 5. Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 6. Liability. The Architectural Review Committee and the members thereof, as well as any representative of the Committee appointed to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any Owner, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 7. Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article X hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not contradict the general intent and purpose hereof.

Section 8. Waivers. The approval or consent of the Architectural Review Committee, any representative thereof, or the Board of Directors of the Association, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee, any representative thereof, or said Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

ARTICLE VI **INSURANCE**

Section 1. Insurance on Properties. The Association shall maintain insurance covering all insurable improvements located or constructed upon the Properties, if any. The Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a common expense. Notwithstanding any of the specific insurance requirements

specified in this Article VI, the Association may also reconsider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of First Mortgages.

(a) A policy of property insurance covering all insurable improvements located on the Properties, except for land, foundation, excavation and other matters normally excluded from coverage, in an amount not less than necessary to comply with any co-insurance percentage, if any, stipulated in the insurance policy. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and shall include an "Inflation Guard Endorsement" and an "Agreed Endorsement." The Association may also purchase a "Demolition Endorsement," and "Increasing Cost of Construction Endorsement," a "Contingent Liability from Operation of Building Laws Endorsement," a "Vacancy Permit Endorsement" or the equivalent, and/or coverage on personal property owned by the Association including fixtures and building services equipment, furnishings and supplies. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

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

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

(b) A comprehensive policy of public liability insurance covering all of the Properties, insuring the Association in an amount not less than \$1,000,000.00 covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Properties, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles; such coverage may also include, if applicable, comprehensive automobile liability insurance, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the

Association, and such other risks as shall customarily be required by private institutional mortgage investors with respect to projects similar in construction, location and use.

(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle or are responsible for handling funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than three (3) months aggregate assessments on all Lots, plus such reserve funds. Such fidelity coverage or bonds shall meet the following requirements:

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

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

In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subparagraph (c).

(d) If the Properties, or any portion thereof, are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on the Properties have been made available under the Nation Flood Insurance Program, then such a policy of flood insurance on the Properties in an amount at least equal to the lessor of:

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

(2) one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including but not limited to personal

liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association, and, if appropriate, coverage for loss or damage resulting from steam boiler equipment or air conditioning equipment accidents in an amount not less than \$2,000,000.00 per accident per location or such lesser or greater amount as may be deemed prudent by the Association based on the nature of the Property.

Section 2. Insurance on the Townhome Project. The Board of Directors of the Association or its agent shall obtain and maintain, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, a policy of property insurance covering the Townhome Project, except for land, foundation, excavation and other items normally excluded from coverage, in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the insurance policy. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and including and "Inflation Guard Endorsement" and in "Agreed Amount Endorsement." The Association may also purchase a "Demolition Endorsement," and "Increased Cost of Construction Endorsement," a "Contingent Liability from Operation of Building Laws Endorsement," and/or a "Vacancy Permit Endorsement" or the equivalent. The cost of such insurance shall be a common expense of the Owners and shall be paid as provided in Article IV hereof. Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:

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

(b) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

Section 3. General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory First Mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days prior written notice thereof is given to the insured and each First Mortgagee, insurer or guarantor of a First Mortgage.

The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest First Mortgagees, upon request. Any such Owner's policy shall also contain waivers of subrogation. To the extent available, all policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

Section 4. Deductibles. No policy of insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of \$1,000.00 or 1% of the face amount of the policy. Any loss falling within the deductible portion of such policy shall be borne by the person or entity who is responsible for the repair and maintenance of the property which is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the parties sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors of the Association. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any annual assessment.

Section 5. Insurance Trustee. The Association may authorize a representative to act for it, including any trustee or successor thereto, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance. Such insurance trustee shall act as attorney-in-fact for the purpose of purchasing and maintaining insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. Said party may also receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their First Mortgagees as their interest may appear.

Section 6. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an

Owner, and the Association may collect the amount from said Owner in the same manner as any annual assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 7. Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/VI or better, or a financial rating of Class V provided it has a general policy holder's rating of at least A, and is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

Section 8. Insurance to be Maintained by Owner: Insurance coverage on the furnishings and other items of personal property belonging to an Owner, public liability insurance coverage on each Lot shall be the responsibility of the Owner thereof. Such policies of insurance shall comply with the provisions of Article VII, Section 2 of this Declaration. Owners shall also be responsible for obtaining such policies of title insurance related to any sale of a Lot other than the purchase by the initial Owner from the Declarant.

Section 9. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors of the Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Directors or the managing agent of the Association may, but shall not be obligated to, obtain a written appraisal from a duly qualified real estate or insurance appraiser, or other person knowledgeable as to the replacement costs, which appraiser shall reasonably estimate the full replacement value of the improvements to the insured for the purpose of determining the amount of insurance required pursuant to the provisions of this Article. Any First Mortgage shall be furnished with a copy of such appraisal upon request.

ARTICLE VII

DAMAGE OR DESTRUCTION

Section 1. Damage to Common Elements. In the event of damage or destruction of all or a portion of the Common Elements

due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Elements damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Elements, the Association shall levy a special assessment in the aggregate amount of such insufficiency pursuant to Article IV, Section 4 hereof, and shall proceed to make such repairs or reconstruction, unless the Owners and First Mortgagees agree not to repair and reconstruct such damage in accordance with the terms and provisions of Article XII hereof. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and First Mortgagees of their respective Lots, if any. The special assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon, and may be enforced and collected in the same manner as any assessment lien provided for in this Declaration.

Section 2. Destruction of Improvements on Lot. In the event of damage to or destruction of any structure located on a Lot due to fire or other adversity or disaster, the insurance proceeds shall be adjusted with the Association and paid or payable to the Association as trustee for the Owners, but to be held by the Association in trust for Owners and First Mortgagees as their interests may appear. "Repair and reconstruction" of any structure, as used in this Section 2, shall mean restoring the improvements to substantially the same condition in which they existed immediately prior to such damage or destruction, with each structure having the same boundaries as before.

(a) If such insurance proceeds are sufficient to repair or reconstruct any damaged or destroyed structure, the Association shall promptly authorize the necessary repair and reconstruction work, and the insurance proceeds shall be applied by the Association towards the cost thereof.

(b) If the insurance policy covering the loss is a property insurance policy carried by the Association pursuant to Article VI, Section 2 of this Declaration and such insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed structure, such damage or destruction shall be promptly repaired and reconstructed by the Association, using the insurance proceeds and the proceeds of a special assessment levied as provided in Article IV, Section 4 hereof. The special assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Lot and the improvements thereon, and shall be enforced and collected as provided in Article IV hereof.

(c) If the insurance policy covering the loss is

not a property insurance policy carried by the Association pursuant to Article VI, Section 2 of this Declaration and the insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed structure, such damage or destruction shall be promptly repaired and reconstructed using the available insurance proceeds and other personal funds of the Owner(s) of the Lot on which such damaged or destroyed structure is located.

ARTICLE VIII **PARTY WALLS**

Section 1. Definition. For purposes of this Article VIII, "Party Wall" shall mean and refer to any wall which is part of the original construction of the structures and other improvements located on Lots, as such wall(s) may be repaired or reconstructed from time to time, placed on or immediately adjacent to a Lot line, and which separates two (2) or more structures or Lots.

Section 2. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. 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 Party Wall in proportion to such use.

Section 4. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore it, and if the other Owners thereafter make use of the Party Wall, they shall contribute to the cost of such restoration in proportion to such Owners use thereof 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.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary weatherproofing and other protection against such elements.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

Section 7. Arbitration. In the event of any dispute arising concerning a Party Wall, under the provisions of this

Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within 10 days after written request therefor by an Owner, the Board of Directors of the Association shall select an arbitrator for the refusing party. The parties to the arbitration shall share the costs thereof, but each party shall pay its own attorneys' fees.

ARTICLE IX
MAINTENANCE BY THE ASSOCIATION

Section 1. Management and Maintenance Duties. Subject to the rights of Owners as set forth in this Declaration, the Association shall be responsible for the management, control, maintenance, repair, replacement and improvement of those items listed herein (including facilities, furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair; provided, however, that each Owner shall be responsible for the exclusive maintenance, repair and replacement of all fixtures, equipment and utilities installed or located within each Owner's Lot. The Association shall:

(a) maintain and repair the exterior surfaces of the Townhome Units (including, without limitation, the painting of the same as often as necessary, the replacement of trim and calking, and the maintenance and repair of roofs and roof shingles, gutters, downspouts, but excluding rear patio areas, repair or replacement of windows, window screens, doors, door screens, garage doors, or window washing or any maintenance, repair or replacement as provided in Section 2 of Article IX.

(b) maintain all grass, trees, shrubbery, flowers, landscaping, landscape lighting, sprinkler systems, and retaining walls, other than those located and serving the backyard areas which lie between the townhome structure and the garage.

(c) maintain, repair and replace rear yard fences.

(d) maintain, repair and replace public sidewalks and entry walks leading to the Townhome Units, but excluding rear patio areas.

(e) provide for trash removal and snow removal on all sidewalks, driveways and paved areas, except private rear patios.

(f) maintain, repair and replace the common elements, including the storm drainage lines, water service lines, sewer lines and appurtenances, excluding the sewer laterals connecting each Townhome Unit to the private main sewer line located on the Properties.

Section 2. Association's Right to Repair, Maintain and Restore. In the event any Owner shall fail to perform his maintenance or repair obligations in a manner satisfactory to the Board of Directors of the Association, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot to perform any or all of such maintenance, repair or restoration. The cost of such maintenance, repair or restoration shall be the personal obligation of the Owner(s) of the Lot on which such work is performed, shall be added to and become part of the assessment to which such Lot is subject, and shall be subject to all of the terms and provisions of Article IV hereof.

Section 3. Owner's Joint and Several Financial Responsibility. Notwithstanding the provisions contained in Section 1 of this Article IX, in the event the Association fails to maintain and repair the Common Elements, including all private roads or drives, streets, sewer lines and appurtenances, storm drainage lines and facilities and water service lines, each Owner shall have joint and several financial responsibility for such maintenance and repair.

Section 4. Access Easement. Each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance as provided in this Article IX during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that in emergency situations entry upon a Lot may be made at any time, provided that the Owners or occupants of affected Lots shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to such easements as provided for in this Section 4.

Section 5. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of those items listed in Section 1, above, a Lot, or any improvement(s) located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a

hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE X
RESTRICTIONS

Section 1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Properties, all thereof in order to enhance the value, desirability and attractiveness of the Properties and to promote the sale thereof.

Section 2. Restrictions Imposed. The Declarant hereby declares that all of the Properties shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon, and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements, and covenants.

Section 3. Residential Use. Subject to Section 4 of this Article X, Lots shall be used for residential purposes only, including uses related to the convenience and enjoyment of such residential use. No business or profession of any nature shall be conducted on any Lot except those permitted pursuant to PUD Ordinance Nos. 155 and 345, Series of 1993.

Section 4. Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Properties such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots, and development and construction of improvements on the Properties, specifically including without limiting the generality of the foregoing, maintaining business offices, storage areas, construction yards and equipment, signs, model units, sales offices, parking areas and lighting facilities. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Properties in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members, guests or invitees of and to his Lot, and to a public right of way.

Section 5. Household Pets. No animals, livestock, birds, poultry, or insects, of any kind, shall be raised, bred, kept or boarded in or on the Properties; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pet(s) are not kept for any commercial purpose and are not

kept in such number or in such manner as to create a nuisance to any resident(s) of the Properties. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance to any resident(s) of the Properties, or that an Owner is otherwise in violation of the provisions of this Section 6, and to take such action or actions as it deems reasonably necessary to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such Owner's pet(s), and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement as provided in Article IV hereof.

Section 6. Temporary Structures. Except as hereinafter provided, no structure of a temporary character, including but not limited to a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Lot, and no residence shall be occupied in any manner at any time prior to its being fully completed, nor shall any residence when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions herein set forth; provided, however, that during the actual construction, alteration, repair or remodeling of a residence, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any residence shall be prosecuted diligently from the commencement thereof until the completion thereof.

Section 7. Miscellaneous Structures.

(a) No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot except for a "For Sale," "Open House," or "For Rent" sign not to exceed five (5) square feet; notwithstanding the foregoing, reasonable signs, advertising or billboards used by the Declarant in connection with the sale or rental of Lots, or otherwise in connection with development of or construction on the Properties, shall be permissible, provided that such use shall not interfere with the Owner's use and enjoyment of their Lot, or with their ingress or egress from a public way to their Lot.

(b) No clotheslines, dog runs, drying yards, service yards, wood piles or storage areas shall be so located on any Lot as to be visible from a street or any other Lot.

(c) All types of refrigerating, cooking, or heating apparatus' located on any Lot and outside the dwelling thereon shall be concealed.

(d) Except as may otherwise be permitted by the Architectural Review Committee, no antennae, satellite dish or other satellite transmitting or receiving device shall be installed except inside a residence.

(e) No wind generators of any kind shall be constructed, installed, erected or maintained on the Properties.

Section 8. Vehicular Parking, Storage and Repairs.

(a) Any house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat, or accessories thereto, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored on the Properties only if such parking or storage is within the garage area of any Lot, except that any such vehicle may be otherwise parked as a temporary expedience for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles within the Properties which are necessary for construction or for the maintenance of the Lots, or any improvements located thereon.

(b) Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on the Properties. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, housetrailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) weeks or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Owners while on vacation or during a period of illness shall not constitute abandoned or inoperable vehicles.

(c) In the event the Association shall determine that a vehicle is parked or stored on the Properties in violation of subsections (a) or (b) of this Section 8, then a written notice describing said vehicle shall be personally delivered to the Owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the Owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within 72 hours thereafter, the Association shall have the right to remove the vehicle at the sole expense of the Owner thereof.

(d) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicles, trailers or boats, may be performed or conducted on the Properties, unless it is done within completely enclosed structure(s) which screen the sight

and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

Section 9. Nuisances. No nuisance shall be permitted on the Properties, nor any use, activity or practice which is a source of annoyance or embarrassment to, which offends or disturbs, any residents of the Properties, or which interferes with the peaceful enjoyment or possession and proper use of the Properties, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities on, the Properties; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, or with any Owner's ingress and egress to or from his Lot and a public way. 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. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of the Properties or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Properties, or any portion thereof, shall be observed.

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

Section 11. No Hazardous Activities. No activities shall be conducted on the Properties or within improvements constructed on the Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any of the Properties except, in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace.

Section 12. 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 from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others.

Section 13. Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cuttings shall be deposited on any street, or any Lot, unless placed in a suitable container suitably located, solely for the purpose of garbage pickup. All equipment for the

storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 14. Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, subleases. Any Owner shall have the right to lease his Lot, or any portion thereof, under the following conditions:

(a) All leases shall be in writing and a copy of the lease delivered to the Board of Directors of the Association or the Association's managing agent, if any, prior to occupancy of the Lot by the tenant under such lease; and

(b) All leases shall provide that the term of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association, and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease; and

(c) No lease shall be for less than thirty (30) days.

Section 15. Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violations or infringement shall be deemed waived by the Owners of Lots immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section 16 shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation," for this purpose of this Section, is a violation of not more than three (3) feet beyond the required setback lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to any of such structures.

Section 16. 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 the same are visible from any other Lot, or any street, except as necessary during the period of construction.

Section 17. Privacy Fencing. All privacy fencing placed on any Lot shall be equipped with a see-through gate at least three feet wide, which shall be made of materials or constructed in such a manner that there is a continuous line of sight through the

entire row of patios. Said gates may not be covered to restrict this continuous line of sight. Only locks which are acceptable to the fire department may be installed on said gates.

Section 18. Rules and Regulations. Rules and regulations concerning and governing the Properties, or any portion thereof, may be adopted, amended or repaired, from time to time by the Board of Directors of the Association, and the Board of Directors may establish and enforce penalties for the infraction thereof, including without limitation the levying and collecting of fines for the violation of any such rules and regulations.

Section 19. Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to the termination of the Class B membership shall be subject to review and approval by HUD or VA, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Class B membership. However, the foregoing shall not be construed as a requirement that the Association be managed by a professional manager; rather, the Board of Directors of the Association is hereby expressly authorized to self-manage the affairs of the Association.

ARTICLE XI **EASEMENTS**

Section 1. Easement for Encroachments. If any portion of any improvement located on a Lot encroaches upon any other Lot, including any future encroachment arising or resulting from the repair or reconstruction of any improvement subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, is hereby created and does exist for such encroachment.

Section 2. Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, employees and assigns upon, across, over, in and under the Lots including the privacy patios, but excluding the Townhome Unit, and a right to make such use of the Lots as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

Section 3. Utilities. There is hereby created a blanket easement upon, across, over and under the Properties for utilities and the installation, replacement, repair and maintenance of

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

Section 4. Right of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant, its successors and assigns, for access, ingress and egress over, in, upon, under, and across the Properties, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's construction on the Properties; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guest, or invitees, to or of that Owner's Lot; and further provided, however, that the rights and easements granted to the Declarant in this Section 4 shall cease and terminate upon conveyance by Declarant of the last Lot to the first Owner thereof (other than Declarant).

Section 5. Easements Deemed Created. All conveyances of Lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article XI, even though no specific reference to such easements or to this Article XI appears in the instrument of such conveyance.

ARTICLE XII FIRST MORTGAGEES

Section 1. Member and First Mortgagee Approval. Subject to Article XIII, Section 4(b) of this Declaration, but notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

- (a) unless it has obtained the prior written consent of at least sixty-seven percent (67%) of each class of Members and sixty-seven (67%) of the First Mortgagees (based upon one

vote for each First Mortgage owned):

(1) by act or omission, change, waive, or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior maintenance of Lots or residences, the maintenance of the Common Elements party walks or common fences and driveways, or the upkeep of lawns and plantings in the Properties;

(2) fail to maintain fire and extended coverage as herein provided on a current replacement cost basis in an amount not less than 100 percent of the insurable value (based on current replacement cost);

(3) use hazard insurance proceeds for property losses for purposes other than to repair, replace, or reconstruct such property;

(4) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer any common property owned, directly or indirectly, by the Association for the benefit of the Owners (excluding the granting of permits, licenses and easements for public utilities, roads, or other purposes reasonably necessary or useful for the proper maintenance operation of the properties of the Association;

(5) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner; or

(6) terminate the legal status of the Properties as a planned unit development, provided that this subsection (6) shall not apply to amendments to this Declaration, the Articles of Incorporation or Bylaws of the Association made as a result of destruction, damage or condemnation of the Properties or improvements thereon; provided however, that any distribution made as a result of said termination shall be accomplished on a reasonable and equitable basis.

(b) unless it has obtained the prior written consent of at least sixty-seven (67%) of the total allocated votes in the Association, and fifty-one percent (51%) of the First Mortgagees (based upon one vote for each First Mortgage owned), add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which establish, provide for, govern or regulate any of the following, provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for

clarification only:

- (1) voting rights;
- (2) assessments, easement liens or subordination of such liens;
- (3) reserves for maintenance, repair and replacement of those elements of the Common Elements which must be maintained, repaired or replaced on a periodic basis;
- (4) responsibility for maintenance and repairs of any portion of the Properties;
- (5) boundaries of any Lot;
- (6) convertibility of Lots into Common Elements or of Common Elements into Lots;
- (7) expansion or contraction of the Properties of the addition, annexation or withdrawal of property to or from the Properties;
- (8) insurance, including but not limited to fidelity bonds;
- (9) leasing of Lots or dwellings constructed thereon;
- (10) imposition of any restriction on the right of any Owner to sell or transfer his Lot;
- (11) any decision by the Association to assume self-management of the Association, when professional management has previously been required by any First Mortgage or any insurer or guarantor of a First Mortgage;
- (12) any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration, the Articles of Incorporation and Bylaws of the Association;
- (13) any action to terminate the legal status of the Properties after substantial destruction or condemnation; or
- (14) any provisions which are for the express benefit of First Mortgagees, or insurers or

guarantors of First Mortgages.

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

(a) any condemnation loss or casualty loss which affects a material portion of the Properties or any Lot subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or guarantor of a First Mortgage;

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

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

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

Section 3. Audit. Fifty-one percent (51%) or more of the First Mortgagees shall be entitled to have an audited financial statement of the Association books, for the immediately preceding fiscal year, prepared at the expense of such First Mortgages, if such an audit is not otherwise available.

ARTICLE XIII **GENERAL PROVISIONS**

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any person or persons (including without limitation the Association) violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceeding, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the

aforesaid documents. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. 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 3. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and Bylaws of the Association, the Articles of Incorporation shall control.

Section 4. Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Article XII hereof, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than fifty-one percent (51%) of the votes of each class of Membership.

(b) Notwithstanding anything to the contrary contained in this Declaration:

(1) Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, the Articles of Incorporation and/or Bylaws of the Association, at any time prior to conveyance of all Lots by Declarant to the first Owner(s) thereof (other than Declarant), or three (3) years from the date this Declaration is recorded in the City and County of Denver, Colorado, whichever occurs first, for the purposes of correcting, spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provision of any such documents;

(2) Declarant hereby reserves and is granted the right and power to record special amendments to this Declaration, the Articles of Incorporation and/or Bylaws

of the Association, at any time prior to conveyance of all Lots by Declarant to the first Owner(s) thereof (other than Declarant), or three (3) years from the date this Declaration is recorded in the City and County of Denver, Colorado, whichever occurs first, in order to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell insure or guarantee First Mortgages.

(c) To be effective, all Amendments to or revocation or termination of this Declaration must be recorded in the office of the Clerk and recorder of the City and County of Denver, Colorado, and must contain evidence of the required approval thereof.

(d) One method of satisfying the requirements of Subsection (c) of this Section 4 shall be the recordation of a Certificate of the Secretary of the Association certifying that Owners representing the requisite percentage of the Lots, and the requisite percentages of the First Mortgagees, if any, have given notarized written consent to the Amendment. The Secretary must further certify that originals of such written consents by Owners and First Mortgagees, as applicable, along with the recorded Amendment, are in the corporate records of the Association and available for inspection.

Section 5. Registration of Mailing Address. Each Owner and each First Mortgagee, insurer or guarantor of a First Mortgage, shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a First Mortgagee, insurer or guarantor of a First Mortgage, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such person or entity at such registered mailing address. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. 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 registered or certified mail, postage prepaid, c/o Robert Aronowitz, 3033 East 1st Avenue, Suite 405, Denver, Colorado 80206, until such address is changed by the Association.

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

DECLARANT:

SOUTH MONROE LIMITED LIABILITY COMPANY
a Colorado limited liability company

By: *Jeffrey B. Stroman*
operating manager

STATE OF COLORADO)
CITY AND COUNTY OF DENVER)

) ss.
)

The foregoing instrument was acknowledged before me this 16 day of February, 1994 by *Jeffrey B. Stroman* of SOUTH MONROE LIMITED LIABILITY COMPANY, a Colorado limited liability company.

WITNESS my hand and official seal.
My commission expires: 3/29/97

Susan A. Fittton
Notary Public

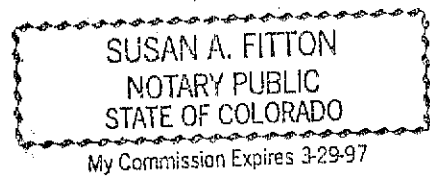


EXHIBIT A

TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
MONROE PLACE TOWNHOMES

Legal Description:

Lots 1 thru 8
Block 42
Burlington Capitol Avenue Subdivision
City and County of Denver,
State of Colorado

AB

EXHIBIT A (CORRECTED)
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
MONROE PLACE TOWNHOMES

Legal Description:

Lots 1 through 8
Block 42
Burlington Capitol Avenue Subdivision
City and County of Denver,
State of Colorado.

[This Exhibit A corrects the previous Exhibit A attached to the Declaration of Covenants, Conditions and Restrictions of Monroe Place Townhomes, recorded on March 4, 1994 at Reception No. 9400041869 of the records of the Clerk and Recorder of Denver County, State of Colorado.]

SOUTH MONROE LIMITED LIABILITY COMPANY
a Colorado limited liability company

By: Jeffrey Braiman
Jeffrey Braiman, Operating Manager

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 20th day of January, 1995 by Jeffrey Braiman, Operating Manager of SOUTH MONROE LIMITED LIABILITY COMPANY, a Colorado limited liability company.

WITNESS by hand and official seal.
My commission expires: 1-24-98

BARBARA PORTER
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 1-24-98

Barbara Porter
Notary Public

1994

ADDENDUM TO THE RULES AND REGULATIONS
MONROE PLACE HOMEOWNERS ASSOCIATION

With the intent of adhering to the National Guidelines pertaining to the installation of satellite dishes, one meter or less in diameter, the Board adopts the following guidelines.

1. No satellite dish will be permitted on any "General Common Element."
2. A satellite dish may be installed on a "Limited Common Element" (patio) provided that the dish is not placed on the perimeter fence, not placed outside the perimeter of the fence and provided that the dish is not visible above the top of the fence.

Signed this *2nd* Day of *September*, 1998.

Board Member

Patricia R. Baker