

DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF THE ENCLAVE AT CHERRY CREEK

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Exhibit A - Community

DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
THE ENCLAVE AT CHERRY CREEK

THIS DECLARATION is made and entered into by LARSEN HOMES, LTD., a Colorado corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property situated 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 property described on the attached Exhibit A 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 owners in said property, or any portion thereof, may be promoted and safeguarded; and

WHEREAS, since the property described on the attached Exhibit A contains no more than ten (10) units and is not subject to any development rights, it is subject only to §§ 38-33.3-105, 38-33.3-106, and 38-33.3-107, C.R.S., 1973, as amended, and the property described on the attached Exhibit A is otherwise exempt from the Colorado Common Interest Ownership Act (§38-33.3-101, et seq., C.R.S., 1973, as amended).

NOW, THEREFORE, Declarant hereby declares that all of the property described on the attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-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

1. "Architectural Review Committee" or "Committee" means the committee appointed by the Declarant or by the



Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

2. "Association" means The Enclave at Cherry Creek Owners Association, Inc., a Colorado non-profit corporation, its successors and assigns. The Association shall act by and through its Executive Board and officers.

3. "Common Area" means any real estate owned by the Association, other than a Lot. The Common Area will consist of Tract A in the P.B.G. (as hereinafter defined) and all other property in the P.B.G. that may hereafter be conveyed by the Declarant to the Association.

4. "Community" means the real property described on the attached Exhibit A, and all Improvements now or hereafter thereon, as amended from time to time.

5. "Declarant" means Larsen Homes, Ltd., a Colorado corporation, and any other Person(s) to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds).

6. "Declaration" means this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

7. "Executive Board" or "Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

8. "First Mortgage" means any unpaid and outstanding mortgage, deed of trust, or other security instrument recorded in the records of the office of the Clerk and Recorder of the 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).

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

10. "Improvements" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping,

hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball hoops, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

11. "Lot" means a portion of Parcel 2 on the P.B.G. which shall consist of at least a "typical building envelope" as shown on the P.B.G., and may include additional portion(s) of said Parcel 2, all as may hereafter be conveyed in fee simple by the Declarant to a Person other than the Association. The Community is planned to consist of seven (7) Lots. The exact legal description of each Lot will be established at the time of initial fee simple conveyance thereof by the Declarant to a Person other than the Association. The Lots do not include the Common Area.

12. "Member" means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

13. "Owner" means the Declarant or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

14. "P.B.G." means The Enclave at Cherry Creek, a Planned Building Group, recorded or to be recorded in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado.

15. "Person" means a natural person, a corporation, a partnership, an association, a trust, a limited liability company, a joint venture, or any other entity recognized under the laws of the State of Colorado or any combination thereof.

## ARTICLE II MEMBERSHIP AND VOTING RIGHTS

1. Membership. The membership of the Association at all times shall consist exclusively of all Owners. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2. One Class of Membership. The Association shall have one class of voting membership. Each Owner shall be entitled to one (1) vote for each Lot owned, except that no vote allocated to Lots owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Lots in the Association.

3. Reservation of Declarant's Right to Appoint Executive Board and Officers. The Declarant reserves the right to appoint all officers of the Association and all members of the

Executive Board, and to remove all officers of the Association and all members of the Executive Board which have been appointed by the Declarant, for the period of time set forth in Article III, Section 1 hereof. However, the Declarant may voluntarily relinquish the right, at any time, to appoint and remove one or more officer(s) of the Association or one (1) or more member(s) of the Executive Board before expiration of the Declarant's reserved right to so appoint and remove; but, if the Declarant at any time relinquishes the reserved right to appoint at least a majority of the officers of the Association and at least a majority of the members of the Executive Board, then the Declarant may require, for the duration of the period of time set forth in Article III, Section 1 hereof, that all or specified actions of the Association or the Executive Board be approved by the Declarant before any such action becomes effective.

4. Duty of Association to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to any Common Area, including any Improvements thereon, and any personal property and equipment transferred to the Association by Declarant, together with the responsibility to perform any and all functions of the Association as set forth in this Declaration. As of the date of recording of this Declaration, the real property interests which are planned to be transferred by the Declarant to the Association include Tract A, as shown on the P.B.G., the entry gate and fence at the entrance to the Community, and landscaped areas that will be located between the publicly-dedicated right-of-way and such fence and between such fence and the nearest Lot.

ARTICLE III  
GENERAL RESERVED RIGHTS OF DECLARANT

1. Declarant's Reserved Rights and Expiration of Such Rights. Notwithstanding anything to the contrary contained in this Declaration, the Declarant reserves unto itself for its use and benefit all of the reserved rights of the Declarant as set forth in this Declaration, including without limitation those reservations contained in: Article II, Section 3 hereof; this Article III; Article IX, Section 15 hereof; and Article XI, Section 5 hereof. In addition, the Declarant reserves a right of ingress, egress and access on, over and across the Common Area in order to exercise all of the rights and easements reserved by the Declarant in this Declaration, including without limitation those rights and easements contained in this Article III. All of the reserved rights of the Declarant which are provided for in this Declaration shall expire and cease to be of any further force and effect upon the earlier to occur of the following: conveyance by Declarant of all Lots to the first purchaser thereof (other than the Declarant); or five (5) 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.

2. Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, Declarant reserves and shall have for itself, its employees, agents, and contractors, the right to perform such activities, and to maintain upon portions of the Lots or other property owned by the Declarant, such facilities as Declarant deems necessary or incidental to development of the Community or any portion thereof, development, construction and sale of Lots, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant determines in its discretion from time to time.

3. Declarant's Rights to Complete Development of the Community. The Declarant acknowledges that, at the time of recording of this Declaration in the City and County of Denver, Colorado, the Declarant plans to construct, install, erect, locate and complete Improvements in the Community in addition to those which exist at the time of recording of this Declaration, and that the purpose of this Section and the other reserved rights of the Declarant as contained in this Declaration is to reserve to the Declarant, its successors and assigns, all rights, authority, easements, and power which may be necessary, appropriate, or incidental to development of the Community and construction, installation, erection, location and completion of such Improvements. Without limiting the generality of the foregoing, no provision(s) of this Declaration shall be so construed as to impede, prevent or limit Declarant's rights: to complete the development of all property within the Community; to construct and alter Improvements on any property owned by Declarant within the Community; to maintain model homes, construction office(s), construction trailer(s), and other offices or facilities for development, construction or sales, or similar facilities, on any property owned by Declarant; or to post signs or other notices or announcements incidental to development, construction, promotion, marketing, or sales of any property or Improvements within the Community. Nothing contained in this Declaration shall limit the rights of Declarant, or require Declarant to obtain any approvals to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure or other Improvements on any property owned by Declarant as a construction, model home or sales office, in connection with sale of any property within the boundaries of the Community, nor shall anything in this Declaration be deemed to require the Declarant to seek or obtain the approval of the Architectural Review Committee or of the Association for any such activity or Improvement.



ARTICLE IV  
COVENANT FOR ASSESSMENTS

1. Creation of the Lien and Personal Obligation for Assessments. Each Owner, 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: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, 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 or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall be the personal obligation of all Persons who were 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.

2. Purpose of Assessments. The assessments levied by the Association shall be used to pay the expenses of the Association, to promote the recreation, health, safety and welfare of the residents of the Lots, 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 or the Articles of Incorporation or Bylaws of the Association, or by law.

3. Initial Annual Assessment.

(a) Until commencement of the first Association fiscal year after conveyance of all seven (7) Lots by the Declarant to the first purchaser thereof (other than the Declarant) or December 31, 1997, whichever shall first occur, the maximum annual assessment shall not exceed One Hundred Thirty-Five and No/100 Dollars (\$135.00) per Lot per month.

(b) Effective with commencement of each Association fiscal year following expiration of the earlier time period set forth in subsection (a) of this Section 3, the maximum annual assessment against each Lot shall be increased effective on the

first day of each Association fiscal year in conformance with the rise, if any, of the Consumer Price Index published by the U.S. Department of Labor, Washington, DC, for All Items and Major Group Figures for the Denver, Colorado metropolitan area (1967=100), for the one year period ending with the preceding month of October; this annual increase in the maximum annual assessment shall occur automatically on the commencement of each Association fiscal year without the necessity of any action being taken with respect thereto by the Executive Board or the Association. If the aforesaid Consumer Price Index is not published, for whatever reason, then the increase in the maximum annual assessment shall be calculated by using a substantially comparable index designated by the Executive Board.

(c) If the Executive Board determines that the annual assessments should exceed the amount of the maximum annual assessment for such period, as provided above, then such increase in excess of the maximum shall be effective only for the succeeding Association fiscal year with the prior consent of at least two-thirds (2/3) of all of the votes of Members who are voting in person or by proxy at a meeting duly called for such purpose.

(d) The amount of the actual annual assessment may be set by the Executive Board at any time, from time to time, not in excess of the maximum for such period.

4. Rate of Assessment. For all Lots on which assessments have commenced, as hereafter provided, annual and special assessments shall be fixed at a uniform rate for each such Lot and set at a level which is anticipated to be sufficient to meet the expected needs of the Association. The annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced by the Association on a periodic basis.

5. Commencement of Annual Assessments. The annual assessment for each Lot shall commence on that date when both of the following events have occurred with respect to such Lot: a certificate of occupancy has been obtained from the City and County of Denver for the residence constructed on such Lot; and such Lot has been conveyed by the Declarant to the first Owner thereof (other than the Declarant). Until the date when both of the foregoing events have occurred, no annual, special or other assessments shall be due or payable to the Association on or with respect to such Lot. The annual assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Executive Board determines in its discretion from time to time. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

6. Special Assessments. In addition to the annual assessments authorized in this Article, the Executive Board 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 any Improvement on the Common Area, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on the Common Area, or for the funding of any deficit incurred by the Association. Any such special assessment shall be set equally against each Lot on which annual assessments have commenced (as provided above).

7. Charges for Services to Less than All of the Lots. The Association may, at any time from time to time, provide services to less than all of the Lots, and the Owners of such Lots shall pay the Association for such services as hereinafter provided. Any such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service is to be provided. Services which may be provided by the Association pursuant to this Section include, without limitation: (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to such area(s) or Lot(s), such as maintenance of the exteriors of residences or Improvement(s) located on Lots; (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners. The Association may, at its election, at any time from time to time, collect the aforesaid costs, fees, expenses and other charges from Owners to whom such services are provided, in advance or arrears, in monthly or other installments, or in addition to and on the same date for payment of the annual assessments.

8. Other Charges. The Association may levy and assess charges, costs and fees for the following matters, among others, in such amount(s) as the Executive Board may determine in its discretion at any time from time to time, including charges to the Association by its managing agent or other Person: copying of Association or other documents; return check charges; charges for telefaxes; long distance telephone calls; other charges incurred by the Association for or on behalf of any Owner(s); charges for notices and demand letters; and transfer charges or fees upon transfer of ownership of a Lot. All such charges, costs and fees shall be in addition to the assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.



9. Lien for Assessments. The annual and special assessments, together with interest, late charges, costs, attorney's fees, fines, and other amounts charged pursuant to this Declaration are enforceable as assessments and shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien may be enforced by foreclosure of a 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 attorney's fees. The Executive Board 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 the description of the Lot. Such a notice shall be signed by a member of the Executive 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 each unpaid assessment attaches to each Lot at the beginning of each annual assessment period and shall continue to be a lien against such Lot until paid in full. The costs and expense for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The 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.

10. Subordination of the Assessment Lien to First Mortgages. The annual and special assessments, together with interest, late charges, costs, attorney's fees, fines, and other amounts charged pursuant to this Declaration are enforceable as assessments and shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien of the assessments provide for in this Declaration, including without limitation any fees, costs, late charges, interest, attorney's fees, fines, or other amounts which may be levied by the Association, shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the liens for said assessment charges, except that sale or transfer of any Lot pursuant to foreclosure of any 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 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.

11. Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a First Mortgage or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Executive Board, and every Owner. The Association shall have the right to charge a fee for the issuance of such certificates.

12. Effect of Non-Payment 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 Executive Board, and the Executive Board may charge a late charge thereon in an amount not in excess of \$25.00 per month. 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. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of assessments by waiver of the use or enjoyment of any of the Common Area or by abandonment of the Lot against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

13. Working Capital Fund. The Association or Declarant shall require the first Owner (other than Declarant) of any Lot who purchases that Lot from Declarant, to make a non-refundable contribution to the Association in an amount equal to two (2) times the then current monthly installment of the annual assessment. 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, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner

from making regular payments of assessments as the same become due. Upon the transfer of his Lot, an Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

ARTICLE V  
ARCHITECTURAL REVIEW COMMITTEE

1. Composition of Committee. The Architectural Review Committee shall consist of three (3) or more persons appointed by the Executive Board; provided, however, that until all of the Lots have been conveyed by the Declarant to the first Owner thereof (other than Declarant), Declarant may appoint the Architectural Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. 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 appointor.

2. Review by Committee; Requirement for Approval by Governmental Entities.

(a) No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, 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 and 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 any Lot or residence on any Lot. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. The Architectural Review Committee may require that the applicant(s) of each submission pay a fee(s) to the Association for the review and approval process, with such fee(s) to be in such amount(s) as may be set by the Committee in its discretion from time to time. Such amounts, if any, shall be levied in addition to the assessments against the Lot for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for

the collection of such assessments, as more fully provided in this Declaration.

(b) In addition to the required approvals by the Architectural Review Committee, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvement on any Lot shall also require the prior approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. The Person who prosecutes the work incidental to such Architectural Review Committee approval shall be required to obtain all other required approvals, permits and licenses prior to commencing such work.

3. Procedures. The Architectural Review Committee shall decide each request for approval within forty-five (45) days after the complete submission of the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to decide any request within forty-five (45) days after the complete submission to the Committee of the plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

4. Vote and Appeal. A majority vote of the Architectural Review Committee is required to approve a request for approval, 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 Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such decision by the Committee's representative.

5. Architectural Standards. The Architectural Review Committee, with the advice of the Executive Board, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce architectural standards for the Community, or other standards, to interpret and implement the provisions of this Article and the Declaration, including, without limitation, those relating to procedures, materials to be submitted, specifications of items, types, kinds or location of Improvements, and other matters. Any standards so adopted by the Committee shall be consistent, and not in conflict, with this Article and the Declaration.

6. 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 avail-



able to Members for inspection at reasonable hours of the business day.

7. 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.

8. Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article IX 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 negate the general intent and purpose hereof.

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

#### ARTICLE VI INSURANCE

1. Insurance. The Association shall maintain the following types of insurance on the Common Area, 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 common expenses.

(a) Property insurance for broad form covered causes of loss; except that the total amount of insurance must not be less than the full insurable replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundations, excavations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Area, insuring the

Association in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Executive Board, the Association, any managing agent, and their respective employees, agents and all Persons acting as agents.

(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/or any independent contractor employed by the Association for the purpose of managing the Community, 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. The Association may require its managing agent, if any, to purchase, at such agent's own expense, a policy of fidelity insurance or bonds.

(d) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it may at any time deem appropriate 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 of the Association.

2. 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. 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.

3. Deductibles; Loss Caused by Owner(s). The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. If the Executive Board determines 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 one or more Owners, then the Association may assess such loss or deductible, or any portion thereof, to the Owner(s) in question and the Association may collect the amount(s) from said Owner(s) in the same manner as any assessment.

4. 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.

5. Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Lot and the Improvements thereon, and the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot.

ARTICLE VII  
DAMAGE OR DESTRUCTION

1. Common Area.

(a) If damaged or destroyed, the Common Area must be repaired or replaced promptly by the Association unless:

(1) The Community is terminated;

(2) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(3) Eighty percent (80%) of the Owners, including every Owner of a Lot that will not be rebuilt, vote not to rebuild.

(b) The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is a common expense of the Owners. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed equally to all of the Lots for the Owners and lienholders thereof, as their interests may appear.

2. Lots. Any damage to or destruction of any structure located on a Lot shall be promptly repaired and reconstructed by the Owner thereof using insurance proceeds and personal funds of such Owner. "Repaired and reconstructed," as used in this Section 2, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage



or destruction, including having the same boundaries as before. If a residence located on a Lot shall be destroyed or so damaged that the residence is no longer habitable, then the Owner of such Lot shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, commence and diligently pursue repair or reconstruction of the residence.

ARTICLE VIII  
EXTERIOR MAINTENANCE

1. General.

(a) Maintenance, repair and replacement of all Common Area, Improvements located thereon (including without limitation the Community entry gate and wall), and of any drainage structure or facilities, or other public Improvements required by the local governmental entity as a condition of development of the Community or any part thereof, shall be the responsibility of the Association. In addition, the Association shall provide the following in the Community: snow removal from the sidewalks and front stoops (but not porches, patios or rear stoops), driveways and parking spaces; trash removal; maintenance of perimeter fencing on the west and south boundaries of the Community; and maintenance, repair and replacement of the central mailboxes. Further, the Association may provide such other maintenance, repair and replacement as the Executive Board deems appropriate from time to time, including without limitation publicly-dedicated property and Improvements located thereon. The costs, expenses, fees and other amounts to be expended for the maintenance, repair and replacement provided for in this subsection (a) shall, subject to Section 4 of this Article, be collected by the Association as assessments.

(b) The Association assumes and agrees to perform all duties, liabilities and obligations of the "Owner(s)," as defined and provided in a certain Easement and Indemnity Agreement between the City and County of Denver and Larsen Homes, Ltd., recorded or to be recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado ("Easement and Indemnity Agreement"). Further, each of the Owners (as defined in this Declaration) has joint and several financial responsibility for the maintenance and repair of the private roads, streets, sewers, and other drainage facilities, as well as the indemnity provisions of the Easement and Indemnity Agreement, all as more fully set forth in the Easement and Indemnity Agreement. Without limiting the generality of the foregoing, in connection with the performance of work under the Easement and Indemnity Agreement, the Association shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation,

marital status, or physical or mental disability; and shall insert the foregoing provision in all subcontracts for work performed under the Easement and Indemnity Agreement.

(c) Except as provided in subsection 1(a) of this Article, the maintenance, repair and replacement of each Lot, and the Improvements thereon (including without limitation the front yard photocell light and sidewalks, porches, patios and stoops, except snow removal therefrom as provided in subsection 1(a) above), shall be the responsibility of the Owner of such Lot. The Association and each Owner, and their agents and contractors, are hereby granted an easement for the purpose of maintenance and repair of the Common Area or the Owner's Lot, as applicable, on, over, across, under and through any adjacent Lot upon reasonable notice to the Owner thereof. Any damage occurring to such adjacent Lot or the Improvements thereon in performing such repairs or maintenance shall be the responsibility of the party performing or authorizing such repairs or maintenance.

2. Association's Right to Repair, Maintain, and Replace. In the event any Owner shall fail to perform his maintenance, repair and/or replacement obligations in a manner satisfactory to the Executive Board, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owner by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period, to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair or replacement shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article IV hereof.

3. Access Easement. Each Owner shall afford to the Association and the other Owners, and to their agents and employees, access through such Owner's Lot reasonably necessary for maintenance, repair and replacement of any Common Area and any other property or Improvements maintained, repaired or replaced by the Association or such Owner. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Area, any other property, or any Lot, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or replacement as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that no such notice shall be required in connection with any exterior, non-intrusive maintenance, repair or replacement, and except that in emergency situations entry on a Lot may be made at any time provided that the Owner or occupants of each affected Lot 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 3.

4. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of or within any Common Area, any Lot, or any Improvements 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, replacement or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or replacement shall be added to 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.

#### ARTICLE IX RESTRICTIONS

1. General Plan; Restrictions Imposed. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots, all in order to enhance the value, desirability, and attractiveness of the Lots and subserve and promote the sale thereof. The Declarant declares that all of the Lots 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, as well as those contained elsewhere in this Declaration.

2. Residential Use. Except for those rights reserved by the Declarant in this Declaration, Lots shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Lot for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence of such use, and no unreasonable inconvenience to other residents of the Lots results from such use.

3. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; 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 pets are not kept for any commercial purpose, are not kept in such number or in such manner as to create a nuisance to any

resident of the Lots, and are kept in compliance with applicable law. The Association shall have, and is hereby given, the right and authority to determine that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action(s) as it may deem appropriate 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 pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article IV hereof.

4. Temporary Structures; Unsightly Conditions. 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; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Person(s) doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to visible from a street or from any other Lot.

5. Miscellaneous Improvements.

(a) No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House" or "For Rent" sign of not more than five (5) square feet. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Lots, or otherwise in connection with development of or construction in the Community, shall be permissible.

(b) No clotheslines, chain-linked (or other) 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 from the ground level of any other Lot.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Architectural Review Committee.



(d) Except as may otherwise be permitted by the Architectural Review Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction in the Community.

(e) No fences shall be permitted except with the prior written approval of the Architectural Review Committee, except such fences as may be constructed or erected by the Declarant as part of its construction in the Community.

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

6. Vehicular Parking, Storage and Repairs.

(a) No house trailer, camping trailer, boat trailer, hauling trailer, 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 in the Community unless such parking or storage is within the garage on the Lot, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of any portion of the Community 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 in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of seventy-two (72) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently licensed and registered; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

(c) If the Association determines that a vehicle is parked or stored in violation of subsections (a) or (b) of this Section, 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 a reasonable time thereafter, as determined by the Association in its discretion from

time to time, 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 in the Community 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, on a Lot, 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.

7. Nuisances. No nuisance shall be permitted in the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of the Community or any portion thereof. 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 in, the Community. 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 unlawful use shall be permitted or made of the Community or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community, or any portion thereof, shall be observed.

8. No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted on any Lot or within Improvements constructed on any Lot 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 Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot, or residence thereon, except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as not to constitute a hazard or danger to any Person or property.

9. 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.

10. Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant

waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot. Such items shall be regularly removed from the residence by the Owner thereof, who shall deposit the same in trash container(s) provided by such Owner for trash pickup which shall be paid for by the Association.

11. Rules and Regulations. Rules and regulations concerning and governing the Lots, Common Area, and/or this Community may be adopted, amended or repealed from time to time by the Executive Board, and the Executive Board may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations.

12. Lots to be Maintained. Each Lot shall at all times be kept in a clean and sightly condition by the Owner thereof. No visible trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction.

13. Management Agreements. Any agreement for professional management of the Association's business 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.

14. Maintenance of Grade and Drainage. Each Owner shall maintain the grading upon his Lot, and the Association shall maintain the grading upon the Common Area, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Lot or other real property which an Owner or the Association has a duty to maintain, then the party responsible for the maintenance of such real property shall submit a plan to the Architectural Review Committee for its review and approval, in accordance with the provisions of Article V of this Declaration. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot is completed.

15. Easements for Drainage. Declarant hereby reserves, to itself and to the Association, easements for drainage and drainage facilities across that portion of the Community which is four feet (4') inside of, and parallel to, the eastern and the western boundary lines of the Community and across those portions



of the Community which lie between the residences which may now or hereafter be constructed in the Community. No Improvements shall be placed or permitted to remain on any Lot, nor shall any change in grading be permitted to exist, which may change the direction of flow or obstruct or retard the flow of water through channels or swales within the aforesaid drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each of the aforesaid drainage easements, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time.

16. Use of Common Area. An easement is hereby granted to the Declarant through the Common Area as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any rights reserved by the Declarant. Subject to the immediately preceding sentence:

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

(b) No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Area to all Members, nor shall any Owner place any structure whatsoever upon the Common Area.

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

(d) No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to their Lots only over Common Area, and the right of ingress and egress to said Lots is hereby expressly granted.

17. Easement for Encroachments. To the extent that any Lot or Common Area encroaches on any other Lot or Common Area, a valid easement for the encroachment exists.

ARTICLE X  
PROPERTY RIGHTS IN THE COMMON AREA

1. Owners' Easements of Enjoyment. Subject to Sections 2 and 3 of this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Lots and for use for all other purposes, in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot.

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

(a) The right of the Association to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Area to a First Mortgagee unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association; and

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

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

(d) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association 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 by the Members entitled to cast at least eighty percent (80%) of the votes in the Association and unless written notice of the proposed agreement and the proposed dedication or transfer 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 or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection; and

(e) The right of the Association, through its Executive Board, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of property or Improvements by Owners, other persons, their family members, guests and invitees, for any purpose(s) the Executive Board may deem to be useful, beneficial or otherwise appropriate; and

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

3. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on his Lot.

ARTICLE XI  
GENERAL PROVISIONS

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 supplemented and amended, may be by any proceeding at law or in equity against any Person(s) (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 prosecute any such proceedings, 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.

2. Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

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

4. Annexation. The Declarant may, at any time until five (5) years after the date of recording of this Declaration in the City and County of Denver, Colorado, without the consent or approval of any other Owners, First Mortgagees, or any other Person, amend this Declaration, in order to add additional real estate to the Community from such locations as the Declarant may elect in its sole discretion, so long as the total additional real estate so annexed to the Community pursuant to this sentence, and not described in the attached Exhibit A, does not exceed ten percent (10%) of the total area described in the attached Exhibit A.

5. 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 otherwise provided in this Declaration, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated; provided, however, that (as long as the Declarant has the reserved rights referenced in Article III, Section 1 hereof) any amendment to this Declaration shall require the prior, written approval of the Declarant.

(b) Notwithstanding anything to the contrary contained in this Declaration, the Articles of Incorporation or Bylaws of the Association, 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, for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provision(s) of this Declaration.

(c) Notwithstanding anything to the contrary contained in this Declaration, the Articles of Incorporation or Bylaws of the Association, 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, in order to comply with any requirements of any of the Agencies (as hereinafter defined) or to induce any of the Agencies (as hereinafter defined) to make, purchase, sell, insure or guarantee First Mortgages. For purposes of this subsection, "Agencies" shall mean and collectively refer to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any other governmental 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 agencies or entities.

(d) Every amendment to this Declaration must be recorded in the City and County of Denver, Colorado, and is effective only upon recordation.

(e) No action to challenge the validity of an amendment pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

6. Registration of Mailing Address. Each Owner and each First Mortgagee shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner or a First Mortgagee, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to 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 Executive Board or the Association, as long as Declarant owns any portion of the Community, shall be sent by registered or certified mail, postage prepaid, c/o Larsen Homes, Ltd., 6 Inverness Court East, Suite 110, Englewood, Colorado 80112, unless such address is changed by the Association during Declarant's ownership of any portion of the Community; subsequent to expiration of Declarant's ownership of any portion of the Community, the Association shall notify the Owners of a different address for notices.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal this 15<sup>th</sup> day of March, 1996.

LARSEN HOMES, LTD., a Colorado corporation

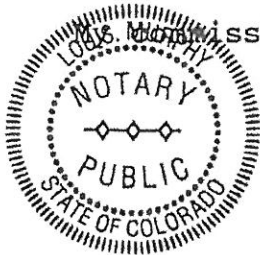
By: [Signature]  
Its: President



STATE OF COLORADO )  
COUNTY OF Arapahoe ) ss.

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of March, 1996, by Larry D. Larsen as President of LARSEN HOMES, LTD., a Colorado corporation.

Witness my hand and official seal.



My Commission expires: 9-14-99  
Lou S. Murphy  
Notary Public