

DECLARATION
OF
STERLING POINTE

TABLE OF CONTENTS

| | |
|---|----|
| ARTICLE 1 - SUBMISSION/DEFINEDTERMS..... | 1 |
| Section 1.1 <u>Submission of Real Estate</u> | 1 |
| Section 1.2 <u>Defined Terms</u> | 2 |
| ARTICLE 2 - NAMES/DESCRIPTION OF REAL ESTATE..... | 4 |
| Section 2.1 <u>Name and Type</u> | 4 |
| Section 2.2 <u>Limited Expense Planned Community/Exempt from CCIOA</u> | 4 |
| Section 2.3 <u>Access Via Publicly Dedicated Streets and Roads</u> | 4 |
| Section 2.4 <u>Local Improvement District</u> | 4 |
| Section 2.5 <u>Utility, Map and Plat Easements</u> | 4 |
| Section 2.6 <u>Mistletoe Notice</u> | 5 |
| Section 2.7 <u>Easements for the Executive Board and Owners</u> | 5 |
| Section 2.8 <u>Emergency Easements</u> | 5 |
| Section 2.9 <u>Maintenance of Drainage</u> | 5 |
| Section 2.10 <u>Owners' Easements of Enjoyment</u> | 5 |
| Section 2.11 <u>Delegation of Use</u> | 5 |
| ARTICLE 3 - THE ASSOCIATION..... | 6 |
| Section 3.1 <u>Membership</u> | 6 |
| Section 3.2 <u>General Purposes and Powers of the Association</u> | 6 |
| Section 3.3 <u>Authority of the Association</u> | 6 |
| Section 3.4 <u>Specific Powers</u> | 6 |
| Section 3.5 <u>Allocated Interests</u> | 6 |
| Section 3.6 <u>Association Agreements</u> | 6 |
| Section 3.7 <u>Indemnification</u> | 6 |
| Section 3.8 <u>Declarant Control</u> | 7 |
| ARTICLE 4 - LOTS, LOT BOUNDARIES AND ASSOCIATION MAINTENANCE..... | 7 |
| Section 4.1 <u>Identification of Lots/Lot Descriptions</u> | 7 |
| Section 4.2 <u>Lot Maintenance/Boundaries</u> | 7 |
| Section 4.3 <u>Association Maintenance</u> | 7 |
| ARTICLE 5 - COVENANT FOR COMMON EXPENSE ASSESSMENTS..... | 8 |
| Section 5.1 <u>Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments</u> | 8 |
| Section 5.2 <u>Apportionment of Common Expenses</u> | 8 |
| Section 5.3 <u>Purpose of Assessments</u> | 8 |
| Section 5.4 <u>Annual Assessment/Commencement of Common Expense Assessments</u> | 8 |
| Section 5.5 <u>Effect of Non-Payment of Assessments</u> | 9 |
| Section 5.6 <u>Lien Priority</u> | 9 |
| Section 5.7 <u>Working Fund</u> | 9 |
| Section 5.8 <u>Common Expenses Attributable to Fewer Than All Lots</u> | 10 |
| Section 5.9 <u>Declarant's Exemption</u> | 10 |
| ARTICLE 6 - COVENANTS AND RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY..... | 10 |

| | | |
|---|---|----|
| Section 6.1 | <u>Use/Occupancy</u> | 11 |
| Section 6.2 | <u>Design Approval</u> | 11 |
| Section 6.3 | <u>Specific Improvements Required/Setbacks</u> | 11 |
| Section 6.4 | <u>Dwelling Size</u> | 11 |
| Section 6.5 | <u>Leasing and Occupancy</u> | 11 |
| Section 6.6 | <u>Lots and Fences to be Maintained/Restrictions on Fences</u> | 12 |
| Section 6.7 | <u>Erosion and Sediment Control</u> | 12 |
| Section 6.8 | <u>Restrictions on Vehicles, Vehicular Parking, Storage and Repairs</u> | 12 |
| Section 6.9 | <u>No Temporary Structures</u> | 12 |
| Section 6.10 | <u>Restrictions on Sewage Disposal Systems</u> | 13 |
| Section 6.11 | <u>Restrictions on Animals and Pets</u> | 13 |
| Section 6.12 | <u>Restriction on Signs, Banners and Flags</u> | 13 |
| Section 6.13 | <u>Roof Apparatus</u> | 13 |
| Section 6.14 | <u>No Wind Generators</u> | 13 |
| Section 6.15 | <u>Clotheslines and Storage</u> | 13 |
| Section 6.16 | <u>Restriction on Garbage Collection</u> | 14 |
| Section 6.17 | <u>No Unsightliness</u> | 14 |
| Section 6.18 | <u>Cutting of Trees/Clearing of Lots</u> | 14 |
| Section 6.19 | <u>Outside Burning/Precaution for Fire Hazards</u> | 14 |
| Section 6.20 | <u>Defensible Space</u> | 14 |
| Section 6.21 | <u>Forest Management Plan</u> | 14 |
| Section 6.22 | <u>Living with Wildlife</u> | 14 |
| Section 6.23 | <u>Bluegrass/Irrigated Lawns</u> | 14 |
| Section 6.24 | <u>Construction Activities</u> | 14 |
| Section 6.25 | <u>Restriction on Subdivision</u> | 14 |
| Section 6.26 | <u>Nuisances</u> | 14 |
| Section 6.27 | <u>No Annoying Lights, Sounds or Odors</u> | 15 |
| Section 6.28 | <u>No Restrictions on Sale of a Lot</u> | 15 |
| Section 6.29 | <u>Restrictions on Hunting, Mining and Drilling</u> | 15 |
| Section 6.30 | <u>No Hazardous Activities/Firearms</u> | 15 |
| Section 6.31 | <u>Underground Utilities</u> | 15 |
| Section 6.32 | <u>Antennae</u> | 15 |
| Section 6.33 | <u>Compliance with Laws</u> | 16 |
| Section 6.34 | <u>Rules and Regulations</u> | 16 |
| ARTICLE 7 - ARCHITECTURAL APPROVAL AND REVIEW | | 16 |
| Section 7.1 | <u>Required Approvals of Improvements and Contractors</u> | 16 |
| Section 7.2 | <u>Design Criteria</u> | 17 |
| Section 7.3 | <u>Establishment of the Design Review Committee</u> | 17 |
| Section 7.4 | <u>Guidelines</u> | 17 |
| Section 7.5 | <u>Fencing</u> | 17 |
| Section 7.6 | <u>Roofing</u> | 17 |
| Section 7.7 | <u>Reply and Communication</u> | 17 |
| Section 7.8 | <u>Variances</u> | 18 |
| Section 7.9 | <u>Waivers</u> | 18 |
| Section 7.10 | <u>Liability</u> | 18 |

| | | |
|---|---|----|
| Section 7.11 | <u>Records</u> | 18 |
| Section 7.12 | <u>Enforcement</u> | 18 |
| Section 7.13 | <u>Prosecution of Work After Approval</u> | 18 |
| ARTICLE 8 – INSURANCE/CONDEMNATION..... | | 19 |
| Section 8.1 | <u>Insurance Carried</u> | 19 |
| Section 8.2 | <u>Hazard Insurance on the Access Easements</u> | 19 |
| Section 8.3 | <u>Liability Insurance</u> | 19 |
| Section 8.4 | <u>Fidelity Insurance</u> | 19 |
| Section 8.5 | <u>Worker's Compensation and Employer's Liability Insurance</u> | 19 |
| Section 8.6 | <u>Officers' and Directors' Personal Liability Insurance</u> | 19 |
| Section 8.7 | <u>Other Insurance</u> | 19 |
| Section 8.8 | <u>General Insurance Provisions</u> | 20 |
| Section 8.9 | <u>Owner Insurance</u> | 20 |
| ARTICLE 9 - DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS..... | | 20 |
| Section 9.1 | <u>Development Rights and Special Declarant Rights</u> | 20 |
| Section 9.2 | <u>Additional Reserved Rights</u> | 21 |
| Section 9.3 | <u>Rights Transferable/Rights Transferred</u> | 22 |
| Section 9.4 | <u>No Further Authorizations Needed</u> | 22 |
| Section 9.5 | <u>Amendment of the Declaration or Map</u> | 22 |
| Section 9.6 | <u>Maximum Number of Lots</u> | 22 |
| Section 9.7 | <u>Interpretation</u> | 22 |
| Section 9.8 | <u>Termination of Reserved Rights</u> | 23 |
| Section 9.9 | <u>Additions by Others</u> | 23 |
| ARTICLE 10 - GENERAL PROVISIONS..... | | 23 |
| Section 10.1 | <u>Enforcement</u> | 23 |
| Section 10.2 | <u>Severability</u> | 23 |
| Section 10.3 | <u>Term of Declaration</u> | 23 |
| Section 10.4 | <u>Amendment of Declaration, Map or Plat by Declarant</u> | 24 |
| Section 10.5 | <u>Amendment of Declaration by Owners</u> | 24 |
| Section 10.6 | <u>Amendment Required by Mortgage Agencies</u> | 24 |
| Section 10.7 | <u>Required Consent of Declarant to Amendment</u> | 24 |
| Section 10.8 | <u>Interpretation</u> | 24 |
| Section 10.9 | <u>Singular Includes the Plural</u> | 25 |
| Section 10.10 | <u>Captions</u> | 25 |
| EXHIBIT A - DESCRIPTION OF REAL ESTATE..... | | 26 |
| EXHIBIT B - DESCRIPTION OF ACCESS EASEMENTS..... | | 27 |
| EXHIBIT C - EXPANSION PROPERTY..... | | 28 |

DECLARATION
OF
STERLING POINTE

THIS DECLARATION is made on the date hereinafter set forth, by Sterling Pointe Development, LLC, a Colorado limited liability company, with an address of 8480 East Orchard Road, Suite 1100, Englewood, Colorado 80111 ("Declarant").

RECITALS:

- (a) Declarant is the owner of certain property in the County of Douglas, State of Colorado, which is more particularly described as set forth in **Exhibit A** attached hereto and by reference made a part hereof.
- (b) Declarant desires to create a limited expense Planned Community on the Real Estate (as "Real Estate" is defined herein) under the name of Sterling Pointe, in which portions of the Real Estate will be designated for separate ownership and uses of a residential nature.
- (c) Declarant has caused the "Sterling Pointe Owners Association, Inc." a Colorado nonprofit corporation, to be organized under the laws of the State of Colorado, as an owners' association, for the purpose of exercising the functions as herein set forth.

ARTICLE 1

SUBMISSION/DEFINED TERMS

Section 1.1 Submission of Real Estate. Declarant hereby submits the property described in **Exhibit A** (the Real Estate) to the terms and conditions of this Declaration and to the provisions of the Colorado Common Interest Ownership Act that apply to limited expense Planned Communities, as set forth in C.R.S. § 38-33.3-116 (the "Act"), as the Act may be amended from time to time. Declarant hereby declares that all of the Real Estate shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions. Declarant further declares that this Declaration is made for the purpose of protecting the value and desirability of the Real Estate, that this Declaration shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner.

Section 1.2 Defined Terms. Each capitalized term in this Declaration or in the map or plat for the Real Estate shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration, as set forth below:

- (a) Access Easements means those easements described in **Exhibit B**.

- (b) Act means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.*, as it may be amended from time to time.
- (c) Allocated Interests means the undivided interest in the Common Expense liability and votes in the Association allocated to each Lot.
- (d) Association means Sterling Pointe Owners Association, Inc., a Colorado nonprofit corporation, which Association shall be an "owner's association" as defined in the Act.
- (e) Common Elements means the real property within this Common Interest Community owned by the Association, other than a Lot of an Owner, and which real property is conveyed to the Association.
- (f) Common Expense Assessment(s) means expenditures made or liabilities incurred by or on behalf of the Association.
- (g) Declarant means the Declarant named in this Declaration, and any successor and/or assignee, designated by written notice or assignment executed by the Declarant in this Declaration and recorded, to the extent any rights or powers reserved to the Declarant are transferred or assigned to that party.
- (h) Design Review Committee means the committee initially created by the Declarant for the purpose of establishing architectural controls over the Common Interest Community to insure the proper use and appropriate development and improvement of the Common Interest Community so as to provide for harmonious development and improvement of the Common Interest Community.
- (i) Executive Board, Board or Board of Directors means the body, regardless of name, designated in this Declaration to act on behalf of the Association.
- (j) Improvement(s) shall mean and include, without limitation: (a) the landscaping, construction, installation, erection or expansion of any building, structure, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, bicycle and/or other trails, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures; or other improvements, including utility facilities; (b) the demolition or destruction, by voluntary

action, of any building, structure or other improvements; (c) the grading, landscaping, excavation, filling or similar disturbances to the surface of the land including, without limitation, irrigation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or perennial plants; and (e) any change or alteration of any previously approved improvement, including any change of exterior appearance, finish material, color or texture.

- (k) Limited Common Elements means those portions of the Common Elements, designated by Declarant or the Association for the exclusive use of one or more but fewer than all of the Lots.
- (l) Lot or Unit means a physical portion of the Common Interest Community, designated for separate ownership, shown as a Lot on the recorded plat for the Common Interest Community, the boundaries of which are defined in the plat and in Section 4 of this Declaration.
- (m) Owner means the Declarant, or any other person or entity that owns a Lot.
- (n) Participating Builder means an Owner, other than the Declarant, who acquires a Lot without Improvements for occupancy constructed thereon from the Declarant for the purpose of constructing Improvements upon the Lot or for the purpose of reselling such Lot, to a third party, for sale or otherwise. Participating Builders must be assigned the rights established in this Declaration by the Declarant. Initial Participating Builders have approved this Declaration and have acknowledged their rights by their attached approvals to this Declaration.
- (o) Real Estate means the property described in **Exhibit A**, together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon. Certain easements and licenses, which the Common Interest Community is subject to as of the date of this Declaration, are recited in Exhibit A. Additional easements are established in the Act.
- (p) Residence means and refers to a detached, non-cluster, single-family residential dwelling unit constructed upon any Lot.
- (q) Rules and Regulations means all rules, regulations, procedures and guidelines of the Association, in general, and the Design Review Committee, specifically, as the same may be adopted and amended from time to time by the Executive Board or the Design Review Committee, pursuant to this Declaration.

ARTICLE 2

NAMES/DESCRIPTION OF REAL ESTATE

Section 2.1 Name and Type. The type of Common Interest Community is a limited expense Planned Community. The Common Interest Community is located in the County of Douglas, State of Colorado. The name of the Common Interest Community is "Sterling Pointe." The name of the Association is the "Sterling Pointe Owners Association, Inc."

Section 2.2 Limited Expense Planned Community/Exempt from CCIOA. The Real Estate subject to this Declaration is intended to be and is exempt from the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-116, *et seq.*, as a limited expense Planned Community. The average annual common expense liability of each Lot restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the Association, may not exceed Three Hundred Dollars (\$300.00), as that amount may be allowed to increase by law or consumer price increases. Accordingly, the Real Estate subject to this Declaration shall only be subject to Sections 105, 106 and 107 of the Colorado Common Interest Ownership Act and such other sections of the Act as specifically made applicable by the terms of this Declaration. Further, definitions used in the Colorado Common Interest Ownership Act shall apply herein, as set forth above.

Section 2.3 Access Via Publicly Dedicated Streets and Roads. Access to the Community is provided via publicly dedicated streets and roads, entering the Community from the south. As a secondary means of access, private, terminable Access Easements provide access from the north. The Association may take all actions it deems appropriate to avoid termination of the Access Easements by parties having any termination rights. The Access Easements are described in **Exhibit B**.

Section 2.4 Local Improvement District. In the event the Access Easements are dedicated to and accepted by local government, the Owners hereby agree and consent to such dedication, and agree and consent to the formation of a local improvement district or other means to fund construction of public improvements to the Access Easements, any railroad crossing or separation improvements and any interchange improvements on the interstate highway. In support of such potential public improvements, each Owner agrees and consents not to seek exclusion from a local improvement district formed for these or other similar purposes.

Section 2.5 Utility, Map and Plat Easements. Easements for utilities and other purposes over and across the Lots may be as shown upon recorded plats or maps and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.6 Mistletoe Notice. Dwarf mistletoe is a common problem in Colorado forests. Portions of the Planned Community may include ponderosa pine, lodge pole pine, limber pine, piñon pine and/or Douglas fir pine trees infected with dwarf mistletoe. Dwarf mistletoe is a parasitic flowering plant that spreads by forcibly ejected seeds. The effects of dwarf mistletoe include growth reduction, loss of wood quality, poor tree form, predisposition to other insects and

diseases, premature death, reduction in seeds, and other effects. Existing infection and further infections may be managed through buffer zones, pruning, removal or other means. Management of the infected trees or adjacent areas within the Planned Community may be imposed by the Colorado State Forest Service or the Association.

Section 2.7 Easements for the Executive Board and Owners. Each Lot shall be subject to an easement in favor of the Executive Board (including its agents, employees and contractors) and to each Owner to allow for their performance of obligations in this Declaration.

Section 2.8 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Community, to enter upon any part of the Community in the performance of their duties.

Section 2.9 Maintenance of Drainage. There shall be no interference with the established drainage pattern over any Lot within the Real Estate, except as approved in writing by the Design Review Committee.

Section 2.10 Owners' Easements of Enjoyment. Every Owner shall have a right and easement access to their Lot and of enjoyment in and to private or public Access Easements and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions: (a) the right of the Association to promulgate and publish rules and regulations which each Owner and their guests shall strictly comply with; (b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against their Lot remains unpaid; and for any period during infraction of published rules and regulations; (c) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Access Easements to the extent determined by the Executive Board to be in the best interests of the Community; and (d) the right of the Association to close or limit the use of the Access Easements while maintaining, repairing and making replacements to the Access Easements.

Section 2.11 Delegation of Use. Any Owner may delegate their right of enjoyment of the Access Easements to the members of their family, their tenants, guests, or contract purchasers who reside at their Lot.

ARTICLE 3

THE ASSOCIATION

Section 3.1 Membership. Every person who is a record Owner of a fee interest in any Lot, which is subject to this Declaration, shall be a member of the Association, including contract sellers. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for such membership. Where more than one person holds an interest in any Lot, all such persons shall be members. Ownership of a Lot shall entitle the Owner to one (1) vote.

Section 3.2 General Purposes and Powers of the Association. The Association, through its Executive Board, shall perform functions and manage the Community as provided in this Declaration so as to further the interests of the residents, occupants, tenants and guests of the Community and members of the Association. All Owners shall be deemed to have assented to,

ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association. The business affairs of the Community shall be managed by the Association. The Association shall be governed by this Declaration, the plat, its Articles of Incorporation and Bylaws, as amended from time to time, by any rules and regulations adopted by the Executive Board, and by applicable portions of the Colorado Common Interest Ownership Act as apply to limited expense Planned Communities. The Executive Board may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility.

Section 3.4 Specific Powers. The Association shall have the powers, authority and duties as follows and as necessary and proper to manage the business and affairs of the Community.

Section 3.5 Allocated Interests. The Common Expense liability and votes in the Association shall be equally allocated to each Lot.

Section 3.6 Association Agreements. Any agreement for professional management of the Community may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice.

Section 3.7 Indemnifications. To the full extent permitted by law, each officer and director of the Association shall be and are hereby indemnified by the Owners and the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or director of the Association, or any settlements thereof, whether or not they are an officer or director of the Association at the time such expenses are incurred; except in such cases wherein such officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

Section 3.8 Declarant Control. The Declarant shall have the reserved power to appoint and remove officers and members of the Executive Board until all Lots are conveyed to Owners who purchase their Lot from Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant Control, but, in that event, the Declarant may require, for the duration of the period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE 4

LOTS, LOT BOUNDARIES AND ASSOCIATION MAINTENANCE

Section 4.1 Identification of Lots/Lot Descriptions. The identification number of each Lot is shown on the plat. Every contract for sale, deed, lease, Security Interest, will or other legal instrument shall legally describe a Lot by its identifying number or legal description followed by the name of the community, with reference to the plat and the Declaration. Reference to the Declaration and plat, if any, in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration and plat, without specific references thereto.

Section 4.2 Lot Maintenance/Boundaries. Owners are responsible for the maintenance, repair and replacement of the Improvements, landscaping and properties located within their Lot boundaries. Specifically, Owners shall provide for all interior and exterior maintenance of all Improvements constructed on or as a part of a Lot. The planes defined by the boundary lines on the plat for the Real Estate are designated as boundaries of each Lot. Each Lot includes the spaces and improvements lying within the boundaries described above, and also includes the utilities, water lines and utility meters and communications, television, telephone and electrical receptacles and boxes serving that Lot exclusively, whether or not in the boundaries or contiguous to the Lot, unless the same are maintained by a governmental agency or entity.

Section 4.3 Association Maintenance. The Executive Board of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities. The Association shall be responsible for the improvement, maintenance, repair and replacement of the Access Easements, including snow removal and the streets within the Community, to the extent maintenance is not provided by the county. Additionally, the Association shall be responsible for: the improvement, upkeep and maintenance, repair and reconstruction of storm drainage facilities located within easements (as required and set forth on the plat); all drainage facilities located within easements (as required and set forth on the plat), including culverts, channels, ditches, hydraulic structures, and detention basins and any out lots or other property owned by the Association, landscaped areas in dedicated public right of ways or public easements; or for the payment of expenses which may be incurred by virtue of agreement with or requirement of any local governmental authority, Douglas County or other government authorities. In the event an Owner fails to implement applicable portions of any forest management plan as imposed by the Colorado State Forest Service or the Association, the Association may undertake such applicable portions of that management plan on an Owner's Lot and the Association may assess those expenses exclusively against that Lot Owner and their Lot.

ARTICLE 5

COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 5.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Lot, shall be deemed to covenant and agree, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments (subject to the limitations contained in Section 2.2 of this

Declaration) and such other assessments as imposed by the Association. Such assessments, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association shall be the personal obligation of the Owner of such Lot at the time when the assessment or other charges became or fell due. The Association annual Common Expense Assessments and such other assessments as imposed by the Association, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such assessment or charge is made. If any Assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Access Easements or by abandonment of the Lot against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

Section 5.2 Apportionment of Common Expenses. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Lots in accordance with formula for liability for the Common Expenses as set forth in this Declaration.

Section 5.3 Purpose of Assessments. The assessments levied by the Association through its Executive Board shall be used for the general and specific purposes set forth in this Declaration, all to the health, safety, and welfare of the residents and guests of the Community and the members of the Association. Also, a portion of the assessments may be used to provide a reserve fund for the replacement, repair, and maintenance of the Access Easements, which must be replaced on a periodic basis.

Section 5.4 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense Assessment may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments shall be due and payable in annual installments, or in any other manner, as determined by the Executive Board. Common Expense Assessments may begin on the first day of the month in which conveyance of the first Lot to an Owner other than the Declarant occurs. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 5.5 Effect of Non-Payment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any installment thereof, which is not fully paid within ten (10) days after the due date thereof, as established by the Executive Board, shall bear interest at the rate as determined by the Executive Board, and the Association may assess a reasonable late charge thereon as determined by the Executive Board. Failure to make payment within sixty (60) days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments,

charges or fees, or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment, charges or fees, or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may take possession and rent same or apply for the appointment of a receiver without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien Security Interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 5.6 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien Security Interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Section is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer shall not affect the lien for said assessments or charges except that sale or transfer pursuant to foreclosure of any first lien Security Interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any assessment charges thereafter becoming due, nor from the lien thereof.

Section 5.7 Working Fund. The Association may require the first Owner of each Lot (other than Declarant) to make a non-refundable payment to the Association in an amount equal to annual Common Expense Assessment against that Lot in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the initial sale by Declarant of each Lot, as aforesaid, and shall be for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer, an Owner shall be entitled to a credit from their transferee for any unused portion of the aforesaid working fund. This account may be updated annually by the Association, and notice shall be given to all Owners whose individual account does not equal one current annual assessment. Payment of any shortage shall be due with the next regular assessment payment, following written notice.

Section 5.8 Common Expenses Attributable to Fewer Than All Lots. Any Common Expense associated with the maintenance, repair or replacement of components and elements attached to or a part of a Lot or Lots or to a Lot or Lots to which a Limited Common Element is assigned may be assessed against that or those Lots. If any such Limited Common Element is assigned to more than one (1) Lot, the Common Expenses attributable to the Limited Common Element may be assessed equally among the Lots to which it is assigned or in such reasonable

proportions as determined by the Association. Any Common Expense for services provided by the Association to an individual Lot at the request of the Lot Owner may be assessed against that Lot. Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction of the Lot shall be assessed against that Lot. An assessment to pay a judgment against the Association may be made only against the Lots in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities. If a Common Expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against that Lot Owner and their Lot. Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against a Lot Owner pursuant to this Section are enforceable as Common Expense Assessments.

Section 5.9 Declarant's Exemption. Lots owned by the Declarant shall not be subject to assessment until issuance of the final certificate of occupancy by the appropriate governmental authority for Improvements constructed on such Lots and occupancy of those Improvements. Lots owned by Declarant shall thereafter be assessed at the same rate as applicable to other Lots. If the annual and special assessments levied by the Association as set forth in this Article shall not be sufficient in amount to allow the Association to reasonably discharge its responsibilities under this Declaration, the Articles and Bylaws, then the Declarant shall be responsible for the payment of such additional assessments as may be necessary to reasonably discharge the Association's duties and responsibilities.

ARTICLE 6

COVENANTS AND RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

All Real Estate within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Executive Board or by an appropriate committee (subject to review by the Executive Board) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or must be contained in written guidelines or rules.

Section 6.1 Use/Occupancy. All Real Estate within the Community shall be used only for residential uses and/or uses or purposes as allowed by local zoning, control and regulation. The use of each Lot is restricted to that of a single family Residence. The term "single family Residence" means a single housekeeping unit and allows for a second Residence or home, if allowed by zoning, provided the second Residence or home is not rented to a third party. No buildings or structures shall be moved from other locations onto a Lot. Except for those activities conducted as a part of the marketing and development program of the Declarant and its assignees, no industry, business, trade or commercial activities, shall be conducted, maintained or permitted in any part of a Lot, nor shall any Lot be used or rented for transient, hotel or motel purposes. Home professional pursuits are permitted, provided however, such activity must be conducted without employees, public visits or nonresidential storage or other similar uses. No Improvements located upon a Lot shall be occupied in any manner at any time prior to being fully completed in accordance with approved plans.

Section 6.2 Design Approval Required. Improvements to the Lot must first be approved by the Design Review Committee as set forth in this Declaration. Specifically, no structure,

temporary building, trailer attachment, improvements, landscaping change shall be commenced, constructed, erected, placed or installed, including, but not limited to, a change in painting and/or staining of exterior siding, unless first submitted to and approved in writing by the Design Review Committee. No barn or other out-building shall be used or permitted to be kept or stored on any portion of a Lot, either temporarily or permanently, unless approved by the Design Review Committee. All additions to the Improvements on a Lot shall be of new construction.

Section 6.3 Specific Improvements Required/Setbacks. All Improvements must include a three (3) car garage. Roofing shall be of such quality materials, heavy upgrade products or tile, as required by the Design Review Committee. Setbacks are established for the front, side and rear lot lines, and shall be a sixty-five (65) foot minimum on the front lot line setback, a twenty-five (25) foot minimum on each side lot line, and a thirty-five (35) foot minimum on each rear lot line.

Section 6.4 Dwelling Size. No ranch or single story dwelling shall be permitted on any Lot with less than one thousand eight hundred fifty (1,850) square feet of improved enclosed space, excluding garages and basements, it being the intention and purpose hereof to assure that all ranch or one (1) story dwellings shall be of a size of not less than one thousand eight hundred fifty (1,850) square feet. No two (2) or multistory dwelling shall be permitted on any Lot with less than two thousand two hundred fifty (2,250) square feet of improved enclosed space, excluding garages and basements, it being the intention and purpose hereof to assure that all two (2) or multistory dwellings shall be of a size of not less than two thousand two hundred fifty (2,250) square feet.

Section 6.5 Leasing and Occupancy. Any Owner shall have the right to lease or allow occupancy of the Improvements on a Lot upon such terms and conditions as the Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record and subject to Rules and Regulations as may be adopted by the Association. Except as restricted in this Declaration, and such Rules and Regulations as the Association may promulgate, the right to lease or allow occupancy shall not be restricted.

Section 6.6 Lots and Fences to be Maintained/Restrictions on Fences. Owners are responsible for the maintenance, repair and replacement of the Improvements, landscaping and properties located within their boundaries. Fences shall be maintained properly and shall not create a hazard or nuisance to any adjoining parcel owner. Fences are restricted as set forth in the plat and in this Declaration. Each Lot, at all times, shall be kept well maintained, in good repair, and replacement, and in a clean, sightly, and wholesome condition. Trash, litter, junk, boxes, containers, bottles, cans implements, machinery, lumber or other building materials shall not be permitted to remain exposed upon or within any Lot so that the same are visible from any neighboring Lot, or any street, except as necessary during a period of construction. The Association and its agents, shall have the authority to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, and to charge and collect from the Lot Owners thereof all reasonable costs related thereto as an assessment hereunder.

Section 6.7 Erosion and Sediment Control. Pursuant to the plat, construction on each Lot shall be completed with minimal disturbance to existing vegetation. Disturbed soils shall be protected against erosion by the Lot Owner by using landscaping materials or Douglas County approved dry land grass specifications. Douglas County approved sediment control measures should be utilized during construction.

Section 6.8 Restrictions on Vehicles, Vehicular Parking, Storage and Repairs.

- (a) No vehicles, trailers or accessories thereto or equipment may be parked or stored on the streets within the Community or on the Access Easement.
- (b) No more than two (2) vehicles may be maintained on a Lot, excluding those parking inside any Improvements, a Residence or a garage.
- (c) Oversized vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats, or accessories thereto, trucks, self-contained motorized recreational vehicles, or other oversized type of vehicle or equipment, may be parked or stored on a Lot if reasonably screened from view or if parked or stored within a garage. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community, which are necessary for construction or for the maintenance of the Access Easements, Real Estate or any Improvement located thereon.
- (d) No abandoned vehicles of any kind shall be permitted on any Lot. A vehicle shall be considered "abandoned" if it remains nonoperative for a period of one (1) month or fails to have current registration and license plates. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat may be performed or conducted on a Lot, except within a completely enclosed structure which screens the sight and sound of the repair of other activity from other Owners and residents.

Section 6.9 No Temporary Structures. Except during construction of Improvements on a Lot, no trailer, mobile home, tent or shack or other temporary building or similar structure shall be placed upon any Lot.

Section 6.10 Restrictions on Sewage Disposal Systems. All sewage disposal systems for a Lot shall be designed, located, constructed, equipped, operated and maintained by the Owner of the Lot on which the system is located in accordance with the requirements, standards and recommendation of any governmental authority jurisdiction. Unless otherwise approved by the Design Review Committee, no septic tank or field system shall be nearer than twenty-five (25) feet to any side Lot line of any Lot. Disposal fields shall also meet all Tri-County Health Department setback requirements, and are to remain free of any improvements, e.g. irrigated landscaping, paving, outbuildings, etc. Additionally, Lots are subject to the provisions of the plat on individual sewage disposal systems. The plat may require an engineered individual sewage disposal system. Lot specific soils and percolation tests may also be required.

Section 6.11 Restrictions on Animals and Pets. Pets (including cats, dogs, other animals, birds and reptiles, and excluding horses and other farm animals) may be kept, maintained or harbored by Owners on Lots within the Community, unless the pet becomes obnoxious to other Owners or occupants, in which event the person having control of the pet shall be given a written notice by the Association to correct the problem or remove the pet from the Community. The written notices provided for herein shall be issued by the authorized representative of the Association. Pets may not be kept for any commercial purposes. Owners or persons having control of a pet shall, while the pet is in the Community, be responsible for cleaning up after their pet and

shall be deemed to hold the Association harmless from any claim resulting from any action of their pet and any costs incurred by the Association. Local government ordinances and restrictions on pet control shall also be enforceable as restrictions in the Community. The following covenants or other restrictions on pets are for the benefit of Owner, occupants, residents and wildlife within and around the Planned Community. The following covenants and restrictions are intended to be of considerable value to owners, occupants and residents and in reducing the harassment of wildlife by domestic pets and decreasing the potential of pets becoming victims to predators in the area.

Section 6.12 Restriction on Signs, Banners and Flags. No advertising, signs, banners or flags of any character shall be erected, placed, permitted, or maintained on any Lot other than a for sale or for rent sign not to exceed four (4) square feet in size. 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 the sale or rental of the Lots or otherwise in connection with the development of or construction on the Lots, shall be permissible, provided that such use shall not interfere with an Owners' use and enjoyment of their Lot or with their ingress or egress from a public way to their Lot.

Section 6.13 Roof Apparatus. 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 Design Review Committee.

Section 6.14 No Wind Generators. No wind generators of any kind shall be constructed, installed, erected, or maintained on the Lots.

Section 6.15 Clotheslines and Storage. No clotheslines, equipment or storage areas shall be so located on any Lot as to be visible from a street and/or public view and/or from the Access Easements.

Section 6.16 Restriction on Garbage Collection. If garbage collection is ever a service of the Association to the Owners, no Owner shall have the right to engage or contract for garbage removal from their Lot, on a weekly or other basis, other than through the service provided by the Association.

Section 6.17 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within the Improvements constructed on a Lot.

Section 6.18 Cutting of Trees/Clearing of Lots. No tree or trees or shrubs, or clearing of Lots, whether of trees or shrubs now growing or hereafter grown upon any part of a Lot, shall occur without prior written approval of the Design Review Committee; provided, however, that this restriction shall not apply to a tree unless such tree is more than two (2) inches in caliper as measured one (1) foot above grade, and provided further that this restriction shall not be construed to limit in any way reasonable trimming of any trees upon a Lot.

Section 6.19 Outside Burning/Precaution for Fire Hazards. There shall be no exterior fires, except for a conventional barbecue. No Owner or Owners shall permit any condition on his Lot or Lots which creates a fire hazard or is in violation of applicable fire prevention regulations.

Section 6.20 Defensible Space. As required by the plat and by the provisions of this Section, each Residence on a Lot shall be surrounded by a thirty (30) foot defensible space or area, for protection against wildfire. If not so completed, the Association, Board, or managing agent may

perform such work at the Owner's expense in the same manner, and with the same methods to enforce payment, as set forth in this Declaration.

Section 6.21 Forest Management Plan. Each Owner consents to the implementation of a forest management plan as may be approved or required by the Colorado State Forest Service or the Association.

Section 6.22 Living with Wildlife. Each Owner consents to and acknowledges their covenant and restriction to live harmoniously with wildlife.

Section 6.23 Bluegrass/Irrigated Lawns. Bluegrass or irrigated grass lawns are discouraged in the Community, and may be restricted by the water provider or local government.

Section 6.24 Construction Activities. During construction, all construction debris will be stored in a manner which will prevent it from being blown away or otherwise dislodged by storms or high winds.

Section 6.25 Restriction on Subdivision. Lots may not be subdivided to include less than two (2) acres.

Section 6.26 Nuisances. No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession of the proper use of the Real Estate or Common Element, or any portion of the Community by Owners. No immoral, improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed. As used herein, the term nuisance shall not include any activities of Declarant or its assignees which are reasonably necessary to the development and construction of Improvements within this Community; provided, however, that such activities shall not reasonably interfere with any Owner's use and enjoyment of their Real Estate, or any Real Estate Owner's ingress and egress to or from their Real Estate and a public way.

Section 6.27 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Design Review Committee.

Section 6.28 No Restrictions on Sale of a Lot. The right of an Owner to sell, transfer or otherwise convey their Lot shall not be subject to any right of first refusal or similar restriction and such Lot may be sold free of any such restrictions, subject to the terms and conditions, covenant and restrictions of this Declaration.

Section 6.29 Restrictions on Hunting, Mining and Drilling. Hunting, mining and/or drilling shall not be permitted within the Community. More specifically, no part of the Community shall be used for the purpose or purposes of hunting, mining, quarrying, drilling,

boring or exploring for or removing oil, gas, hydrocarbons, minerals, rocks, stones, gravel or earth, excepting all activities necessary or convenient to removing surface and/or groundwater.

Section 6.30 No Hazardous Activities/Firearms. No activity shall be conducted on any portion of the Community which is 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 portion of the Community.

Section 6.31 Underground Utilities. All utilities, including electrical, television, radio, and telephone line installations and connections from any property line of a Lot to a Residence or other structures shall be placed underground, except for above-ground utilities existing as of the date of this Declaration and except that during the construction of a Residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 6.32 Antennae. No exterior television or other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Lot, except one (1) small satellite antenna or one (1) small television antenna may be installed and maintained on any Lot, but only upon compliance with the conditions set forth below. Allowed small satellite antennae or small television antennae must meet the following conditions: (a) prior written approval of the Design Review Committee must be obtained both before initial installation and before relocation of any previously-approved existing antenna; (b) satellite antenna must be forty (40) inches or less in diameter or must be disguised to resemble and is, in fact, visually indistinguishable from structures, devices or improvements otherwise allowed in the Community and/or by this Declaration and/or by any guidelines as may be adopted to supplement this Declaration; (c) satellite antennae must not be visible from the front of the Lot upon which it is located; (d) adequate screening (fencing, shrubbery, etc.) as is deemed appropriate by the Design Review Committee to effectuate the intent of this Declaration and this Section and also to adequately screen the antennae from neighboring Lots must be proposed and provided; (e) if located at ground level, the top of a satellite antenna unit may not exceed forty-five (45) inches above grade; (f) the installation of antennae must comply with any zoning requirements and building codes, if applicable, with evidence of such compliance to be provided to the Design Review Committee; and (g) mounting of satellite dish antennae on roofs, walls or eaves of a Residence is discouraged.

Although approved satellite antennae may be installed on Lots, all other exterior radio, TV or other antennae shall remain restricted from Lots.

Section 6.33 Compliance with Laws. Nothing shall be done or kept on any Lot within the Real Estate in violation of any law, ordinance, rule, or regulation of any governmental authority having jurisdiction.

Section 6.34 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, rules and regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed, from time to time, by the Executive Board, or its successors and assigns. The Executive Board may establish and enforce penalties for the infraction thereof.

ARTICLE 7

ARCHITECTURAL APPROVAL AND REVIEW

Section 7.1 Required Approvals of Improvements and Contractors. Improvements to a Lot, and all landscaping changes are restricted without the prior written approval of the proposed Improvements and the contractor or builder proposed to construct the proposed Improvements by the Design Review Committee. Specifically: (a) no structure or any attachment to a Lot or to the exterior of the Improvements on a Lot and no fence, mailbox or landscaping shall be constructed, erected, placed or installed, including, but not limited to, a change in painting and/or staining of exterior siding, unless complete plans and specifications thereto (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, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the committee and shall have been first submitted to and approved in writing by the Design Review Committee, and (b) no contractor or builder shall construct any structure or attachment to a Lot or to the exterior of the Improvements on a Lot, or shall construct, erect, place or install any fence, mailbox or landscaping, including, but not limited to, painting and/or staining of exterior siding, unless such contractor or builder shall have been first submitted to and approved in writing by the Design Review Committee. Additionally, the primary Residence on a Lot must be constructed at the same time as any garage or outbuildings, such that Owners may not construct a garage or any outbuildings without also then constructing their primary Residence.

Section 7.2 Design Criteria. The Design Review Committee shall exercise its reasonable judgment to the end that all attachments, Improvements, construction, landscaping and alterations to Lots shall comply with the requirements set forth herein. The approval or consent of the Design Review Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious; decisions shall be conclusive and binding on all interested parties. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, effective location and use of Improvements on nearby Lots, preservation of aesthetic beauty, compliance with the restrictions contained in this Declaration and conformity with the specifications and purposes generally set out in this Declaration. Prior to its review of any plans, specifications and submittals, the Design Review Committee may require applicant(s) to pay any application fees as set forth in the guidelines.

Section 7.3 Establishment of the Design Review Committee. The Design Review Committee (the "Design Review Committee" or "Committee"), shall consist of up to three (3) members. Until ten (10) years from the date this Declaration is recorded Declarant shall appoint all members of the Design Review Committee. Real Estate owned by the Declarant shall be exempt from any control by the Committee. After expiration of Declarant's appointment rights, the Design Review Committee shall then be comprised completely of Owners, without regard to any special qualifications, and the members of the Committee shall then be appointed by the Association. Until that date, Declarant, in its sole discretion, may at any time grant the power of appointment of the members of the Design Review Committee, and the chairman thereof, to any entity succeeding to the assets of Declarant, or to the Association. Notwithstanding the above, appointments shall be for staggered terms of years so as to provide reasonable continuity to the

design review process. Until ten (10) years from the date this Declaration is recorded, the Declarant may remove any appointee at any time upon written notice to such appointee.

Section 7.4 Guidelines. To supplement the provisions of this Section, and this Declaration, the Design Review Committee may adopt guidelines.

Section 7.5 Fencing. Fences and walls are both architectural and landscape architectural design elements, depending on how they are used, and are subject to provisions of this Section. Fences are discouraged in the Community, but will be considered on an individual basis and must be approved by the Design Review Committee. Fences should be an extension of the architecture of the Residence and be constructed of natural materials. Such materials as rock and wood are appropriate for fencing and should be left natural to help them blend into their surroundings. Pursuant to the plat, boundary fencing is restricted to two or three rail, split rail fence or such open, natural or other fences as are less obtrusive and help maintain an open, natural feeling. Chain link fences are not permitted unless reasonably screened from view from other Lots. The Design Review Committee may adopt design guidelines detailing the types of fences approved or not allowed.

Section 7.6 Roofing. Roofing materials should be of a fire classification or rating as required by the plat or local government, and should be of a texture and color that harmonizes with the environment. Shake shingles or tile are suggested and encouraged.

Section 7.7 Reply and Communication. The Design Review Committee shall reply to all submittals of all plans made in accordance herewith in writing within thirty (30) days after receipt and as set forth in any guidelines. Where prior written consent of approval of the Design Review Committee is required under the Declaration with respect to the making of an Improvement, such Improvements shall be conclusively deemed to have been made in compliance with this Declaration unless a notice of intention to commence legal action challenging and objection thereto is issued by the Design Review Committee within one hundred eighty (180) days after completion of such Improvement. All communications and submittals shall be addressed to the Design Review Committee at such address as the chairman of the Design Review Committee shall hereafter designate in writing addressed and mailed to the Owners.

Section 7.8 Variances. The Design Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in these covenants. Such variances or adjustments shall be granted only when the granting thereof shall not be materially detrimental or injurious to the other Lots or Access Easements nor deviate substantially from the general intent and purpose of this Declaration. In the event that the request for a variance is disapproved by the Design Review Committee, the applicant shall have the right of appeal to the Executive Board of the Association.

Section 7.9 Waivers. The approval or consent of the Design Review Committee, or appointed representative thereof, to any application for design approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 7.10 Liability. The Design Review Committee and the members thereof, as well as any representative of the committee designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants.

Section 7.11 Records. The Design Review Committee shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested affected party during reasonable hours of the business day.

Section 7.12 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. Upon recommendation from the Design Review Committee, the Association and any interested Owner shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this section, the Association 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 of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 7.13 Prosecution of Work After Approval. After approval of any proposed improvement to the Lot, the proposed improvement to the Lot shall be accomplished as diligently and promptly as possible and in complete conformity with the description of the proposed improvement to the Lot, any materials and documents submitted to the Design Review Committee in connection with the proposed improvement to the Lot, and any conditions imposed by the Design Review Committee. Failure to complete the proposed improvement to the Lot within twelve (12) months after the date of approval, or such shorter period as specified in writing by the Design Review Committee, or to complete the improvement to the Lot in accordance with the description and materials and documents furnished to, and the conditions imposed by, the Design Review Committee, shall constitute a breach of these covenants and noncompliance with the requirements for approval of improvements to the Lot.

ARTICLE 8

INSURANCE/CONDEMNATION

Section 8.1 Insurance Carried. The Association shall obtain and maintain, in full force and effect, to the extent reasonably available, and at all times, with terms and provisions set forth below, the insurance coverage set forth herein, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 8.2 Hazard Insurance on the Access Easements. The Association shall obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to the Access Easements and the other property of the Association. Casualty insurance on the Improvements constructed, or to be constructed, on the Lots is to be obtained by Owners.

Section 8.3 Liability Insurance. The Association shall obtain adequate comprehensive policy of public liability and property damage liability insurance covering the Access Easements

in such limits as the Board may from time to time determine, and in all cases covering all claims for bodily injury or property damage.

Section 8.4 Fidelity Insurance. The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation.

Section 8.5 Worker's Compensation and Employer's Liability Insurance. The Association should obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

Section 8.6 Officers' and Directors' Personal Liability Insurance. The Association shall obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 8.7 Other Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 8.8 General Insurance Provisions. (a) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to all of the Owners and the Association; (b) as to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by and of said persons; (c) all liability insurance shall be carried in blanket form naming the Association, the Board, the manager or managing agent, if any, the officers of the Association, the Declarant, their successors and assigns and Owners as insureds; and, (d) all policies of insurance shall provide that the insurance there under shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Section 8.9 Owner Insurance. Owners may carry and are advised to carry casualty and other insurance for their benefit and at their expense. In this regard, Declarant discloses that the Association's insurance coverage, as specified hereunder, does not obviate the need for Owners to obtain insurance for their own benefit.

ARTICLE 9

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 9.1 Development Rights and Special Declarant Rights. The Declarant reserves, but in all events, not less than fifteen (15) years after the recording of this Declaration, the following Development Rights and Special Declarant Rights:

(a) the right to further amend the Protective Covenants for Sage Port Filing #4, recorded September 26, 1973, at Reception No. 164776, at Book 252, Page 915 of the records of the Office of the Clerk and Recorder of Douglas County, Colorado, to (i) exclude the real property previously platted as Lots 1 through 127, 196 through 272, and Lots 274 through 277, Sage Port Filing #4, County of Douglas, State of Colorado; and to (ii) terminate those Protective Covenants to those properties;

(b) the right to relocate boundaries between adjoining Lots, enlarge Lots, enlarge the Common Elements, reduce or diminish the size of Lots, reduce or diminish the size of areas of the Common Elements, subdivide Lots or complete or make Improvements, as the same may be indicated on maps or plats filed of record or filed with the Declaration;

(c) the right to create or construct additional Lots, Common Elements and Limited Common Elements, to subdivide Lots and to convert Lots into Common Elements;

(d) the right to add the real property described in Exhibit C to the Community and to subject all or any part of that property and additional unspecified property to the provisions of this Declaration;

(e) the right to exercise any development rights reserved or allowed in the Act;

(f) the right to grant and to use, and to permit others to use, easements through the Lots and/or the Common Elements as may be reasonably necessary;

(g) the right to make the Common Interest Community subject to a master association and master declaration;

(h) the right to merge or consolidate the Common Interest Community with another Common Interest Community;

(i) the right to appoint or remove any officer of the Association or any Director during the Declarant Control period;

(j) the right to amend the Declaration in connection with the exercise of any development right; and

(k) the right to amend the maps or plat in connection with the exercise of any development right.

Section 9.2 Additional Reserved Rights. In addition to the rights set forth above, Declarant also reserves the following additional rights:

(a) Sales. The right to maintain mobile and other sales offices, parking lots, management offices and models in Lots or on the Common Elements.

(b) Signs. The right to maintain signs and advertising on the Common Interest Community to advertise the Common Interest Community or other communities developed or managed by, or affiliated with the Declarant.

(c) Dedications. The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including but not limited to public access, access, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions.

(d) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of parking and/or recreational facilities and/or Common Elements, which may or may not be a part of the Common Interest Community.

(e) Construction Easement. Declarant and its assignees expressly reserve the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Lots and in Common Elements, and the future right to control such work and repairs, and the right of access thereto, until completion. All work may be performed without the consent or approval of any Lot Owner or holder of a Security Interest. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary for exercising reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Real Estate.

(f) Limited Common Elements. The Declarant reserves, for itself, through seven (7) years after the recording of this Declaration, and to the Association, after the expiration of Declarant's fifteen (15) year period, as that period may be extended, the right to allocate areas which constitute a part of the Common Elements as Limited Common Elements for the exclusive use of the owners of Lots to which those specified areas shall become appurtenant. The Declarant or Association may allocate or assign Common Elements or Limited Common Element areas (i) by making such an allocation in a recorded instrument, or (ii) in the deed to the Lot to which such Limited Common Element shall be appurtenant, or (iii) by recording an appropriate amendment or supplement to this Declaration or (iv) by recording a supplement to the map. Such allocations by the Declarant or by the Association may be made as a matter of reserved right.

(g) Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration.

Section 9.3 Rights Transferable/Rights Transferred. Any rights created or reserved under this Article or the Act for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of the County. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) without the consent of the Association, any Lot Owners or any holders of Security Interest.

Section 9.4 No Further Authorizations Needed. The consent of Lot Owners or holders of Security Interests shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at their sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Common Interest Community beyond the number of Lots initially submitted.

Section 9.5 Amendment of the Declaration or Map. If Declarant or its assignee elects to exercise any reserved rights, that party shall comply with the Act.

Section 9.6 Maximum Number of Lots. The maximum number of Lots shall not exceed one hundred sixty (160) or the maximum number of lots allowed by the governmental body for the properties subject to this Declaration, whichever is greater.

Section 9.7 Interpretation. Recording of amendments to the Declaration and the map or plat pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically: i) vest in each existing Lot Owner the reallocated Allocated Interests appurtenant to their Lot; and ii) vest in each existing Security Interest a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Common Interest Community as expanded and to any Additional Improvements, and the same shall be added to and become a part of the Common Interest Community for all purposes. All conveyances of Lots after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration map. Reference to the Declaration and map in any instrument shall be deemed to include all Amendments to the Declaration, and the map without specific reference thereto.

Section 9.8 Termination of Reserved Rights. The rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth above or in the Act, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law or, (iii) terminated by written instrument executed by the Declarant, recorded in the records of the Clerk and Recorder of the County.

Section 9.9 Additions by Others. Additions of Lots to the Common Interest Community may be made by others than the Declarant, or its successors and assigns or Owners, upon approval of the Association pursuant to a vote of a majority of a quorum of its members.

ARTICLE 10

GENERAL PROVISIONS

Section 10.1 Enforcement. The Association or an Owner or Owners of any of the Properties may enforce the restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration by proceedings at law or in equity against any person or persons, either to recover damages for such violation, including reasonable attorneys fees incurred in enforcing these covenants, or to restrain such violation or attempted violation. Failure of the

Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 10.2 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 10.3 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.4 Amendment of Declaration, Map or Plat by Declarant. Until the first Lot has been conveyed by Declarant by deed recorded in the office of the County Clerk and Recorder of the County, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or Exhibits of this Declaration, the map or the plat may be amended by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment. Thereafter if Declarant shall determine that any amendments shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement or for any changes to property not yet part of the Community, then, subject to the following sentence of this Section, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of any Owners. Each such amendment of this Declaration shall be made, if at all, by Declarant prior to the expiration of fifteen (15) years from the date this Declaration is recorded.

Section 10.5 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least sixty-seven percent (67%) of the votes in the Association and with the written consent of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the County, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.6 Amendment Required by Mortgage Agencies. Prior to fifteen (15) years after recording of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which a holder of a first lien Security Interest, or FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or purchase mortgage loans requires to be amended or repealed may be amended or repealed by Declarant or the Association. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the County, State of Colorado, of a certificate, setting forth the amendment or repeal in full.

Section 10.7 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving development rights or for the benefit of the Declarant, or the assignees, shall not be effective unless Declarant, and its assignees, if any, have given written consent to such amendment or repeal, which consent may be evidenced by the execution by

Declarant or its assignees of any certificate of amendment or repeal. The foregoing requirement for consent to any amendment or repeal shall terminate fifteen (15) years after the recording of this Declaration, or upon conveyance of one hundred percent (100%) of the Properties to Owners, whichever occurs first.

Section 10.8 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Real Estate and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 10.9 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 10.10 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized agents this 13th day of March, 1996.

STERLING POINTE DEVELOPMENT, LLC, a
Colorado limited liability company

By:
Manager and Authorized Agent

STATE OF COLORADO)

CITY AND) ss.

COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 13th day of March, 1996, by , as Manager and Authorized Agent of Sterling Pointe Development, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires:

Notary Public

EXHIBIT A

DESCRIPTION OF REAL ESTATE

All of Sage Port Filing No. 4, First Amendment, Douglas County, Colorado, as recorded at Reception No. 9612831 in the records of the Clerk and Recorder of Douglas County, Colorado.

Subject to the terms, conditions, obligations and provisions of the interests and documents of record.

EXHIBIT B

DESCRIPTION OF ACCESS EASEMENTS

Access Easements include, but are not limited to, the following private easements, which may be subject to termination:

1. Grant of Easement dated March 5, 1995, recorded March 27, 1995, at Reception No. 9513462, Book 1253, Page 1793, of the records of the Clerk and Recorder of Douglas County, Colorado.

Grant of Easement dated March 5, 1995, recorded March 27, 1995, at Reception No. 9513463, Book 1253, Page 1796, of the records of the Clerk and Recorder of Douglas County, Colorado.

EXHIBIT C

EXPANSION PROPERTY

All or any part of Section 20, or any Section adjacent to Section 20, Township 9 South, Range 67 West, 6th Principal Meridian, Douglas County, Colorado, provided the owner thereof consents.