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DECLARATION

FOR

COUNTRY CREEK PATIO HOMES

DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

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DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

This Declaration is made this 11th day of August, 1998, by SUNSHINE OF THE REDLANDS, INC., a Colorado corporation ("Declarant").

ARTICLE I

GENERAL

Section 1.1. Purposes. This Declaration is executed pursuant to and in furtherance of a common and general plan (a) to protect and enhance the quality, value, desirability and attractiveness of all property which may become subject to this Declaration; (b) to ensure that the property which may become subject to this Declaration is designed and reserved for the comfort, convenience and accommodation of those persons aged 55 years or older; (c) to provide for an association, as a vehicle to maintain and repair the Common Area, as hereinafter described, for the benefit of owners of property which may become subject to this Declaration; (d) to define duties, powers and rights of the association; and (e) to define certain duties, powers and rights of owners of property which may become subject to this Declaration with respect to the association and with respect to the functions undertaken by the association.

Section 1.2. Declaration. Declarant hereby creates a planned community pursuant to the Act, as hereinafter defined, on the Project Area as hereinafter described on Exhibit A attached hereto. The planned community contains 20 Units (as that term is used in the Act), subject to Declarant's rights to resubdivide the Lots and/or to expand the Project as described in this Declaration. Declarant, for itself, its successors and assigns, hereby declares that all property herein or hereafter made subject to this Declaration, in the manner hereinafter provided, and each part thereof shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration for the duration thereof, all of which shall run with the title to such right, title or interest in said property or any part thereof.

ARTICLE II

DEFINITIONS

Section 2.1. General. The following words and phrases when used in this Declaration shall have the meaning hereinafter specified.

Section 2.2. Act. "Act" shall mean the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-319, as the same may be amended from time to time.

Section 2.3. Articles. "Articles" shall mean the articles of incorporation of the Association, as the same may be amended from time to time.

Section 2.4. Assessment. "Assessment" shall mean a Common Assessment, a Special Assessment or a Reimbursement Assessment as hereinafter defined.

Section 2.5. Association. "Association" shall mean Country Creek Patio Home Association, Inc., its successors and assigns.

Section 2.6. Budget. "Budget" shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration and prepared pursuant to Section 5.12 below.

Section 2.7. Bylaws. "Bylaws" shall mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, as the same may be amended from time to time.

Section 2.8. Common Area. "Common Area" shall mean those portions of the Project Area described on Exhibit B attached hereto or designated as "Common Area" on any recorded plat affecting any portion of the Project Area. Common Area can be generally described as all of the Project Area except for all Dwelling Units and Patio Areas located therein. Common Area shall not include any publicly dedicated streets or drives. Common Area will be owned by the Association.

Section 2.9. Common Area Lighting. "Common Area Lighting" shall mean lighting, together with all equipment, facilities and lines related thereto, attached or to be attached to one or more Dwelling Units in the Project Area, the purpose of which is to illuminate portions of Common Area. The location of Common Area Lighting shall be as determined initially by Declarant and thereafter by the Association.

Section 2.10. Common Assessment. "Common Assessment" shall mean the assessments made for the purpose of paying Common Expenses, which are to be paid by each Owner to the Association for purposes provided herein and charged to such Owner and to the Lot of such Owner.

Section 2.11. Common Expenses. "Common Expenses" shall mean:

(i) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Area and Common Facilities; (B) providing facilities and services to Owners; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the assessments, charges and liens imposed pursuant hereto; (E) regulating and managing the planned community created by this Declaration; (F) operating the Association; and (G) amounts payable as assessments by Members or the Association to the Community Association; and

(ii) reserves for any such costs, expenses and liabilities.

Section 2.12. Common Facilities. "Common Facilities" shall mean any structural improvement, including underground piping, which is owned by the Association for the benefit of the Owners and Dwelling Units, including but not limited to an irrigation or watering system serving the Lots and Common Area.

Section 2.13. Community Association. "Community Association" shall mean the master association created for the Project Area and Expansion Property by the Community Declaration.

Section 2.14. Community Declaration. "Community Declaration" shall mean the Community Declaration for a master association for the Project Area and all or a portion of the Expansion Area which may hereafter be established by Declarant pursuant to Section 13.4.

Section 2.15. Country Creek Architectural Review Committee. "Country Creek Architectural Review Committee" shall mean the architectural review committee provided for in Article IX of this Declaration.

Section 2.16. Country Creek Street Lighting. "Country Creek Street Lighting" shall mean street lighting, together with all necessary equipment, facilities, lines and special landscaping related thereto, located or to be located along or near streets within or adjoining the Project Area. The location of Country Creek Street Lighting shall be as determined by Declarant, based on recommendations or requirements of the public utility company serving the Project Area. Country Creek Street Lighting may be all or partly on any Lot, and/or all or partly on or within Common Area or the adjoining street right-of-way.

Section 2.17. Declarant. "Declarant" means Sunshine of the Redlands, Inc., and its successors and assigns as the terms "successors and assigns" are herein limited. A party shall be deemed a "successor or assign" Declarant only if specifically designated in a written and duly recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor or assign of Declarant under this Declaration only as to the particular rights

or interests of Declarant under this Declaration which are specifically designated in the written instrument; provided, however, that a party acquiring all or substantially all of the right, title and interest of Sunshine of the Redlands, Inc., in the Project Area by foreclosure, judicial sale, bankruptcy proceedings or by other similar involuntary transfer, shall automatically be deemed a successor and assign of Declarant under this Declaration.

Section 2.18. Declarant Control Period. "Declarant Control Period" has the meaning given to that term in Section 6.3 below.

Section 2.19 Development Rights. "Development Rights" means the rights of the Declarant set forth in Articles XIII, XIV and XV of this Declaration.

Section 2.20. Director. "Director" means a duly elected or appointed member of the Executive Board.

Section 2.21. Dwelling Unit. "Dwelling Unit" shall mean a residential building or portion thereof designed for occupancy by a single family on a Lot, including an attached garage, but excluding any other accessory building.

Section 2.22. Exterior Surfaces. "Exterior Surfaces" shall mean the exterior surfaces of Dwelling Units on any Lots within the Project Area including the exterior surfaces of walls, doors, windows, gutters, downspouts, roofs and both sides of all fences, whether such fences are part of the Dwelling Unit or located elsewhere on the Lot, but excluding any portions of any of the foregoing which are glass and any screens on windows or doors.

Section 2.23. Executive Board. "Executive Board" means the Board of Directors of the Association.

Section 2.24. Housing For Older Persons. "Housing For Older Persons" shall have the same meaning as such term is defined in the Federal Fair Housing Act, 42 U.S.C. §3607(b)(2), as the same may be amended from time to time, or any successor federal statute governing the same subject matter.

Section 2.25. Improvement(s) to Property. "Improvement(s) to Property" has the meaning given to that term in Section 9.2 below.

Section 2.26. Limited Common Element. "Limited Common Element" means those portions of the Common Area which are designated as such by any recorded map or plat affecting the Project Area and reserved for the exclusive use in connection with one or more, but fewer than all, of the Dwelling Units. Each designation of a Limited Common Element shall be accompanied by a statement of the Dwelling Unit(s) to which it is appurtenant.

Section 2.27. Lot. "Lot" shall mean any of the numbered parcels within the Project Area, as now or hereafter depicted upon a recorded plat or plats thereof, upon which a Dwelling Unit may be constructed. In the event that multiple Dwelling Units are constructed upon a Lot

and the Lot is subdivided to permit the separate sale of such Dwelling Units, the term "Lot" as used in this Declaration shall refer to each area delineated as a "Lot" or "Unit" (or the equivalent) upon the recorded subdivision plat or map. For purposes of the Act, each Lot constitutes a "Unit," as that term is used in the Act.

Section 2.28. Lot Perimeter Area. "Lot Perimeter Area" shall mean any portion of a Lot which is located outside of the exterior surface of the foundation of the Dwelling Unit constructed on such Lot, excluding the Patio Area located on such Lot.

Section 2.29. Manager. "Manager" shall mean any one or more persons employed by the Association who is engaged to perform any of the duties, powers or functions of the Association.

Section 2.30. Notice and Hearing. "Notice and Hearing" shall mean a written notice and a public hearing before the Executive Board or a tribunal appointed by the Executive Board, in the manner provided in the bylaws of the Association.

Section 2.31. Officer. "Officer" shall mean a duly elected or appointed officer of the Association.

Section 2.32. Owner. "Owner" shall mean the person or persons holding record title to a Dwelling Unit, but excluding a person having an interest in a Dwelling Unit solely as security for an obligation.

Section 2.33. Patio Area. "Patio Area" shall mean that portion of a Lot located in back of and/or adjacent to the Dwelling Unit constructed on such Lot, designed for use as a patio or garden area in connection with such Dwelling Unit. The Patio Area for a Lot may be included as part of such Lot on a recorded map or plat (with or without a specific designation thereof), or, if not so designated by Declarant, shall be subsequently designated in a written agreement between the Association and the Owner of the Lot. A copy of such maps and agreements shall be kept by the Association for inspection by any interested party.

Section 2.34. Party Wall. "Party Wall" shall have the meaning assigned to it in Section 12.4.

Section 2.35. Project. "Project" shall mean the planned community created by this Declaration and commonly known as Country Creek Patio Homes.

Section 2.36. Project Area. "Project Area" shall mean all of the real property that is part of the planned community created by this Declaration, which shall be the real property described in Exhibit A attached hereto, including any Expansion Property added to the Project Area pursuant to Article XIV, but excluding, however, those portions of such real property that are withdrawn from the planned community pursuant to Article XIV of this Declaration. The Project Area includes all rights and easements, if any, appurtenant to the real property described in

Exhibit A attached hereto. The use and enjoyment of any of such rights and easements by any person shall be subject to the terms and provisions of this Declaration.

Section 2.37. Reimbursement Assessment. "Reimbursement Assessment" shall mean a charge against a particular Owner and his Dwelling Unit and/or Lot for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation, directly attributable to the Owner, of this Declaration or any rules and regulations adopted pursuant to Section 7.20 below, together with late charges and interest as provided herein.

Section 2.38. Related User. "Related User" shall mean any member of the family of an Owner who resides with such Owner; guests and invitees of an Owner; employees of an Owner; and occupants, tenants and contract purchasers residing in a Dwelling Unit of an Owner who claim by, through, or under an Owner.

Section 2.39. Restrictions. "Restrictions" shall mean covenants, conditions, restrictions, limitations, reservations, exceptions and equitable servitudes affecting real property, including, without limitation, the restrictive covenant (the "Restrictive Covenant") set forth in Article X.

Section 2.40. Share of Common Expenses. "Share of Common Expenses" shall mean the share of Common Expenses allocated to each Lot in accordance with the terms and conditions of Section 5.10 below.

Section 2.41. Special Assessment. "Special Assessment" shall mean a charge against each Owner and his Dwelling Unit and/or Lot representing a portion of the costs to the Association for the purpose of funding major capital repairs, maintenance, replacements and Improvements, pursuant to Section 5.16 below.

Section 2.42. Special Declarant Rights. "Special Declarant Rights" shall mean the rights reserved by Declarant for itself, its successors and assigns in this Declaration, including but not limited to the Development Rights.

Section 2.43. Successor Declarant. "Successor Declarant" shall mean any person who succeeds to any Special Declarant Right, including a successor or assign of Declarant pursuant to Section 2.17.

ARTICLE III

RIGHTS AND EASEMENTS

Section 3.1. Declarant's Easements.

(a) Declarant hereby reserves for itself, its successors and assigns a general easement over, across, through and under the Common Area to:

- (i) discharge Declarant's obligations under this Declaration;
- (ii) exercise any of Declarant's Special Declarant Rights under this Declaration; and
- (iii) make improvements within the Project Area (including, without limitation, the construction of Dwelling Units on Lots) or any other real estate owned by Declarant.

(b) Declarant hereby reserves for itself, its successors and assigns a general easement over, across, through and under each Lot to make improvements within the Project Area (including, without limitation, the construction of Dwelling Units on Lots).

(c) Declarant hereby reserves for itself, its successors and assigns, the right to:

- (i) establish from time to time utility, drainage, access and other easements, permits or licenses over, across, through and under the Common Area;
- (ii) exercise easement rights granted to it by the Act; and
- (iii) create reservations, exceptions and exclusions in the best interests of the Owners and the Association.

(d) If landscaping, streets, parking areas, driveways, walks, utilities, or any other Improvements have not been installed by Declarant in Common Area when such Common Area is conveyed to the Association, Declarant, for itself, its successors and assigns, excepts and reserves an easement on and over such Common Area as may be necessary for the installation of landscaping, streets, parking areas, driveways, walks, utilities, or other Improvements.

Section 3.2 Association Easements. Declarant hereby expressly creates and reserves for the benefit of the Association, its designees, successors and assigns, the following easements:

(a) Easements Over Lots for Maintenance of Exterior Surfaces of Dwelling Units. Easements over each Lot and the Dwelling Unit thereon as may be necessary for the maintenance, repair and upkeep of the Exterior Surfaces of such Dwelling Unit, and for access, ingress and egress necessary for such maintenance, repair and upkeep.

(b) Easements for Street Lighting. Easements in, on, over and under each Lot and any street right-of-way as necessary for the installation, operation, maintenance, repair and replacement of Country Creek Street Lighting, and for access, ingress and egress necessary for such installation, operation, maintenance, repair and replacement.

(c) Easements for Common Area Lighting. Easements over each Lot and the Dwelling Unit thereon as may be necessary for the installation, operation, maintenance, repair

and replacement of Common Area Lighting, and for access, ingress and egress necessary for such installation, operation, maintenance, repair and replacement.

(d) Easements Over Lots for Use and Maintenance of Common Area and Common Facilities. Easements over each Lot as may be necessary or appropriate for the installation of Common Facilities and for the use, enjoyment, maintenance, repair and replacement of Common Area and any Common Facilities constructed thereon or therein, and for access, ingress and egress necessary for such installation, use, enjoyment, maintenance, repair and replacement.

(e) Easements for Street and Parking Area Maintenance. Easements in, on and over any street right-of-way or dedicated parking areas adjacent to all or any portion of the Project Area as necessary for the maintenance, repair and replacement of such streets and parking areas, and for access, ingress and egress necessary for such maintenance, repair and replacement.

(f) Easements for Landscaping and Maintenance in Lot Perimeter Areas. Easements over each Lot as may be necessary for the installation, maintenance, repair, upkeep and replacement of any landscaping, drive or walkway on the Lot Perimeter Area within such Lot, and for access, ingress and egress for such installation, maintenance, repair, upkeep and replacement.

(g) Easements for Drainage. Easements over Lots and Common Area for stormwater drainage, as shown on any recorded plat or plats of the Project Area, and/or as subsequently required by the development of the Project Area.

(h) Easements for Trails. Easements over the Lot Perimeter Area of each Lot to designate, construct, maintain, repair, replace and use pedestrian and non-motorized vehicular trails or corridors for the benefit of Owners and their Related Users.

Section 3.3. Owners' Easements. Declarant hereby expressly creates and reserves for the benefit of each Lot, and for the benefit of the Owner of such Lot, the following easements:

(a) Easements Over Adjoining Lots for Maintenance of Party Walls. In each case where attached Dwelling Units share a Party Wall, easements over the Lots of such attached Dwelling Units for maintenance, repair and replacement of the Party Wall, foundations and other common structural elements, and for access, ingress and egress necessary for such maintenance, repair and replacement.

(b) Easements for Encroachments. If any portion of any Dwelling Unit or Patio Area on a Lot encroaches upon an adjoining Lot or adjoining Common Area whether as a result of errors in construction of any Improvements by Declarant, or reconstruction, repair, shifting, settlement, or movement of such Improvements, a valid easement for the encroachment and for the maintenance of the same shall exist for so long as such Dwelling Unit or Patio Area, as the case may be, exists.

(c) Easements Over Common Area for Use and Maintenance of Dwelling Units. Easements over Common Area as may be necessary or appropriate for the use, enjoyment, maintenance, repair and replacement of the Dwelling Unit and Patio Area constructed on such Lot, and for access, ingress and egress necessary for such use, enjoyment, maintenance, repair and replacement.

(d) Easements Over Walks. Easements over Common Area for pedestrian access, ingress and egress between each Lot and the adjoining public street, over and across any walks connecting the Lot to the adjoining street. The location of such walks shall be where originally installed by Declarant or as may thereafter be redesignated from time to time by agreement between the Owner and the Association.

(e) Easements Over Lots and Common Area for Utilities. An easement in, across and through the other Lots and the Common Area, in the location where such utilities and related facilities are originally installed by Declarant or in such other location as may be designated from time to time by the Association, for the purpose of installation, operation, maintenance, repair and replacement of underground utilities and related surface facilities necessary for the use, enjoyment and operation of the Dwelling Unit constructed on such Lot, including, but not limited to, water lines, sewer lines, stormwater drainage systems and facilities, gas lines, electric lines, telephone lines, television cable lines, and all equipment and facilities incidental thereto, and for access, ingress and egress necessary for such installation, operation, maintenance, repair and replacement.

(f) Easements for Use of Trails. Easements over the Lot Perimeter Area of each Lot for the use and enjoyment of trails or corridors designated by the Association pursuant to Section 3.2 (h).

(g) Easements for Access. Easements upon the Common Area or any Lot for the maintenance and use of any access driveway established by the Declarant for the Dwelling Unit constructed upon such Owner's Lot.

Section 3.4. Easements Deemed Appurtenant. The easements and rights herein created shall be binding upon and inure to the benefit of the Association, or each Lot in the Project Area and the Owner of each such Lot, as the case may be, and all conveyances of and other instruments affecting title to any such Lot shall be deemed to grant and reserve the easements and rights as are provided for herein, even though no specific reference to such easements appears in any such conveyance.

Section 3.5. Recorded Easements and Licenses. The Project Area is subject to the recorded easements and licenses set forth on Exhibit C attached hereto. The recording data for recorded easements and licenses appurtenant to, or included in, the Project Area or to which any portion of the Project Area is or may become subject is set forth on Exhibit C attached hereto.

ARTICLE IV

COUNTRY CREEK PATIO HOME ASSOCIATION

Section 4.1. Country Creek Patio Home Association. The Association has been or will be formed as a Colorado corporation under the Colorado Nonprofit Corporations Act. The Association shall have the duties, powers and rights set forth in this Declaration and in the Articles and Bylaws.

Section 4.2. Country Creek Patio Home Association Executive Board. The affairs of the Association shall be managed by an Executive Board. The Executive Board may, by resolution, delegate portions of its authority to an executive committee or to other committees, to Officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Executive Board or any duly authorized executive committee, officer, agent or employee without a vote of the Members of the Association, except as otherwise specifically provided in this Declaration.

Section 4.3. Membership in Association. Each Owner of a Lot within the Project Area shall be a Member of the Association. There shall be one such Membership in the Association for each Lot within the Project Area. The Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and the Membership appurtenant thereto shall automatically pass with fee simple title to the Lot. Declarant shall hold a Membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot except that an Owner may assign some or all of his rights as an Owner and as Member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration. Any transfer or encumbrance of a Membership other than as permitted in this Section 4.3 shall be void and have no force or effect.

Section 4.4. Voting Rights of Members. (a) Each Member of the Association shall have the right to cast votes for each Lot owned by such Member for the election of members of the Executive Board as hereinafter provided. Except as set forth in this Declaration, the Bylaws shall provide for the manner, time, place, conduct, and voting procedures for Member meetings for the purpose of electing the Executive Board.

(b) Each Membership shall be entitled to one vote, regardless of the number of Owners of the Lot to which the Membership is appurtenant. Fractional voting shall not be allowed. If the Owners of a Lot cannot agree among themselves as to how to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a certain Membership, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the Membership, unless objection thereto is made to the person presiding over the meeting at the

time the vote is cast. If more than one vote is cast for any particular Membership, or if one Owner makes a timely objection to the vote cast by another Owner of a Lot, no vote shall be counted for such Lot.

(c) In any election of Directors to the Executive Board, every Membership shall have the number of votes equal to the number of Directors to be elected. Cumulative voting shall not be allowed in the election of Directors of the Executive Board or for any other purpose.

(d) The Association shall have no voting rights for any Membership appurtenant to any Lot owned by the Association.

ARTICLE V

ASSESSMENTS, BUDGETS AND FUNDS

Section 5.1. Maintenance Fund to be Established. The Association shall establish and maintain a separate Maintenance Fund. The Maintenance Fund shall contain monies for the routine operations of the Association and may also contain monies for reserves for any purpose for which the Association may establish reserves. The Maintenance Fund shall be established as one or more trust savings or trust checking or money market accounts at any financial institution in which deposits are insured by an agency of the federal government. Monies for reserves may, but shall not be required to be, deposited in one or more accounts separate from the account(s) in which monies for routine operations are held.

Section 5.2. Establishment of Other Funds. The Association may establish other funds ("Funds") as and when needed including, without limitation, any Fund or Funds for reserves, and nothing herein shall limit, preclude or impair the authority of the Association to establish other Funds for specified purposes authorized by this Declaration. If the Association establishes any additional Funds, the Executive Board shall designate an appropriate title for the Fund to distinguish it from the other Funds maintained by the Association. Each such Fund shall be established as one or more trust savings or trust checking or money market accounts at any financial institution in which deposits are insured by an agency of the federal government.

Section 5.3. Deposits of Common Assessments to Maintenance Fund. Monies received by the Association from Country Creek Patio Home Association Common Assessments shall be deposited in the Maintenance Fund.

Section 5.4. Other Deposits to Funds. The Association shall deposit monies received by the Association from sources other than Common Assessments in the Fund (if more than one then exists) determined by the Executive Board to be most appropriate. For example, Reimbursement Assessments shall be deposited to the Fund from which the costs and expenses were or will be paid which form the basis for such Reimbursement Assessments; and Special Assessments for capital repairs, maintenance, replacement and Improvements shall be deposited to a separate Fund for reserves, if one exists. Interest and late charges received on account of

delinquent assessments may be allocated among the Funds in the same proportions as the delinquent assessments were allocated or, at the discretion of the Executive Board, may be allocated to any one or more of the Funds.

Section 5.5. Disbursements from Maintenance Fund. All amounts deposited in the Maintenance Fund or other Funds shall be used solely for the common benefit of all the Members for purposes authorized by this Declaration. Disbursements from particular Funds shall be limited to specified purposes as follows: (a) disbursements from the Maintenance Fund may be made for any purposes as are necessary or proper under this Declaration, except those purposes for which disbursements are to be made from any separate Fund for reserves, to the extent then existing; and (b) disbursements from any separate Fund for reserves, if then existing, shall be made solely for purposes of funding those functions which cannot be expected to recur on an annual or more frequent basis and for the purposes of repairs, replacements, and other restorative work.

Section 5.6. No Commingling of Funds. The Association shall not commingle any amounts deposited in any one Fund with amounts deposited in any other Fund.

Section 5.7. Authority for Disbursements. The Executive Board shall have the authority to make or to authorize an agent to make disbursements of any monies in the Maintenance Fund or other Funds.

Section 5.8. Funding of Reserves. The Executive Board, in budgeting and levying assessments, shall endeavor, whenever possible, to fund reserves by regularly scheduled payments included as part of the Common Assessments, rather than by large Special Assessments. Unless the Executive Board finds and determines that it is not necessary, the Common Assessments shall include a component for funding reserves.

Section 5.9. Common Assessments. For each fiscal year, the Association shall levy Common Assessments against Owners of the Lot. Each Owner shall be obligated to pay the Common Assessments levied against, and allocated to, such Owner and the Lot of such Owner as hereinafter more particularly set forth.

Section 5.10. Apportionment of Common Assessments-Assessment Units. (a) For purposes of Common Assessments, each Lot shall constitute one (1) Unit regardless of the size, value, location or use of such Lot. Except as otherwise set forth in this Declaration, the amount of the Common Assessments for any fiscal year, payable by an Owner for the Lot of such Owner, shall be computed by multiplying the total amount to be raised by Common Assessments for that fiscal year, as shown in the Association Budget for that fiscal year, by a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots in the Project Area as of the date of such calculation.

(b) Except as otherwise set forth in this Declaration, the Association's Common Expenses shall be allocated among the Lots as set forth in this Section 5.10. The Share

of Common Expenses allocated to a Lot shall be expressed as a percentage and calculated in accordance with the following formula:

$$\text{Share of Common Expenses} = \frac{1}{\text{total number of Lots}} \times 100$$

(c) Any Common Expense or portion thereof benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited in accordance with uniformly applied policies adopted by the Association. Without limiting the generality of the foregoing provision of this paragraph 5.10(c), expenses incurred by the Association for maintenance, repair or replacement of Limited Common Elements shall be assessed equally against the Owner(s) of the Dwelling Unit(s) to which such Limited Common Elements are appurtenant. Notwithstanding any provision of this Declaration to the contrary, if any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against such Owner's Lot.

(d) Common Expenses incurred by the Association for casualty insurance, if any, liability insurance, if any, trash removal services, landscaping maintenance (except landscaping maintenance for Common Area) and maintenance and care for Exterior Surfaces shall be assessed equally against all Lots on which, from time to time, a completed and occupied Dwelling Unit is located (and Lots on which Dwelling Units are in the process of being constructed or which have been constructed but have not been occupied as a residence shall not be included among the Lots so assessed), without regard to usage.

(e) The Share of Common Expenses attributable to the Lots as of the date of this Declaration are set forth on Exhibit D attached hereto and made a part hereof.

(f) If the number of Lots is changed subsequent to the date of this Declaration due to the withdrawal or merger of Lots, the subdivision of a Lot, the annexation of all or a portion of the Expansion Area or otherwise, the Shares of Common Expenses for all Lots within the Project after such change shall be recalculated in accordance with the formula set forth in paragraph 5.10(b) above, without regard to the size of the Lots.

(g) Until the Association levies an Assessment, Declarant shall pay all Common Expenses.

Section 5.11. Supplemental Common Assessments. If the amounts levied as Common Assessments prove inadequate for any reason, including nonpayment of any Owner's Common Assessments, the Executive Board may, from time to time, levy Supplemental Common Assessments. Such Supplemental Common Assessments shall be assessed against the Owner of each Lot, in the same manner that Common Assessments are originally assessed each fiscal year by the Executive Board. Written notice of any change in the amount of any annual Common Assessments resulting from the levy of Supplemental Common Assessments shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change.

Section 5.12. Annual Budgets.

(a) Prior to the first levy of a Common Assessment, and thereafter on or before October 1 of each calendar year, the Executive Board shall adopt a proposed annual Budget for the Association for the following calendar year that sets forth:

(i) the Executive Board's estimates of Common Expenses for the next calendar year;

(ii) the amount of funds for such Common Expenses that the Executive Board proposes to raise through Common Assessments; and

(iii) the amount of funds for such Common Expenses that the Executive Board proposes to raise through Special Assessments.

(b) Within thirty days after adopting a proposed Budget, the Executive Board shall deliver a summary of the proposed Budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed Budget. The date of such meeting shall not be less than fourteen days nor more than sixty days after the delivery of the summary of the proposed Budget to the Owners. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed Budget, the proposed Budget shall be deemed ratified. If the proposed Budget is rejected, the annual Budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent Budget proposed by the Executive Board.

(c) If the Executive Board deems it necessary or advisable to amend an annual Budget that has been ratified by the Owners under this Section 5.12, the Executive Board may adopt a proposed amendment to the annual Budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen days nor more than sixty days after the delivery of the summary of the proposed amendment. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

Section 5.13. Commencement of Common Assessments. Common Assessments of the Association shall commence as to each Lot within the Project Area on the date of Recordation of the first deed conveying the Lot. The Common Assessments for the then current fiscal year shall be prorated on the basis of the number of days in such fiscal year remaining from the date of commencement of such Common Assessments to the end of such fiscal year.

Section 5.14. Payments of Assessments. Common Assessments shall be due and payable in advance to the Association by the assessed Member in such manner and on such dates as the Executive Board may designate, in its sole and absolute discretion; provided, however, that in no event shall the Executive Board require payment of Common Assessments more than once

each calendar month. Notice of the amount of the Common Assessments shall be given to each Member prior to the first day of each fiscal year, but no levy of Common Assessments shall be invalid due to non-compliance with this requirement.

No abatement of Common Assessments or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repair or Improvements to Common Area, from any action taken to comply with any law or any determination of the Executive Board or for any other reason.

Notwithstanding the payment of Common Assessments in installments on a monthly or less frequent basis, the Common Assessment upon each Lot shall be the amount due from the Owner of such Lot as established by the then current Budget.

Section 5.15. Failure to Fix Assessment. The failure by the Executive Board to levy an Assessment for any fiscal year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent fiscal year.

Section 5.16. Special Assessment for Capital Expenditures. In addition to Common Assessments, the Executive Board may, subject to the provisions of this Section 5.16, levy Special Assessments for the purpose of raising funds, not otherwise provided under the Budget from Common Assessments, to construct or reconstruct, repair or replace Improvements upon any portion of the Common Area, including the costs of necessary personal property related thereto or to provide for necessary facilities and equipment to offer the services authorized in this Declaration. The Executive Board shall not levy Special Assessments without the vote of Members of the Association representing at least sixty percent (60%) of the voting power residing in the Owners of Lots subject to the Special Assessments. Special Assessments or a portion thereof benefitting fewer than all of the Lots may be assessed solely against the Lots benefitted in accordance with uniformly applied policies adopted by the Association. The Association shall notify Members in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable and the members shall pay any such Special Assessment in the manner so specified.

Section 5.17. Reimbursement Assessments. The Executive Board may, subject to the provisions hereof, levy an Assessment against any Member of the Association if the willful or negligent failure of the Member or a person claiming through the Member to comply with this Declaration, the Articles or the Bylaws or rules and regulations adopted by the Association shall have resulted in the expenditure of funds to cause such compliance. Such Assessment may include a reasonable administrative fee, not to exceed 15% of the amount otherwise due, to compensate the Association for its overhead and effort incurred in obtaining compliance. Such Assessments shall be known as Reimbursement Assessments and shall be levied only after Notice and Hearing as defined in this Declaration. The amount of the Reimbursement Assessments shall be due and payable to the Association thirty (30) days after notice to the Member of the decision of the Executive Board that the Assessment is owing.

Section 5.18. Late Charges and Interest. If any Common Assessments, Special Assessments, Supplemental Assessments or Reimbursement Assessments or any installment thereof is not paid within thirty (30) days after it is due, the Member obligated to pay the Assessment may be required to pay a reasonable late charge to be determined by the Executive Board. Any Assessment or installment of an Assessment which is not paid within thirty (30) days after the date of any Notice of Default given under Section 5.19 and prior to the Recordation of Notice of Lien under Section 5.22 hereof shall bear interest from the date such Assessment became due and payable at an annual rate equal to the lesser of: (a) the "prime rate" as of the due date as published in the Wall Street Journal or other national financial journal selected by the Executive Board, plus ten percent (10%); (b) the maximum rate permitted by applicable law.

Section 5.19. Notice of Default and Acceleration of Assessments. If any Common Assessments, Special Assessments, Supplemental Assessments or Reimbursement Assessments or any installment thereof is not paid within thirty (30) days after its due date, the Executive Board may mail a notice of default to the Owner and to each first Mortgagee of the Lot who has requested a copy of the notice. The notice shall specify (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is mailed to the Member, by which such default must be cured; and (d) that a failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Assessment or in the installments of the Assessment for the then current fiscal year and the filing and foreclosure of the lien for the Assessment against the Lot of the Member. If the delinquent Assessment or installment and any late charges or interest thereon are not paid in full on or before the date specified in the notice, the Executive Board, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Declaration, subject to the protection afforded to Mortgagees under this Declaration.

Section 5.20. Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner or Member against whom the same is assessed. In the event of a default in payment of any Assessment or installment thereof, whether Common, Special, Supplemental or Reimbursement, the Executive Board may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided.

Section 5.21. Lawsuit to Enforce Assessments. The Executive Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charge, interest and other costs of enforcement including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Owner or Member.

Section 5.22. Lien to Enforce Assessments.

(a) The Executive Board may elect to file a claim of lien against the Lot of the delinquent Owner or Member by Recording a notice ("Notice of Lien") setting forth (i) the

amount of the claim of delinquency, (ii) the interest, and costs of collection and fees which have accrued thereon, (iii) the legal description and street address of the Lot against which the lien is claimed and (iv) the name of the Record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Executive Board to cover the cost of preparing and recording the release of the lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of Mortgages in the State of Colorado.

(b) The lien of the Association shall have priority over all other liens upon or interests in the affected Lot, except for: (i) the lien of a Mortgage which had priority over all other security interests in such Lot as of the date that the assessment sought to be enforced became delinquent (a "First Mortgage"); and (ii) liens for real estate taxes and other governmental assessments.

(c) Notwithstanding the foregoing, the lien of the Association shall have priority over the lien of a First Mortgage in an amount equal to the budgeted Assessments or periodic installments thereof which would have become due, in the absence of acceleration, during the six (6) months immediately preceding institution of an action to foreclose the Association's lien or the institution of a judicial or nonjudicial foreclosure of a lien having priority over any part of the Association's lien.

Section 5.23. Estoppel Certificates. Upon the payment of such reasonable fee as may be determined from time to time by the Executive Board, and upon the written request of any Member or any person or Mortgagee with, or intending to acquire, any right, title or interest in the Lot of such Member, the Association shall furnish, within fourteen (14) days after the receipt of such a request, a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the Owner thereof and setting forth the amount of any Assessments levied against such Lot which is not yet due and payable. Such statement shall, with respect to the person to whom it is issued, be conclusive against the Association and all persons for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied under or pursuant to this Declaration.

Section 5.24. No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for 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.

ARTICLE VI

EXECUTIVE BOARD

Section 6.1. Number and Election of Directors. The Executive Board shall consist of not less than three (3) and not more than nine (9) Directors. Each director shall be a Member of the Association or shall be an employee or designee of Declarant. Subject to such limitations, the number of Directors shall be three (3) until changed by resolution of the Executive Board. The initial Directors shall hold office until the election or appointment of their successors at the first annual meeting of the Association, which shall be held within one year of the sale of the first Lot. Thereafter, subject to the terms and conditions of Sections 6.3 and 6.4 below, each Director shall hold office for a term of one year and the Members shall elect the Directors at the annual meetings; provided, however, that the Bylaws may provide for longer terms of office and may establish a system of staggered terms for the Directors.

Section 6.2. Powers of the Executive Board.

(a) Except as provided in this Declaration, the Articles and the Bylaws, the Executive Board may act on behalf of the Association in all instances.

(b) The Executive Board may not act on behalf of the Association to:

- (i) amend this Declaration;
- (ii) terminate the Association, this Declaration or the Project;
- (iii) elect Directors to the Executive Board, other than to fill a vacancy for the unexpired portion of any Director's term; or
- (iv) determine the qualifications, powers and duties, or terms of office of Directors.

Section 6.3. Declarant Control Period.

(a) Subject to the terms and conditions of Section 6.3(b) and (c) below, but notwithstanding anything else to the contrary contained in this Declaration, the Articles or the Bylaws, Declarant shall have the exclusive right to appoint and remove all Directors and Officers during the Declarant Control Period. The phrase "Declarant Control Period" means the longer of the periods described in clauses (i) and (ii) below, specifically: (i) the longest period permitted by the Act during which Declarant shall be entitled to appoint and remove all or a majority of the Directors; and (ii) the period commencing on the date on which Declarant forms the Association and ending on the earliest to occur of:

(i) sixty days after conveyance to purchasers of 75 percent of the total number of Lots that may be created by Declarant under this Declaration and applicable local law; or

(ii) two years after the last conveyance of a Lot by Declarant or a Successor Declarant in the ordinary course of business; or

(iii) two years after any right to add new Units was last exercised.

(b) Declarant may voluntarily surrender its right to appoint and remove Directors and Officers prior to the expiration of the Declarant Control Period, but, in that event, Declarant may require, for the remainder of the Declarant Control Period, that specific actions of the Association or the Executive Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective.

(c) Notwithstanding anything to the contrary contained in Section 6.3(a) above, not later than sixty days after the conveyance to purchasers other than Declarant of 25.0% of the Lots that may be created under this Declaration and applicable local law, one Director appointed by Declarant shall be replaced with a Director elected by Members other than Declarant. If the membership of the Executive Board is increased to more than three, not later than 60 days after the conveyance to purchasers other than Declarant of 50.0% of the Lots that may be created, not less than one-third of the Directors shall be elected by Members other than Declarant.

(d) Not later than the expiration of the Declarant Control Period, the Members shall elect the Executive Board, at least a majority of whom must be Members other than Declarant or designated representatives of Members other than Declarant. Such Directors shall take office upon election.

Section 6.4. Removal of Directors. Notwithstanding any provision of this Declaration, the Articles or Bylaws to the contrary, the Members, by a 67 percent vote of all Memberships represented and entitled to vote at any meeting at which a quorum is present, may remove any Director, with or without cause, other than a Director appointed by Declarant during the Declarant Control Period.

Section 6.5. No Compensation of Directors. No Director shall have the right to receive any compensation from the Association for serving as such Director except reimbursement of expenses as may be approved by resolution of disinterested members of the Executive Board.

ARTICLE VII

DUTIES AND POWERS OF
COUNTRY CREEK PATIO HOME ASSOCIATION

Section 7.1. General Duties and Powers of the Association. The Association has been formed to further the common interests of the Members of the Association and to provide a mechanism by which the Project's status as Housing for Older Persons is not jeopardized. The Association, acting through its Executive Board or persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members of the Association, to own, maintain, improve and enhance Common Area, to improve and enhance the attractiveness and desirability of the Project Area and to maintain the Project's status as Housing for Older Persons.

Section 7.2. Duty to Accept Common Area, Easements, Property and Facilities Transferred by Declarant. Declarant shall cause Common Area which is made subject to this Declaration from time to time to be conveyed to the Association prior to the conveyance by Declarant of any Lot which is subjected to this Declaration, at the same time and in the same instrument as such Common Area is subjected to this Declaration. The Association shall accept title to, and the obligations in connection with, Common Area and the easements for the benefit of the Association as contained herein, and title to any personal property or equipment transferred to the Association by Declarant, together with the responsibility to perform all of the functions set forth in this Declaration in connection therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Real property interests transferred by Declarant to the Association shall consist only of easements as set forth herein and of fee simple title to Common Area. Title to Common Area shall be free and clear of all liens and encumbrances other than the provisions of the Community Declaration, this Declaration, easements as set forth herein, any easements, rights-of-way, covenants, conditions, restrictions and equitable servitude which do not materially affect the use and enjoyment of such Common Area and real estate taxes for the current year. Common Area and easements for the benefit of the Association, other than the easements for the installation, operation, maintenance, repair and replacement of the Country Creek Street Lighting and the dedicated streets and parking areas as hereinabove set forth, shall be within the boundaries of the Project Area. Except as otherwise specifically approved by resolution of the Executive Board, no Common Area conveyed to, or easement granted to, the Association by Declarant nor any personal property transferred to the Association by Declarant shall impose upon the Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge or fee. Any property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burden on the Association other than the normal burdens of ownership and the duties set forth hereinafter.

Section 7.3. Duty to Manage and Care for Common Area, Streets, Parking Areas, Landscaping, Walks, and Utilities and Snow Removal from Streets. Upon commencement of Assessments and following the installation in Common Area of landscaping, streets, common

parking areas, if any, common walks, utilities, and other Improvements or Common Facilities by Declarant, the Association shall manage, operate, care for, maintain, repair and replace all such landscaping, streets, common parking areas, if any, common walks, utilities, and other Improvements and Common Facilities installed in the Common Area. The obligations of the Association under the preceding sentence shall include, but not be limited to, the duty to manage, operate, care for, maintain, repair and replace all irrigation systems installed in the Common Area, and to perform snow removal from such common walks as the Association shall deem necessary or desirable to provide reasonable access, ingress and egress to each Lot within the Project Area. The Association shall keep the Common Area in a safe, attractive and desirable condition for the use and enjoyment of the Owners of Lots within the Project Area. If the Association is required to incur costs and expenses of maintenance, repair or care for any of the foregoing due to the willful or negligent act or failure to act of an Owner or a Related User of an Owner, the amounts incurred shall be payable by such Owner to the Association, secured by a lien as provided in this Declaration. Additionally, upon commencement of Assessments, the Association shall perform or cause to be performed snow removal from all streets and common parking areas, in or adjacent to the Project Area as the Association shall deem necessary or desirable. The Association and Declarant shall have no duties or responsibilities with regard to streets or parking areas which have been accepted for maintenance purposes by the City of Fruita or other municipal or quasi-municipal entity having jurisdiction over the Project Area, or with regard to areas which are to be maintained by the Owners pursuant to Article XII.

Section 7.4. Duty to Manage and Care for Common Area Lighting, Landscaping and Common Facilities in Lot Perimeter Areas. Upon commencement of Assessments and following the installation by Declarant of Country Creek Street Lighting, landscaping and Common Facilities in Lot Perimeter Areas, the Association shall manage, operate, care for, maintain, repair and replace all Country Creek Street Lighting, Common Facilities and such landscaping in Lot Perimeter Areas. If the Association is required to incur costs and expenses of maintenance, repair or care for any of the foregoing due to the willful or negligent act or failure to act of an Owner or a Related User of an Owner, the amounts incurred shall be payable by such Owner to the Association, secured by a lien as provided in this Declaration. The Association shall have no responsibility or duty with regard to street lighting accepted for maintenance purposes by the City of Fruita or other municipal or quasi-municipal entity.

Section 7.5. Duty to Maintain Limited Common Elements. Limited Common Elements which are appurtenant to more than one Dwelling Unit shall be maintained, replaced and repaired by the Association. All costs and expenses associated with such maintenance, repair and replacement shall be assessed against the affected Dwelling Units in accordance with Section 5.10(c).

Refer to Section 2.22

Section 7.6. Duty to Manage and Care for Exterior Surfaces. The Association shall be obligated to provide routine maintenance for all Exterior Surfaces (including cleaning of gutters and downspouts). The Owner of a Lot shall, at such Owner's cost and expense, be responsible for the maintenance, repair and care of all glass on the Dwelling Unit, all doors on such Dwelling Unit, all screens and doors and windows of such Dwelling Unit, all decks, if any, on the exterior of such Dwelling Unit and all repairs and replacements described or referred to in Article XII.

The Association shall cause all Exterior Surfaces to be repainted on a periodic basis, as required by ordinary wear and tear, so as to present, at all times, a pleasing and attractive appearance. If any repainting shall be required due to extraordinary events (such as, but without limitation, hailstorms), the Owner of a Dwelling Unit needing such repainting shall, at such Owner's cost and expense, cause the Exterior Surfaces of such Owner's Dwelling Unit to be repainted. If such Owner refuses to cause such repainting to be done within thirty (30) days after demand by the Association, then the Association shall cause such repainting to be done and the amounts incurred shall be payable by such Owner to the Association, secured by lien as provided in this Declaration. The nature and type of any painting or refinishing (whether done by the Association or an Owner), including the color thereof, shall be within the sole discretion of the Association. Maintenance of Exterior Surfaces by the Association shall be done at the expense of the Association except that, if the Association is required to incur costs and expenses of maintenance due to the willful or negligent act or failure to act of an Owner or a Related User of an Owner, the amounts incurred shall be payable by such Owner to the Association, secured by lien as provided in this Declaration. Maintenance, repair and replacement of glass surfaces and doors on any Dwelling Unit shall be the responsibility of the Owner of such Lot, who shall bear the expense thereof.

Section 7.7. Duty to Provide for Trash Removal. To the extent such service is not provided by the City of Fruita or other municipal or quasi-municipal entity, the Association shall arrange for trash removal services for all portions of the Project, including each Dwelling Unit on each Lot. The Association shall not be responsible, however, for trash removal from any Lot on which a Dwelling Unit is in the process of being constructed or on which a Dwelling Unit has been constructed but has not been occupied as a residence; the Association shall require the contractor building such Dwelling Unit to be responsible for and to provide removal of construction debris and trash from such Lot. The Association may promulgate, and each Owner shall be bound by and comply with, such rules and regulations regarding trash removal service as the Association may reasonably desire, including regulations regarding the days and hours during which trash and solid waste may be collected or put out for collection.

Section 7.8. Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, casualty, fire and extended coverage insurance with respect to all insurable improvements to real property owned by the Association, if any, including coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable property shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost. Insurance premiums for such insurance and any other insurance premiums paid by the Association shall be an expense to be included in the Common Assessments payable by Members. Such insurance shall be written in the name of, and the proceeds thereof shall be payable to the Association as the trustee and attorney-in-fact for the Members, and in the event of damage or destruction to any insured improvements, the proceeds of such insurance shall be applied by the Association, to the extent necessary, to cause the damaged or destroyed improvements to be restored or replaced to their original condition.

Section 7.9. Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, broad form comprehensive liability insurance covering public liability of the Association for bodily injury and property damage including, if the Association owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles. Public liability insurance shall, to the extent reasonably obtainable, have limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence.

Section 7.10. General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, cover each Member without each Member necessarily being specifically named. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Association, each Member and any person claiming by, through or under such Member and as against any officer, director, agent or employee of any of the foregoing. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Executive Board to ascertain whether coverage under the policies is sufficient in light of the possible or potential liabilities of the Association. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the insurable Improvements and property of Declarant.

Section 7.11. Fidelity Bonds Required. The Association shall obtain and keep in force at all times a fidelity bond or bonds for every person handling funds of the Association including, but not limited to, employees of any Manager. Each such bond shall name the Association as obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager, as the case may be, at any given time during the term of each bond. In no event, however, may the aggregate amount of such bonds be less than a sum equal to two (2) months' aggregate assessments on all Lots plus reserve funds.

Section 7.12. Other Insurance and Bonds. The Association shall obtain such other insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Section 7.13. Insurance and Bonds Required by Government Mortgage Agencies. The Association shall obtain and keep in full force and effect such insurance and bonds as may be required by Government Mortgage Agencies to the extent that any such Government Mortgage Agency holds, or has agreed to insure or to guarantee, any Mortgage on any Lot within the Project Area, except to the extent such insurance or bond is not available or has been waived in writing by such Government Mortgage Agency.

Section 7.14. Duty to Prepare Budgets. The Association shall prepare Budgets for the Association as elsewhere provided in this Declaration.

Section 7.15. Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

Section 7.16. Duty to Provide Accounting. The Association shall prepare an annual accounting of the accounts of the Association. If required by a Government Mortgage Agency such accounting shall be an independent audit. Copies of such accounting and the report of any such audit shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same.

Section 7.17. Duties with Respect to Country Creek Architectural Review Committee. The Association may appoint and thereafter perform functions to assist the Country Creek Architectural Review Committee if activated as provided in Article IX of this Declaration.

Section 7.18. Duties with Respect to Enforcing Restrictive Covenant. The Association shall enforce the restrictions upon use and occupancy of Dwelling Units as provided in Article X and take such other actions as may be necessary to maintain the Project's status as Housing for Older Persons.

Section 7.19. Power to Acquire Property and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The Association may construct Improvements on the property and may demolish Improvements owned by the Association.

Section 7.20. Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, and the use of any property within the Project Area, including Lots. Any such rules and regulations shall be reasonable and uniformly applied. Such rules and regulations shall be effective only upon adoption by resolution of the Executive Board. Notice of the adoption, amendment or repeal of any rule or regulation shall be given in writing to each Member of the Association at the address for notices to Members as elsewhere provided in this Declaration or by the Bylaws, and copies of the currently effective rules and regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such rules and regulations and shall see that Related Users comply with such rules and regulations. Such rules and regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the rules and regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 7.21. Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and of its rules and regulations and shall take such action as the Executive Board deems necessary or desirable to

cause such compliance by each Member of the Association and each Related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of rules and regulations of the Association by any one or more of the following means: (a) by entry upon any property within the Project Area after Notice and Hearing as defined in this Declaration (unless a bona fide emergency exists), without liability to the Owner thereof, for the purpose of enforcement or causing compliance with this Declaration or rules and regulations of the Association; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the rules and regulations of the Association, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the rules and regulations of the Association; (d) by suspension, after Notice and Hearing as defined in this Declaration, of the voting rights of a Member of the Association during and for up to sixty (60) days following any breach of such Member or a Related User of such Member of this Declaration or such rules and regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (e) by levying and collecting, after Notice and Hearing as defined in this Declaration, a Reimbursement Assessment against any Member of the Association for breach of this Declaration or such rules and regulations by such Member or a Related User of such Member; and (f) by levying and collecting, after Notice and Hearing as defined in this Declaration, reasonable and uniformly applied fines and penalties, established in advance in the rules and regulations of the Association, from any Member of the Association for breach of or failure to comply with this Declaration or such rules and regulations by such Member or a Related User of such Member.

Section 7.22. Power to Provide Special Services for Members. The Association shall have the power to provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, or through one or more supplemental declarations (each, a "Supplemental Declaration"), which shall provide for payment to the Association by such Member or group of Members of the reasonably estimated costs and expenses of the Association of providing such services, including a fair share of the overhead expenses of the Association and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members and that the payment for such services shall be secured by a lien on the property of the Member or group of Members. Any such agreement or Supplemental Declaration shall provide that payments to the Association for special services shall be payable solely by Members or owners of Lots benefitted by the special services.

Section 7.23. Power to Contract with the Community Association for Services. The Association shall have the power to contract, in writing, with the Community Association for services. Such contract shall provide for the payment by the Association to the Community Association of the reasonably estimated expenses of the Community Association of providing such services to the Association including a fair share of the overhead expenses of the Community Association. Services which may be provided to the Association may include, without limitation (a) the construction, care, operation, management, maintenance, repair and

replacement of Common Facilities and of Improvements in Common Area; (b) the enforcement of the provisions of the Declaration for, on behalf of, and in the name of the Association; (c) the collection of assessments for, in the name of, and on behalf of the Association; (d) the payment of taxes for the Association with funds of the Association; (e) the obtaining of insurance for the Association; and (f) the appointment and supervision of a Manager or Managers for the Association.

Section 7.24. Power to Employ Managers. The Association shall have the power to retain and pay for the services of a Manager or Managers to undertake any of the management or functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to any such Manager. Any contract or agreement with any such Manager shall be terminable by the Association for cause on no more than thirty (30) days prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety (90) days prior written notice. Any such contract or agreement shall be for a term of no more than one (1) year but may be subject to renewal for succeeding terms of no more than one (1) year each. Notwithstanding any delegation to a Manager of any duties, powers or functions of the Association, the Association and its Executive Board shall remain ultimately responsible for the performance and exercise of such duties, powers and functions. Any agreement or contract with a Manager shall contain any other provisions which are required to be contained therein by any Government Mortgage Agency.

Section 7.25. Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

Section 7.26. Duty to Pay Taxes and Assessments. The Association shall be obligated to pay all taxes and assessments levied on any property or facilities transferred to or acquired and owned by the Association which are separately assessed to the Association, except taxes and assessments applicable to the period prior to transfer of such property or facilities by Declarant which shall be prorated as of the time of such transfer and paid by Declarant. The Association may contest the validity or applicability of any such taxes, assessments or impositions so long as such contest does not jeopardize the title of the Association to any such property or facilities.

Section 7.27. General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in the Act, this Declaration or in the Articles or Bylaws. The Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration or the Articles or Bylaws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration and the Articles and Bylaws.

ARTICLE VIII

OWNERS' INSURANCE

Section 8.1. Insurance by Owners. Each Owner shall be responsible for obtaining and keeping in full force and effect at all times casualty insurance with respect to the Dwelling Unit of such Owner for the full replacement value thereof, including coverage for fire and extended coverage, vandalism and malicious mischief and, if available, and if deemed appropriate by the Association as evidenced by a resolution of the Board of Directors of the Association, flood, earthquake or war risk coverage. In the event of damage or destruction to any insured Dwelling Unit, the proceeds of such insurance shall be applied by the Owner, to the extent necessary, to cause the damaged or destroyed Dwelling Unit to be restored or replaced to its original condition (or such other condition as may be approved in writing by the Country Creek Architectural Review Committee); or, in the event that attached Dwelling Units are damaged or destroyed and all Owners whose Dwelling Units are attached to the Dwelling Units which are proposed to be demolished agree, to cause the damaged or destroyed attached Dwelling Units to be demolished and Lots to be suitably landscaped so as to present a pleasing and attractive appearance. The cost and expenses of the restoration or demolition of a damaged or destroyed Dwelling Unit which exceed the insurance proceeds shall be paid by the Owner of the Dwelling Unit. In addition, each Owner shall be responsible for obtaining insurance he deems desirable, including insurance covering accessory structures not part of the Dwelling Unit, furnishings and property belonging to that Owner and covering personal liability of that Owner and that Owner's Related Users. Any insurance policy obtained by an Owner shall, to the extent possible at reasonable cost, contain a waiver of the right of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other Owners and their Related Users. A copy of any insurance policy obtained by an Owner shall be furnished to the Association upon request of the Association.

Section 8.2. Failure to Maintain Insurance. Should any Owner fail to maintain any policy of insurance required by this Article, the Association may obtain such insurance on behalf of the Owner. The premiums and other reasonable costs incurred by the Association in connection therewith shall be recoverable from such Owner as a Reimbursement Assessment, secured by a lien as elsewhere provided in this Declaration.

Section 8.3 Association Procurement of Insurance. In lieu of requiring each Owner to obtain insurance as described in this Article, the Association may, upon notice to each Owner, obtain such insurance on behalf of the Owners and treat the cost thereof as a Common Expense.

ARTICLE IX

ARCHITECTURAL REVIEW

Section 9.1. Approval of Improvements Required. The approval of the Country Creek Architectural Review Committee shall be required for any Improvement to Property on any Lot

except for any Improvement to Property made by Declarant and except as prior approval may be waived or certain Improvements to Property may be exempted in writing or under written guidelines or rules promulgated by the Country Creek Architectural Review Committee because approval in such case or cases is not reasonably required to carry out the purposes of this Declaration.

Section 9.2. Improvement to Property Defined. "Improvement(s) to Property," requiring approval of the Country Creek Architectural Review Committee after its activation, shall mean and include, without limitation: (a) the construction, installation, erection or expansion of any building, structure or other Improvements, including utility facilities; (b) the demolition or destruction, by voluntary action, of any building, structure or other Improvements; (c) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, 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 plants, except within the Patio Areas, which shall not require approval of the Country Creek Architectural Review Committee; (e) any change or alteration of any previously approved Improvement to Property including any change of exterior appearance, color or texture.

Section 9.3. Membership of Committee. The Country Creek Architectural Review Committee shall consist of at least three (3) and not more than five (5) members, all of whom shall be appointed by the Executive Board. The Association may at any time, and from time to time, change the authorized number of members of the Country Creek Architectural Review Committee, but the number of members shall always be an odd number and shall not be less than three (3). Members of the Country Creek Architectural Review Committee may, but shall not necessarily, be Members of the Association. Members of the Country Creek Architectural Review Committee may be removed at any time by the Executive Board, and shall serve for such term as may be designated by the Executive Board or until resignation or removal by the Executive Board.

Notwithstanding the foregoing, the Declarant shall appoint the members of the Country Creek Architectural Review Committee and shall have the exclusive right to discharge the other functions described in this Section until the earlier to occur of: (i) the date that Declarant or a successor Declarant no longer holds any interest in the Project Area or Expansion Property, or (ii) the date that Declarant relinquishes its rights under this provision in a written notice to the Association. Upon the termination of the Declarant's rights under this Section, the Executive Board shall possess all of the rights and duties set forth herein.

Section 9.4. Committee Guidelines or Rules. The Country Creek Architectural Review Committee may issue guidelines or rules relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. Such guidelines or rules may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part because strict application of such limitations or restrictions would be unreasonable or unduly harsh under the circumstances. Such guidelines or rules may waive the requirement for approval of certain Improvements to Property or exempt certain

Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration. Such guidelines or rules may elaborate or expand upon the provisions herein relating to procedures and criteria for approval.

Section 9.5. Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the person proposing to make such Improvement to Property ("Applicant") shall submit to the Country Creek Architectural Review Committee at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Country Creek Architectural Review Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property. The Country Creek Architectural Review Committee may reasonably require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Country Creek Architectural Review Committee of all required materials in connection with the proposed Improvement to Property, the Country Creek Architectural Review Committee may postpone review of any materials submitted for approval.

Section 9.6. Criteria for Approval. The Country Creek Architectural Review Committee shall approve any proposed Improvement to Property only if it deems in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the Project Area in the vicinity of the proposed Improvement to Property; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Project Area; that the Improvement to Property will not detract from the beauty, wholesomeness and attractiveness of the Project Area or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association. The Country Creek Architectural Review Committee may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the Country Creek Architectural Review Committee may deem appropriate.

Section 9.7. Architectural Review Fee. The Country Creek Architectural Review Committee may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed Improvement to Property. The Country Creek Architectural Review Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to Property or that the fee shall be determined in any other reasonable manner, such as based upon the estimated cost of the proposed Improvement to Property.

Section 9.8. Decision of Committee. The decision of the Country Creek Architectural Review Committee shall be made within thirty (30) days after receipt by the Country Creek Architectural Review Committee of all materials required by the Country Creek Architectural Review Committee unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Country Creek Architectural Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Country Creek Architectural Review Committee.

Section 9.9. Appeal to Executive Board. If the Country Creek Architectural Review Committee denies, imposes conditions on, or refuses approval of a proposed Improvement to Property, the Applicant may appeal to the Executive Board by giving written notice of such appeal to the Association and the Country Creek Architectural Review Committee within twenty (20) days after such denial or refusal. The Executive Board or a tribunal appointed pursuant to the Bylaws shall hear the appeal in accordance with the provisions of the Bylaws for Notice and Hearing, and the Executive Board shall decide whether or not the proposed Improvement to Property or the conditions imposed by the Country Creek Architectural Review Committee shall be approved, disapproved or modified.

Section 9.10. Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Country Creek Architectural Review Committee within thirty (30) days after the date of receipt by the Country Creek Architectural Review Committee of all required materials.

Section 9.11. Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible subject to delays caused by adverse weather conditions and in complete conformity with the description of the proposed Improvement to Property, any materials submitted to the Country Creek Architectural Review Committee in connection with the proposed Improvement to Property and any conditions imposed by the Country Creek Architectural Review Committee.

Section 9.12. Notice of Completion. Upon completion of the Improvement to Property, the Applicant may give written Notice of Completion to the Country Creek Architectural Review Committee. Until the date of receipt of such a Notice of Completion, the Country Creek Architectural Review Committee shall not be deemed to have notice of completion of such Improvement to Property.

Section 9.13. Inspection of Work. The Country Creek Architectural Review Committee or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion, provided that the right of inspection shall terminate thirty (30) days after the Country Creek Architectural Review Committee shall have received a Notice of Completion from the Applicant.

Section 9.14. Notice of Noncompliance. If, as a result of inspections or otherwise, the Country Creek Architectural Review Committee finds that any Improvement to Property has been done without obtaining the approval of the Country Creek Architectural Review Committee, or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Country Creek Architectural Review Committee, or has not been accomplished as promptly and diligently as possible, then the Country Creek Architectural Review Committee shall notify the Applicant in writing of the noncompliance; which notice shall be given, in any event, within thirty (30) days after the Country Creek Architectural Review Committee receives a Notice of Completion from the

Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

Section 9.15. Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Country Creek Architectural Review Committee fails to notify the Applicant of any noncompliance within thirty (30) days after receipt by the Country Creek Architectural Review Committee of written Notice of Completion from the Applicant, the Improvement to Property shall be deemed in compliance if the Improvement to Property was, in fact, completed as of the date of Notice of Completion.

Section 9.16. Appeal to Executive Board of Finding of Noncompliance. If the Country Creek Architectural Review Committee gives any notice of noncompliance, the Applicant may appeal to the Executive Board by giving written notice of such appeal to the Executive Board and the Country Creek Architectural Review Committee within thirty (30) days after receipt of the notice of noncompliance by the Applicant. If, after a notice of noncompliance, the Applicant fails to commence diligently to remedy such noncompliance, the Country Creek Architectural Review Committee shall request a finding of noncompliance by the Executive Board by giving written notice of such request to the Association and the Applicant within thirty (30) days after delivery to the Applicant of a notice of noncompliance from the Country Creek Architectural Review Committee. In either event, the Executive Board or a tribunal appointed pursuant to the Bylaws shall hear the matter in accordance with the provisions of the Bylaws for Notice and Hearing, and the Executive Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

Section 9.17. Correction of Noncompliance. If, as provided above, the Executive Board determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the Applicant of the ruling of the Executive Board. If the Applicant does not comply with the ruling of the Executive Board within such period, the Executive Board may, at its option, record a notice of noncompliance against the real property on which the noncompliance exists, may remove the noncomplying Improvement to Property or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Executive Board may levy a Reimbursement Assessment against the Owner of the Lot for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or under this Declaration.

Section 9.18. No Implied Waiver or Estoppel. No action or failure to act by the Country Creek Architectural Review Committee or the Association shall constitute a waiver or estoppel with respect to future action by the Country Creek Architectural Review Committee or the Association with respect to any Improvement to Property. Specifically, the approval by the Country Creek Architectural Review Committee or the Association of any Improvement to Property shall not be deemed a waiver of any right or an estoppel to withhold approval or consent

for any similar Improvement to Property or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement to Property.

Section 9.19. Committee Power to Grant Variances. The Country Creek Architectural Review Committee, may authorize variances from compliance with any of the provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations so require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Country Creek Architectural Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, development guides, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

Section 9.20. Compensation of Members. Members of the Country Creek Architectural Review Committee shall receive reimbursement of out-of-pocket expenses incurred by them in the performance of their duties hereunder and if approved by the Executive Board, compensation for the performance of such duties.

Section 9.21. Meetings of Committee. The Country Creek Architectural Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Country Creek Architectural Review Committee may, from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the Country Creek Architectural Review Committee, except the granting of approval to any Improvement to Property and granting of variances. The action of such Committee Representative within the authority of such Committee Representative or the written consent or the vote of a majority of the members of the Country Creek Architectural Review Committee shall constitute action of the Country Creek Architectural Review Committee.

Section 9.22. Records of Actions. The Country Creek Architectural Review Committee shall report in writing to the Executive Board all final action of the Country Creek Architectural Review Committee and the Executive Board shall keep a permanent record of such reported action.

Section 9.23. Estoppel Certificates. The Association shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Country Creek Architectural Review Committee, furnish a certificate with respect to the approval or disapproval of any Improvement to Property by the Country Creek Architectural Review Committee or with respect to whether any Improvement to Property was made in compliance herewith. Any person,

without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

Section 9.24. Nonliability for Committee Action. There shall be no liability imposed on the Country Creek Architectural Review Committee, any member of the Committee, any Committee Representative, the Association, the Executive Board, or Declarant for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Country Creek Architectural Review Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Country Creek Architectural Review Committee shall not be responsible for reviewing, nor shall its approval of any Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

Section 9.25. Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Country Creek Architectural Review Committee shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided that, during the course of any such construction, nothing is done that will result in a violation of any of the provisions of this Declaration upon completion of construction and nothing is done that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property.

ARTICLE X

OCCUPANCY OF UNITS

Section 10.1. General. The Dwelling Units within the Project are intended to provide Housing for Older Persons. The provisions of this Article are intended to be consistent with and are set forth in order to comply with the Fair Housing Amendments Act, 42 U.S.C. §3601 et seq. (1988), as amended (the "Housing Act"), and the exemption therefrom provided by 42 U.S.C. §3607(b)(2)(C) regarding discrimination based on familial status. The Declarant or the Association, acting through its Executive Board, shall have the power to amend this Article, without the consent of the Members or any person except Declarant, for the purpose of making this Article consistent with the Housing Act, as it may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article. Except as provided by the foregoing, no provision of Sections 10.1, 10.2, 10.3 or 10.4 of this Declaration shall be effective unless approved by Members of the Association holding at least seventy five percent (75%) of the voting power of the Members.

Section 10.2. Restrictions on Occupancy.

(a) Each occupied Dwelling Unit within the Project shall at all times have as a permanent occupant therein at least one person who is 55 years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Dwelling Unit, the spouse of such Qualifying Occupant may continue to occupy the Dwelling Unit as long as the provisions of the Housing Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this Section, an occupant shall not be considered a "permanent occupant" unless such occupant considers the Dwelling Unit to be his or her legal residence and actually resides in the Dwelling Unit for at least six months during every calendar year.

(b) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Dwelling Unit; provided, no Owner may occupy the Dwelling Unit unless the requirements of this Article are met, nor shall any Owner permit occupancy of the Dwelling Unit in violation of this Article. Owners shall be responsible for including the statement that the Units within the Project are intended for the housing of persons 55 years of age or older, as set forth in Section 10.1 of this Article, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Dwelling Unit, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser or other potential occupant of the Dwelling Unit. Every lease of a Dwelling Unit shall provide that failure to comply with the requirements and restrictions of this Article shall constitute a default under the lease.

(c) Any Owner may request in writing that the Executive Board make an exception to the requirements of this Section with respect to his or her Dwelling Unit. The Executive Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Housing Act would still be met.

Section 10.3. Change in Occupancy; Notification. In the event of any change in occupancy of any Dwelling Unit as a result of a transfer of title, a lease or sublease, birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Dwelling Unit shall immediately notify the Executive Board in writing and provide to the Executive Board the names and ages of all current occupants of the Dwelling Unit and such other information as the Executive Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Executive Board and provide all required information within ten days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Dwelling Unit for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article, in addition to all other remedies available to the Association under this Declaration and Colorado law. Such fines shall be collectable in the same manner as Common Assessments levied against the Lot upon which such Dwelling Unit is located.

Section 10.4. Monitoring Compliance; Appointment of Attorney-in-Fact.

(a) The Association shall be responsible for maintaining age records on all occupants of Dwelling Units. The Executive Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating of age records, the granting of exemptions pursuant to Section 10.2(c), and enforcement. The Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their tenants and mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Section in any legal manner available, as the Executive Board deems appropriate, including, without limitation, conducting a census of the occupants of Dwelling Units, requiring copies of birth certificates or other proof of age for each occupant of the Dwelling Unit to be provided to the Executive Board on a periodic basis, and taking action to evict the occupants of any Dwelling Unit which does not comply with the requirements and restrictions of this Article. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER DWELLING UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Dwelling Unit which in the judgment of the Executive Board are reasonably necessary to monitor compliance with this Article.

(c) Each Owner shall be responsible for ensuring compliance of its Dwelling Units with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by itself and by its tenants and other occupants of its Dwelling Units. EACH OWNER, BY ACCEPTANCE OF TITLE TO A DWELLING UNIT, AGREES TO INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES AND CAUSES OF ACTION WHICH MAY ARISE FROM FAILURE OF SUCH OWNER'S DWELLING UNIT TO SO COMPLY.

Section 10.5. Use Restrictions. Each and every Lot shall be used and occupied in accordance with the following covenants and restrictions:

(a) **Use of Lots.** Each Lot shall be used for single family residential purposes only. No buildings, structures or improvements shall be used for any business, commercial or professional use unless: (i) such activity is subordinate to the residential uses of the structure; (ii) the activity is conducted by the persons who reside on the Lot where such structure is located and not more than one person residing elsewhere; (iii) the activity is substantially contained within the Dwelling Unit or accessory structure; (iv) the activity does not result in any objectionable noise, fumes, dust, smoke, electrical disturbance, or traffic volumes in the immediate neighborhood.

(b) **Outdoor Storage.** No portion of the Lot Perimeter Area or Patio Area shall be used for the storage of equipment, tools, lumber or other personal property, except that outdoor storage may be permitted in a location approved by the Country Creek Architectural

Review Committee so that such storage is fully and completely concealed from view from any neighboring or other Lot, Common Area and common roads.

(c) Vehicles. No house trailer, snowmobile, camping trailer, motor home, mobile home, motorcycle, boat, boat trailer, hauling or utility trailer, or truck, commercial vehicle or van or accessories of any thereof shall be parked, stored or maintained on any Lot, including any roads adjoining any Lot, or otherwise upon the Project Area unless they are completely concealed within a garage constructed as part of or as an accessory structure to a Dwelling Unit; provided, however, that this restriction shall not apply during the period of construction upon a Lot or to commercial or other vehicles making business or service calls or deliveries of a temporary nature.

(d) Animals and Pets. Occupants of a Lot may keep dogs, cats or other customary household pets, subject to the following restrictions: (i) no animal shall be allowed to run at large off of the Owner's Lot; (ii) while outside of the Owner's Lot, all animals shall be under the Owner's complete control at all times; (iii) each Owner shall employ best management practices to control odor and waste produced by his or her animals and to avoid the creation of any unsanitary condition; (iv) the number, type and other aspects of the keeping of animals upon the Properties shall be subject to regulation by the Association pursuant to the terms of this Declaration.

(e) Signs and Billboards. No billboards or advertising signs or similar devices of any character shall be erected, placed, permitted or maintained on any Lot, except a name and address sign, the design and location of which shall be approved in advance by the Country Creek Architectural Review Committee.

(f) Undergrounding of Utilities. All electrical service, telephone lines, and other utilities shall be placed underground and no outside electrical lines shall be placed or permitted to be placed overhead.

(g) Antennae. Except as specifically approved by the Country Creek Architectural Review Committee, no towers or radio, television, ham radio or civilian band radio antenna, satellite dish or similar device or equipment shall be erected, placed or maintained on any part of a Lot or residence unless such device is concealed from the view from other Lots by fencing or other structure or screen approved by the Architectural Review Committee.

(h) Trash, Rubbish and Refuse. No portion of any Lot shall be used, in whole or in part, for the storage of rubbish of any character whatsoever, nor shall any substance, thing, property or material be kept or placed upon any Lot or residence that will emit foul or obnoxious odors or that will cause or permit any noise or interference that will disturb the peace, quiet, comfort or serenity of other Owners or the occupants of surrounding properties.

(i) Firearms. The discharge of firearms on the Project Area is strictly prohibited.

(j) Resubdivision. No Lot shall be resubdivided into smaller Lots nor conveyed or encumbered in any less than the full original dimensions as shown on the plat, and each Owner and any other person or entity acquiring an interest in any Lot hereby waives any right to require or effect a partition of a Lot in violation of the foregoing prohibition. Notwithstanding the foregoing, the Declarant shall be exempt from these prohibitions and reserves the right to resubdivide or reconfigure any Lot or Lots owned by it.

(k) Exterior Lighting. Except as approved by the Country Creek Architectural Review Committee, no lighting shall be installed upon the exterior of any Dwelling Unit other than porch or entry lights or subdued lighting within a Patio Area. Exterior lighting shall be directed downward so as not to shine directly into the window or Patio Area of another Dwelling Unit or improvement upon adjacent property.

ARTICLE XI

DECLARANT'S WARRANTY CONCERNING COMMON AREA

Section 11.1. Limited Warranty. Declarant hereby warrants to the Association that the improvements made or to be made in Common Area by Declarant will be free from defect in workmanship or material for a period beginning with the completion of such improvement and ending one year after completion of construction or installation of the particular improvement. For purposes of the warranty, each tree or shrub installed by Declarant is a separate improvement. Declarant's warranty with respect to landscaping shall not apply in cases of failure by the Association to properly irrigate or otherwise maintain such landscaping, but shall be applicable only to defective landscaping materials installed by Declarant. The warranty made to the Association in this Section 11.1 is the only warranty, express or implied, made by Declarant to the Association or to Owners with respect to such improvements. **EXCEPT FOR SUCH WARRANTY, ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY SPECIFICALLY DISCLAIMED.** The provisions of this Section 11.1 shall not limit any warranties made by third parties not affiliated with Declarant, such as nurserymen supplying landscaping materials.

ARTICLE XII

OWNERS MAINTENANCE RESPONSIBILITY

Section 12.1. Maintenance of Lots. **ALL LOTS, INCLUDING THE PATIO AREA THEREON AND ALL SIDEWALKS, DRIVEWAYS AND OTHER LIMITED COMMON ELEMENTS APPURTENANT THERETO, AND ANY IMPROVEMENT THEREON, INCLUDING DWELLING UNITS AND GARAGES, ALL DECKS, IF ANY, ON THE EXTERIOR OF SUCH DWELLING UNITS, AND ALL GLASS SURFACES AND**

DOORS IN SUCH DWELLING UNITS, SHALL BE KEPT AND MAINTAINED BY THEIR OWNERS IN GOOD REPAIR AND IN A CLEAN, SAFE, ATTRACTIVE AND SIGHTLY CONDITION AND IN SUCH A CONDITION THAT THE DUTY OF THE ASSOCIATION TO MAINTAIN THE COMMON AREA IS NOT UNREASONABLY INCREASED. EXCEPT AS PROVIDED IN THIS DECLARATION WITH RESPECT TO MAINTENANCE OF THE COMMON AREA AND LANDSCAPING AND COMMON FACILITIES ON THE LOT PERIMETER AREA; ROUTINE MAINTENANCE OF EXTERIOR SURFACES; AND THE MAINTENANCE, REPLACEMENT AND REPAIR OF LIMITED COMMON ELEMENTS APPURTENANT TO MORE THAN ONE DWELLING UNIT, ALL SUCH MAINTENANCE, REPAIR AND UPKEEP WITH RESPECT TO A LOT AND APPURTENANT LIMITED COMMON ELEMENTS SHALL BE THE RESPONSIBILITY OF, AND AT THE COST OF THE OWNER OF THE LOT. ALL REPAIRS TO AND REPLACEMENTS OF DWELLING UNITS (INCLUDING GARAGES), THE EXTERIOR SURFACES OF DWELLING UNITS (INCLUDING GUTTERS AND DOWNSPOUTS), AND ALL DECKS, IF ANY, ON THE EXTERIOR OF SUCH DWELLING UNITS, SHALL BE THE RESPONSIBILITY OF, AND AT THE COST OF, THE OWNER OF THE DWELLING UNIT. Should any Owner fail or refuse to perform such work the Association may cause such work to be performed and assess such Owner for the costs thereof pursuant to Section 5.17.

Section 12.2. Maintenance of Improvements Within Patio Areas. Maintenance and upkeep, including replanting, of grass, trees, shrubs and landscaping within any Patio Area, and of any Improvements, including carpeting and decking, installed in any Patio Area, shall, except as hereinabove provided with respect to the maintenance and repair by the Association of the Exterior Surfaces of Dwelling Units, be the responsibility of the Owner of such Patio Area. The Owner of the Lot shall see that such landscaping and Improvements are adequately planted, replanted and maintained so as to present, at all times, a pleasing and attractive appearance; shall, subject to the provisions of Article IX of this Declaration, have sole discretion as to the nature and type of the landscaping and Improvements for which such Owner is responsible; and shall bear the expense of maintenance and upkeep of the landscaping and Improvements for which such Owner is responsible.

Section 12.3. Owner Caused Damage. If, due to the act or neglect of an Owner or a Related User of an Owner, whether by virtue of the exercise by such Owner or Related User of any easement or right granted to him herein or otherwise, loss or damage shall be caused to any person or property, including the Common Area, and, in the case of damage to property, such Owner does not promptly repair and restore any such damaged property to the condition it was in prior to such damage at such Owner's sole cost and expense, such Owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such Owner. The amount of such loss or damage may be collected by the Association from such Owner as a Reimbursement Assessment against such Owner, by legal proceedings or otherwise, and such amount shall be secured by a lien on the Lot of such Owner as provided elsewhere in this Declaration for assessments or other charges.

Section 12.4. Party Walls. A "Party Wall" shall mean any common wall along any property line between Lots which constitutes a common wall of the Dwelling Units constructed on either side of such property line and shall include those portions of the common wall from the bottom of the foundation to the roof line.

Section 12.5. Common Law Rules Apply. Except as otherwise specifically provided herein, the general rules of law applicable to Party Walls and of liability for property damage arising from negligence or willful acts or omissions shall apply with respect to any Party Wall.

Section 12.6. Sharing Party Wall Repair, Maintenance and Restoration Costs. The costs and expenses of necessary and reasonable repair, maintenance or restoration of any portion of a Party Wall, including restoration in the event of damage or destruction due to fire or other casualty, shall be shared equally by the Owner of each Lot sharing the Party Wall, without prejudice however, to the right of any such Owner to recover from the other such Owner under any rule of law with respect to liability for negligent or willful acts or omissions; provided, however, nothing contained herein shall require such Owners to share the costs and expenses of normal repair and maintenance, such as painting and replastering, of the surfaces of the Party Walls which are interior to the Dwelling Unit.

Section 12.7. Weatherproofing Exposed Party Wall. In the event any portion of the Party Wall is exposed to the elements by reason of damage, destruction or demolition of one of the Dwelling Units sharing such Party Wall, the Owner of the Lot on which such Dwelling Unit existed shall be responsible for providing weatherproofing or other protection of the exposed portion of such Party Wall, without prejudice, however, to the right of such Owner to recover the costs of weatherproofing from the other such Owner under any rule of law with respect to liability for negligent or willful acts or omissions.

Section 12.8. Lien for Party Wall Repair, Maintenance and Restoration Costs. If an Owner shall fail, after a demand, to pay any costs and expenses with respect to a Party Wall to be borne by such Owner, then the Owner of the adjoining Lot sharing such Party Wall shall have a lien, from and after the time a notice of lien is Recorded in the office of the Clerk and Recorder of Mesa County, Colorado, against the Lot of the Owner who has failed to pay any such costs and expenses, for the full amount due and not paid, plus interest from the date of demand for payment at the rate of 18% per annum, or at such other rate as may be established from time to time by the Executive Board, whichever rate is greater, plus all costs and expenses of collecting the unpaid amount, including reasonable attorneys' fees. The lien may be foreclosed in the manner of foreclosure of Mortgages in the State of Colorado.

Section 12.9. Arbitration of Party Wall Disputes. In the event of any dispute with respect to a Party Wall or with respect to costs and expenses to be borne by an Owner with respect to a Party Wall, the dispute shall be resolved by arbitration in accordance with the rules of the American Arbitration Association.

ARTICLE XIII

SPECIAL DECLARANT RIGHTS

Section 13.1. Improvements. Without being obligated to exercise such right, Declarant hereby reserves for itself, its successors and assigns the right to construct:

(a) any improvements shown on any Recorded plat of the Project Area, as the same may be amended from time to time;

(b) any other buildings, structures or improvements that Declarant desires to construct on the Project Area or any other real estate owned by Declarant, whether or not the same ever becomes part of the Project Area; and

(c) improvements, including but not limited to recreation and athletic facilities, upon the Common Area, or to construct such facilities upon a Lot owned by Declarant and then designate such real property as Common Area in accordance with Section 13.2.

Section 13.2. Development Rights. Declarant hereby reserves for itself, its successors and assigns:

(a) the right to subdivide any Lot owned by Declarant;

(b) the right to combine any Lots owned by Declarant;

(c) the right to reconfigure (including changing the size of) and/or replat any Lot or Lots owned by Declarant, including Lots created by subdividing and/or combining Lots owned by Declarant; and

(d) the right to convert any Lot owned by Declarant into Common Area.

Section 13.3. Sales Offices, Model Homes, Construction Trailers, Etc.. Declarant hereby reserves for itself, its successors and assigns the right to maintain sales offices, management offices, models, construction trailers, fenced and unfenced storage areas and paved and unpaved parking areas upon any Lot owned or leased by Declarant and any and all Common Area. Such offices, models and construction trailers may be of such size and number as Declarant determines and may be located and relocated as often and as many times as Declarant determines. Declarant shall continue to be the owner of any such office, model, trailer, storage area or parking area, and such office, trailer, etc. shall not be or become part of the Common Area and the Association shall not own or become the owner of any such office, model, trailer, storage area or parking area, unless Declarant fails to remove the same within the applicable time specified in this Section 13.3. Declarant shall have the right to remove any such office, model, trailer, storage area or parking area at any time that Declarant is the Owner of the Lot on which such office or model is located and within one year after Declarant ceases to be the Owner of such Lot. Declarant shall have the right to remove any such office, model, trailer, storage area or

parking area located on Common Area at any time that Declarant owns any Lot within the Project Area and within two years after Declarant ceases to be the Owner of any Lot within the Project Area. Declarant also reserves for itself, its successors and assigns the right to construct, maintain and remove signs advertising the Project on any and all Common Area.

Section 13.4. Merger; Community Declaration. In the event that all or any portion of the Expansion Area is not annexed into the Project Area as permitted in Article XIV:

(a) Declarant hereby reserves for itself and its successors and assigns the right to merge or consolidate the common interest community created by this Declaration with any other common interest community created for the Expansion Area in the manner provided in the Act.

(b) Declarant further reserves, for itself and its successors and assigns, the right to subject all or any portion of the Project Area to a declaration (the "Community Declaration") creating a Community Association to own, manage, operate, repair and replace recreational facilities, parks, open space or other amenities hereafter created by the Declarant upon the Expansion Area or Common Area and to permit the use of such facilities for the common enjoyment of Owners of Dwelling Units in the Project and the owners of lots or units within the Expansion Area. The Community Association shall have the right to assess all lots or units which enjoy the benefit of such facilities, including the Lots, for expenses associated with the performance of its duties on a uniform and non-discriminatory basis consistent with the formula established by Section 5.10 of this Declaration. Following the period of Declarant control, if any, the executive board of the Community Association shall be elected in a manner permitted by Section 38-33.3-220(5) of the Act..

ARTICLE XIV

DECLARANT'S EXPANSION, DEVELOPMENT AND WITHDRAWAL RIGHTS

Section 14.1. Expansion Rights. Declarant expressly reserves the right to subject all or any part of the property described in Exhibit E attached hereto and hereby incorporated by reference (the "Expansion Property") to the provisions of this Declaration in accordance with the procedures described in Article XV. In addition, Declarant also expressly reserves the right to add unspecified property to the Project Area as allowed by the Act. Upon the exercise of the rights contained in this Section, the Expansion Property, or designated part thereof, or the additional property shall be added to and become a part of the Project Area for all purposes.

Section 14.2. Development of Expansion Area. Declarant expressly reserves the right to subdivide, improve, create Lots and Common Areas and buildings or other facilities thereon (the "Additional Improvements"), to exercise any Special Declarant Right, and to grant or dedicate easements for streets, utilities and the like on all or any portion of the Expansion Property, whether or not the Expansion Property is subjected to this Declaration.

Section 14.3. Party Wall Provision. Declarant expressly reserves the right to utilize any structural wall located on the boundary of any parcel identified as Expansion Property on Exhibit E as Party Wall. In the event Declarant constructs improvements on a parcel of the Expansion Property which does not become part of the Project Area, the Declarant shall prepare a Party Wall Agreement which shall include easements for both the Project Area and the Expansion Property parcel for encroachments, support and repair as necessary to maintain the Party Wall. Except as specifically covered by the Party Wall Agreement prepared by Declarant at the time of construction of improvements on the Expansion Property parcel utilizing the Party Wall, the Party Wall shall be governed by the common law with respect to party walls as it exists from time to time under the laws of the State of Colorado.

Section 14.4 Withdrawal Rights. Declarant reserves the right to withdraw property from the Project Area and from this Declaration in accordance with the provisions of this Section. Such right of withdrawal may be exercised as to any portion of the Project Area which may legally be conveyed as a separate parcel under the laws of the State of Colorado; provided, however, that no portion of the Project Area which has been designated on a recorded plat as a Block may be withdrawn after a Lot within such Block has been conveyed to a purchaser other than an affiliate of Declarant. Upon the exercise of the rights contained in this Section, the withdrawn property shall cease to be a part of the Project Area and shall no longer be subject to this Declaration for any purpose, except as specified in Section 15.9.

ARTICLE XV

ADDITIONAL PROVISIONS REGARDING DEVELOPMENT RIGHTS

Section 15.1. Exercise of Development Rights. Except as expressly limited herein, Development Rights may be exercised as to any of the property in the Project Area. The consent of Owners or mortgagees or other holders of security interests shall not be required for any exercise of Development Rights, and Declarant may proceed with such exercise without limitation at its sole option. No assurances are made, however, that any further development will occur. Different Development Rights may be exercised as to different parcels at different times, and, except as expressly contained herein, no assurances are made regarding the boundaries or the order in which parcels may be subjected to the exercise of Development Rights. Exercise of a Development Right with respect to any one parcel does not require exercise of a Development Right on any other parcel of property subject to Development Rights.

Section 15.2. Amendment of Declaration. Upon the exercise of a Development Right, Declarant shall record an amendment to this Declaration (an "Amendment"): (i) executed and acknowledged by the Declarant; (ii) containing the legal description of the property affected by the exercise of the Development Right, (iii) providing a description of the Development Right being exercised and the nature of the exercise; (iv) if appropriate, recalculating the Shares of Common Expenses set forth on Exhibit D based on formula set forth in Section 5.10; and (v) containing such other provisions, restrictions and requirements consistent with the terms of this Declaration as Declarant deems necessary or desirable, including a description of any

Development Rights reserved within any property added to the Project Area. The exercise of a Development Right shall be effective upon Recording the Amendment.

Section 15.3. Supplement to the Map. Declarant shall, contemporaneously with the Amendment, file a Supplement to the Map showing the location of the Additional Improvements constructed on the Expansion Property or the construction, combination, subdivision, conversion or allocation of Lots or Common Areas allowed by this Declaration. The Supplement to the Map shall substantially conform to the requirements contained in this Declaration and the Act.

Section 15.4. Interpretation. Upon the recording of an Amendment following the exercise of a Development Right, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Project Area as affected by the exercise of the Development Right. Reference to this Declaration and Map in any instrument shall be deemed to include all Amendments to this Declaration and Supplements to the Map without specific reference thereto.

Section 15.5. Maximum Number of Units. The maximum number of Lots in the Project Area shall not exceed three hundred (300) Lots or, if allowed by the Act, the maximum number of Lots allowed by any governmental entity having jurisdiction over the Project Area pursuant to any development plan for the Project Area and the Expansion Property. Declarant shall not be obligated to expand the Project Area beyond the number of Units initially submitted to this Declaration.

Section 15.6. Interference With Development Rights. Neither the Association nor any Owner may take any action or adopt any rule and regulation that will interfere with or diminish any Development Rights reserved by this Article without the prior written consent of the Declarant. In the event of any controversy, dispute or litigation involving exercise of the reserved Development Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Development Rights allowed by the Act.

Section 15.7. Transfer of Development Rights. Any Development Rights created or reserved in this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred, executed by the transferor Declarant and recorded in the office of the Clerk and Recorder of Mesa County, Colorado.

Section 15.8. Termination of Development Rights. The Development Rights reserved to Declarant, for itself, its successors and assigns, shall expire twenty-five (25) years after the date of recording this Declaration in the Records except to the extent that the Development Rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Development Rights by Declarant as provided by the Act. Subject to the Association's right of reinstatement, upon the expiration or other termination of the Development Rights, any portion of the Project Area not already designated as a Lot or Common Area shall become a Common Area.

Section 15.9. Reciprocal Easements. If all or part of the Expansion Property is not submitted to this Declaration, or if property is withdrawn from the Project Area pursuant to Article XIV (the "Withdrawn Property"):

(a) the owner(s) of the Expansion Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Common Area and Lot Perimeter Area of any Lot; and

(b) the Owners shall have whatever easements are necessary, if any, for access, utility service, repair, maintenance and emergencies over and across the Expansion Property and Withdrawn Property.

Declarant shall prepare and record in the office of the Clerk and Recorder of Mesa County, Colorado, whatever documents are necessary to evidence such easements and shall amend Exhibit C to this Declaration to include reference to the recorded easement(s). Such recorded easement(s) shall specify that the owner(s) of the Expansion Property and the Withdrawn Property and the Owners shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the others property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section 15.9 shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section 15.9.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

Section 16.1. Term of Declaration and Termination. This Declaration and the planned community created by this Declaration may be terminated by obtaining the vote, by written ballot, of Members holding at least seventy-five percent (75%) of the voting power of Members of the Association. The agreement of the Owners to terminate the Project and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the terms and conditions of Section 38-33.3-218 of the Act. Upon the recordation in the office of the Clerk and Recorder of Mesa County, Colorado of the termination agreement, the Project shall be terminated, this Declaration shall have no further force or effect, and the Association shall be dissolved. Notwithstanding the foregoing, the Owners may not terminate the Project during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

Section 16.2. Amendment of Declaration by Declarant. Until the first Lot subject to this Declaration has been conveyed by Declarant by deed recorded in the office of the County Clerk and Recorder of Mesa County, Colorado, any of the provisions or Restrictions contained in this Declaration may be amended or terminated by Declarant by the Recordation of a written

instrument, executed by Declarant, setting forth such amendment or termination. Thereafter, notwithstanding the terms and conditions of Section 16.3 below, Declarant may amend this Declaration as expressly provided herein without the approval of the Owners, or, for a period of seven years from the Recordation of this Declaration, Declarant may make such amendments as may be necessary to correct scrivener's errors in the text of this Declaration or to conform the terms hereof to the lending requirements of governmental mortgage agencies such as FNMA ("Governmental Mortgage Agencies").

Section 16.3. Amendment of Declaration by Members. Except for provisions of the Declaration recited in Section 38-33.3-217(1) of the Act (all of which may be amended in the manner permitted by the Act) and except as otherwise provided in this Declaration, any provision or Restriction contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members of the Association holding at least sixty-seven percent (67%) of the voting power of the Association. The amendment or repeal shall be effective upon the Recordation in the office of the Clerk and Recorder of Mesa County, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the Members as herein provided. Any such amendment must be in accordance with the terms and conditions of Section 38-33.3-217 of the Act. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

Section 16.4. Amendment Requirement by Government Mortgage Agencies. Notwithstanding the provisions of Section 16.3 hereof, any provision or Restriction contained in this Declaration which any Government Mortgage Agency requires to be amended or repealed in order to purchase, guarantee or insure loans secured by Lots within the Project may be amended or repealed by vote of Members holding at least fifty one percent (51%) of the voting power of the Association present in person or by proxy at a duly constituted meeting of the Members. Any such amendment or repeal shall be effective upon the Recordation in the office of the Clerk and Recorder of Mesa County, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the vote of the Members as herein provided.

Section 16.5. Amendment of Articles and Bylaws. The Articles and Bylaws may be amended in accordance with the provisions set forth in such instruments or, in the absence of such provisions, in accordance with the applicable provisions of the Colorado Nonprofit Corporation Act.

Section 16.6. Agreements with Government Mortgage Agencies. The Association may enter into such contracts or agreements on behalf of the Association as may be required in order to satisfy the requirement or guidelines of any Government Mortgage Agency so as to allow for the purchase, guarantee or insurance, as the case may be, by a Government Mortgage Agency of first mortgages encumbering Lots within the Project Area. Each Owner hereby agrees that it will

benefit the Association and the Members thereof, as a class of potential mortgage borrowers and potential sellers of Lots within the Project Area, if Government Mortgage Agencies approve the Project Area or parts thereof as qualifying under their respective policies, rules and regulations as adopted from time to time.

Section 16.7. Association Right to Mortgage Information. Each Owner hereby authorizes any first mortgagee holding a mortgage on such Owner's Lots within the Project Area to furnish information to the Association concerning the status of such first mortgage and the loan which it secures.

Section 16.8. Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, telephone or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Lot of such person if no address has been given to the Association and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

Section 16.9. Persons Entitled to Enforce Declaration. The Association, acting by authority of the Executive Board, any Member of the Association, and Declarant shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration against any property within the Project Area and the Owner thereof. The right of enforcement shall include the right to bring an action for damages as well as any action to enjoin any violation of any provision of this Declaration.

Section 16.10. Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any person entitled to enforce the provisions of this Declaration.

Section 16.11. Enforcement by Self Help. Declarant, the Association, or any authorized agent of either of them, may enforce, by self help, any of the provisions, covenants, conditions, restrictions or equitable servitudes contained in this Declaration, provided such self help is preceded by Notice and Hearing as set forth in the Bylaws for the Association.

Section 16.12. Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Project Area is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 16.13. Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

Section 16.14. Costs and Attorneys' Fees. In any action or proceedings under this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith including reasonable attorneys' fees.

Section 16.15. Limitation on Liability. The Association, the Executive Board, the Country Creek Architectural Review Committee, the Country Creek Compliance Committee, Declarant and any Member, agent or employee of any of the same shall not be liable to any person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

Section 16.16. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Project Area, or any Improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

Section 16.17. Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 16.18. Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 16.19. Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial enforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 16.20. Number and Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

Section 16.21. Captions for Convenience. The titles, headings and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

DECLARANT

SUNSHINE OF THE REDLANDS, INC., a Colorado corporation

By: 

Name: John T. Moir

Title: Vice President

STATE OF COLORADO)

) ss.

COUNTY OF Mesa)

The foregoing instrument was acknowledged before me this 11th day of August, 1998, by John T. Moir as Vice-President of SUNSHINE OF THE REDLANDS, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 11-4-98.

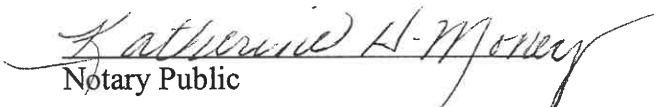

Notary Public



EXHIBIT A
TO
DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

LEGAL DESCRIPTION OF PROJECT AREA

- a) Lots 1-4, Block 1
- b) Lots 1,2, Block 2
- c) Lots 1-6, Block 3
- d) Lots 1-8, Block 4

VILLAGE AT COUNTRY CREEK, FILING 1, Mesa County, Colorado, according to the plat thereof recorded in the Office of the Mesa County Clerk and Recorded on October 14, 1997, in Plat Book 16, at Pages 18 through 20, under Reception No. 1816609.

EXHIBIT B
TO
DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

LEGAL DESCRIPTION OF COUNTRY CREEK COMMON AREA

Outlots A, B, C, D,

VILLAGE AT COUNTRY CREEK, FILING 1, Mesa County, Colorado

EXHIBIT C
TO
DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

RECORDING DATA FOR RECORDED EASEMENTS AND LICENSES

All easements as shown on the plat of VILLAGE AT COUNTRY CREEK, FILING ONE,
Mesa County, Colorado.

EXHIBIT D
TO
DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

SHARE OF COMMON EXPENSES

ATTRIBUTABLE TO EACH LOT

<u>Lot Number</u>	<u>Share (%)</u>
Lot 1, Block 1	5
Lot 2, Block 1	5
Lot 3, Block 1	5
Lot 4, Block 1	5
Lot 1, Block 2	5
Lot 2, Block 2	5
Lot 1, Block 3	5
Lot 2, Block 3	5
Lot 3, Block 3	5
Lot 4, Block 3	5
Lot 5, Block 3	5
Lot 6, Block 3	5
Lot 1, Block 4	5
Lot 2, Block 4	5
Lot 3, Block 4	5
Lot 4, Block 4	5
Lot 5, Block 4	5
Lot 6, Block 4	5
Lot 7, Block 4	5
Lot 8, Block 4	5

EXHIBIT E
TO
DECLARATION
FOR
COUNTRY CREEK PATIO HOMES

EXPANSION PROPERTY

Lot 1, Block 5, VILLAGE AT COUNTRY CREEK, FILING NO. 1, Mesa County, Colorado