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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
PHEASANT RUN AT WILLOWRIDGE

THIS DECLARATION, is made on the date hereinafter set forth by
QUALLA, LTD., a Limited Colorado Partnership, hereinafter referred to
as "Declarant,"

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in
the City of Boulder, County of Boulder, State of Colorado, which is
more particularly described as follows, to wit:

Blocks B and C, Willowridge Park Filing No. 3, a
Subdivision of a Part of the East 1/2 of the
NW 1/4 of Section 33, Township 1 North, Range 70
West, of the 6th P.M., City of Boulder, County of
Boulder, State of Colorado,

all of which real property shall hereinafter be referred to as "the
property" or "properties"; and,

WHEREAS, Declarant desires to create thereon a residential com-
munity with common facilities for the benefit of the said community;
and,

WHEREAS Declarant desires to provide for the preservation of the
values and amenities in said community and for the maintenance of said
common facilities, and, to this end, desires to subject the real pro-
perty above-described to the covenants, restrictions, easements,
charges, and liens hereinafter set forth, each and all of which is and
are for the benefit of said property and each owner thereof; and,

WHEREAS, Declarant has deemed it desirable, for the efficient
preservation of the values and amenities in said community, to create
an agency to which should be delegated and assigned the powers of main-
taining and administrating the community properties and facilities and
administrating and enforcing the covenants and restrictions and col-
lecting and distributing the assessments and charges hereinafter
created; and,

WHEREAS, Declarant has incorporated under the laws of the State
of Colorado, as a non-profit corporation, Pheasant Run Townhomes

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FILM 1162

Homeowners' Association, for the purpose of exercising the aforementioned functions,

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed and occupied subject to the following covenants, restrictions, conditions, easements, charges, and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of the recitals set out above, and which shall run with the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I**DEFINITIONS**

Section 1. "Association" shall mean and refer to the Pheasant Run Townhomes Homeowners' Association, a Colorado Corporation, not for profit, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain property hereinbefore described, and such additions thereto, as may hereafter be brought within the jurisdiction of the association.

Section 4. "Common areas" shall mean and refer to all real property (including improvements thereto) which are shown on the recorded subdivision plat of the properties designated as Outlot A of Blocks B and C, as shown on the recorded plat of Willowridge Park Filing No. 3, a Subdivision of a Part of Boulder County, Colorado, as Plan File B-73-18 on Film 1073, Reception No. 349287, in the records of the Clerk and Recorder of Boulder County, Colorado. Such described property, the common area, shall be transferred to the association at the time of the conveyance of the first lot to its first purchaser, and thereafter be owned by the association for the common use and enjoyment of the owners.

FILM 1162

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties, with the exception of the common areas.

Section 6. "Declarant" shall mean and refer to Quallr, Ltd., a Limited Colorado Partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 7. "Living Unit" shall mean and refer to any portion or, all of a building situated upon the properties designated and intended for use and occupancy as a residence by a single family, including the portion of the living unit used as a garage.

Section 8. "Board of Directors" shall mean and refer to the board of directors of the association duly elected pursuant to the Bylaws of the association or appointed by Declarant as herein provided.

Section 9. "Members" shall mean and refer to all those owners who are members of the association as provided in Article III hereof.

Section 10. "By-laws" shall mean the by-laws adopted by the association and its amendment from time to time.

Section 11. "Assessments" shall mean and refer to all monies due the association from members as duly assessed against the membership by the board of directors of the association or the membership of the Association in accordance with Article IV, below.

Section 12. "Building" shall mean and refer to any building built upon a lot or lots upon the property containing two or more living units and respective attached garages under one roof.

Section 13. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions of Pheasant Run at Willowridge, and its amendments from time to time.

Section 14. "First Mortgagee" shall mean any person or legal entity which takes, owns, or receives a permanent mortgage or permanent deed of trust, which mortgage or deed of trust is of record and is of a first and prior lien encumbering any lot and improvements thereon within the properties, and shall also mean the holder of every executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is

FILM 1162

owned by the Veterans Administration or its successors or assigns, and whether of record or not.

Section 15. "Party Wall" shall mean and refer to each wall, including the foundation thereof, which is built as a part of the improvements on a lot within the property and placed upon the boundary line between adjoining lots. Such wall, including the foundation thereof which constitutes a party wall between such adjoining lots, shall be shared or used in common by the owners of such adjoining lots.

Section 16. "Rules and regulations" shall mean and refer to the rules and regulations adopted by the association as adopted and amended from time to time.

Section 17. "VA and FHA approval" shall mean that the properties have been approved by the Veterans Administration and/or the Federal Housing Administration so that such agencies will insure or guarantee loans or will make loans directly, using the lots within the property as security therefor.

ARTICLE II**PROPERTY RIGHTS**

Section 1. Dedication of Common Area. In recording the Plat of and in the name of Willowridge Park Filing No. 3, a Subdivision of a part of Boulder County, Colorado, as Plan File B-73-18 on Film 1073, Reception No. 349287, in the records of the Clerk and Recorder of Boulder County, Colorado, certain areas of land have been designated, namely, Outlot A of Blocks B and C, of such subdivision, intended for the use by the homeowners in Willowridge Park Filing No. 3, Blocks B and C, commonly known as Pheasant Run at Willowridge, for recreation and other related activities. The designated areas are not dedicated hereby for the use by the general public, but are dedicated to the common use and enjoyment of the homeowners in Willowridge Park Filing No. 3, Blocks B and C, commonly known as Pheasant Run at Willowridge, as more fully provided in the Declaration of Covenants, Conditions, and Restrictions. Said plat is hereby included and made a part of this Declaration by this reference.

Section 2. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area, which

FILM 1162

shall be appurtenant to and shall pass with the title to every lot, subject to the following:

(a) the right and easement of the association to make such use of the common areas as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

The board of directors may, in its sole discretion from time to time, grant easements and rights-of-way on, over, across, and under the common areas to any entity providing utility and services to the property; and,

(b) the right of the association to charge reasonable admission and other fees for the use of the common areas; and,

(c) the right of the association to make such reasonable rules and regulations regarding the use and enjoyment of the common areas and facilities thereon by the members and other persons entitled to such use; and,

(d) the right of the association to suspend the enjoyment and use rights of any owner of the common areas for a period during which any valid assessment against his lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and,

(e) the right of the association to dedicate or transfer all or any part of the common area and facilities thereon, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof shall become effective unless two-thirds (2/3rds) of the members of each class assent to any such dedication or transfer of the common areas and sign and have recorded an instrument assenting to such dedication or transfer; and,

(f) the rights and easements reserved within this Declaration to the Declarant, the members, and the association.

Section 3. Delegation of Use. Any owner may delegate, in accordance with the by-laws and the rules and regulations of the association, his right of enjoyment to the common area and the facilities

FILM 1162

located thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 4. Title to the Common Areas. The Declarant hereby covenants for itself, its successors, and assigns, that it will transfer and convey fee simple title to the common areas to the association, free and clear of all liens and encumbrances, prior to the conveyance of the first lot within the property.

ARTICLE III

**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION,
PURPOSE, POWERS, STRUCTURE, AND INDEMNIFICATION**

Section 1. Membership. Every person or entity who or which is a record owner of a fee or undivided fee interest in any lot which is or may be subject by covenants of record to assessments by the association shall be a member of the association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. Such membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. Voting Rights. The association shall have two classes of voting membership.

Class A: Class A membership shall be all those owners, except Declarant, of a fee or undivided fee interest in a lot as defined in Section 1 above. Class A members shall be entitled to one vote for each lot in which they hold the interests required for membership by Section 1 above. When more than one person holds such interest or interests in any lot, all such persons shall be members of the association, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B: Class B members shall be the Declarant and shall be entitled to three (3) votes for each lot it owns. The Class B membership shall cease and be converted to Class A membership on the happening of the following events, whichever first occurs:

- (a) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or
- (b) on December 31, 1982.

Section 3. Purposes and Powers. The association, through its board of directors, shall perform all functions and manage the property as provided in this Declaration, in such a manner as to further the interests of the owners and residents of the property. The association shall have all the powers necessary and desirable to effectuate such purposes.

Section 4. Structure. The association shall carry out its designated function as set out within this Declaration through its Articles of Incorporation and By-laws. In the event of conflict between its Articles and By-laws, and this Declaration, this Declaration shall prevail. The affairs of the association shall be managed by a board of directors which may delegate authority to a managing agent for and on behalf of the association as more fully provided for in the By-laws, and as limited by this Declaration.

Section 5. Indemnification. Each and every director and officer of the association shall be indemnified by the association against all expenses and liabilities, including reasonable attorney's fees, reasonably incurred by or imposed upon such director or officer in connection with any proceeding to which they may become a party, or become involved by reason of being or having acted as such on behalf of the association. The amount of indemnification shall be limited to the extent covered by directors' and officers' errors and omissions liability insurance policy, including coverage for libel and slander, obtained in advance by the association and only to the extent payable from such policy. This indemnification shall not apply if said person is legally adjudged guilty of willful misfeasance, malfeasance, or an act of moral turpitude in the performance of his duties. In the event of settlement, the indemnification shall apply only when the board of directors of the association approves by resolution such settlement. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which the person may be entitled.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the property, hereby covenants, and each owner of any lot by acceptance of a deed

FILM 1162

therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay the association: (1) annual assessments or charges, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest and reasonable attorney's fees incurred for collection, shall be a charge on the land and interests therein and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs, and attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless specifically assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the property and for the improvement and maintenance of the common areas, providing insurance therefor, and to provide maintenance of the exteriors of the living units located on the property, as well as payment of taxes assessed and levied upon the common areas and as well as providing blanket casualty insurance upon the living units. Such assessments shall include the establishment and maintenance of a reserve fund for the maintenance, repair, replacement, and preservation of the common areas, the facilities located thereon, and of the living units' exterior, which the association shall have an ongoing duty and responsibility to maintain, repair, replace, and preserve on an ongoing periodic basis.

Section 3.

(a) Annual Assessment for Common Expenses. The board of directors shall assess against each owner of a lot within the properties an annual assessment for common expenses to pay for the common expenses of the association. Such assessment shall include the establishment and maintenance of a reserve fund for the maintenance, replacement, and repair of those portions of the common areas and the facilities located thereon, as well as the exterior maintenance of the individual townhouse exteriors required under Section 3(b) of this Article, which the association has a duty to repair, replace, and preserve. Such

FILM 1162

339

assessment shall also include the expense of procuring and maintaining the insurance coverage required by Article VI, Section 3, hereof, as well as the insurance coverage required by this Article, Section 3(d), as well as any deficiency between insurance proceeds and casualty damage done to any lot.

(b) Exterior Maintenance Assessment. As part of the annual assessment, the board of directors shall assess each owner of a unit located upon the properties the cost of providing exterior maintenance and exterior repair of the unit in accordance with Article IX, Section 2 hereof. Such assessment shall include the establishment and maintenance of a reserve fund for maintenance, replacement, and repair of the units' exterior which the association has an ongoing duty to replace, repair, and maintain on a periodic basis.

Such assessment shall be paid by the owners of units in the proportion which the gross square foot finished area within such owner's unit bears to the total gross square foot finished area of all of the units located upon the properties.

(c) Individual Assessment. The board of directors of the association, upon thirty (30) days' written notice to the affected owner or owners and after a hearing before the board of directors, the board of directors, upon a two-thirds (2/3rds) vote, shall have the right to individually assess any owner amounts as provided for by this declaration, to include but not be limited to charges assessed under Article VI, Section 7; Article VI, Section 13; Article VII, Section 2(b); Article VII, Section 9; and Article XI, Section 2 hereof.

Individual assessments are exempt from any other voting requirements required for the assessment of other assessments called for under this Declaration.

(d) Insurance Assessment. As part of the annual assessment the association shall maintain blanket property and casualty insurance on the units in accordance with Article VII, Section 3 hereof, the association shall assess against each owner of a unit located upon the properties the cost of procuring and maintaining such insurance.

Such assessment shall be paid by the owners of units in the proportion which the gross square foot finished area within such owner's

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FILM 1162

unit bears to the total gross square foot finished area of all of the units located upon the properties.

(e) Levy of Assessments. At least thirty days prior to the close of the association's fiscal year, the board of directors shall determine the annual assessment for common expenses, including Section 3(a) above; the exterior maintenance assessment, Section 3(b) above; and the insurance assessment, Section 3(d) above, subject to the limitations contained in Article IV, Section 5, below, all of which are payable monthly by each owner. Written notice of such assessment shall be sent to every owner subject thereto.

Section 4. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be \$ 39.05 per lot.

(a) From and after January 1, of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1, of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3rds) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The board of directors may fix the annual assessment not in excess of the maximum.

(d) Nothing herein shall prevent the board of directors from collecting the annual assessments on a monthly basis.

Section 5. Special Assessments. In addition to the assessments authorized above, the association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any unexpected expenses, including but not limited to, construction, reconstruction, repair, or replacement of a capital improvement upon the common area or upon the living units' exterior, including fixtures and personal property related thereto, and increase in costs to carry on the duties and responsibilities of the association, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the members of each

FILM 1162

class who are voting in person or by proxy at a meeting duly called for this purpose, subject to Section 7 below.

Section 6. Change in Basis and Maximum of Annual Assessment.

The association, for the period therein specified, may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change shall have the assent of two-thirds of the vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose subject to Section 7 below.

Section 7. Notice and Quorum For Any Action Authorized Under Section 4(b) and Section 5 and Section 6, Above.

Written notice of any meeting called for the purpose of increasing the annual assessment adjustment as stated in Section 5(b) or authorizing a special assessment under Section 6 above, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the date of the previously called meeting.

Section 8. Lender's Restriction.

Unless at least two-thirds (2/3rds) of the first mortgagees of lots within the property have given their prior written approval, the association shall not be entitled to change the method of determining the obligations, assessments, dues, or other charges which may be levied against a lot (one vote for each mortgage owned).

Section 9. Uniform Rate of Assessment.

Both annual and special assessments except and subject to the special formulas for exterior maintenance, Article IV, Section 3(b) and Article IV, Section 3(d) above shall be fixed at a uniform rate for all lots and may be collected on a monthly basis. Such assessment shall be paid by the owners of lots in the proportion which the number of lots owned by an owner bears to the total number of lots within the properties.

FILM 1162

Section 10. Date of Assessments; Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the board of directors. The association shall, upon demand, at any time to any owner liable for said assessment or any mortgagee or potential mortgagee or purchaser of a lot subject to assessment, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate of the association as to the status of assessments on a lot is binding upon the association as of the date of its issuance. All assessments shall become delinquent unless paid within thirty (30) days of their due date.

Section 11. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest from the due date at the rate of 10% per annum, costs of collection, and reasonable attorney's fees associated with establishment of a lien and collection. Such delinquent payment, together with the interest incurred, costs of collection, and reasonable attorney's fees, shall become a continuing lien on the lot subject to the assessment which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives, and assigns. The assessment shall be a lien against the real property which comprises the lot and/or living unit assessed, and all appurtenances thereto and fixtures thereon. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Any first mortgagee who becomes an owner through foreclosure, or a deed in lieu of foreclosure, shall take the lot and improvements thereon free and clear of any claims or liens for unpaid

FILM 1162

common expenses which accrue prior to the time said first mortgagee becomes an owner.

The association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property subject thereto; and there shall be added to the amount of such assessment interest as provided, plus all costs of collection, including the association's reasonable attorney's fees incurred in connection with the default and collection of amounts due.

If the association elects to file a lien, the association may file with the clerk and recorder of the county wherein the property is situate, a Notice of Lien Statement and Affidavit of proper service of the Statement of Lien with respect to the lot, setting forth the name of the owner, the legal description of the lot, the name of the association, the amount of delinquent assessments and interest incurred, and costs of collection to that date, including reasonable attorney's fees, then owing. The Statement shall be duly signed and acknowledged by the president or a vice president of the association, or acknowledged by the association's attorney, and it shall be served upon the owner of the lot by certified mail to the address of the lot or at such other address as the association may have in its records for the owner of the lot. Thirty (30) days following the mailing of such notice, the association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of Colorado. In either a personal or foreclosure action, the association shall be entitled to recover as a part of such action, the interest, costs, and reasonable attorney's fees with respect to the action. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the common areas or abandonment of his lot.

The the lien shall also be subject and subordinate to the rights of any first mortgagee of a lot under any assignment of rents given in connection with such first deed of trust or executory land sales contract wherein the Administration of Veterans Affairs (Veterans Administration) is seller.

The rights of the association shall be expressly subordinate to the rights of any first mortgagee as set forth in its deed of trust or

FILM 1162

mortgage (including any assignments of rents) which creates the first mortgagee's interest in the lot.

Each owner agrees for himself, his heirs, successors, transferees, and assigns, that by acceptance of a deed to a lot subject to this Declaration, that he waives any right of the homestead exemption as allowed by Colorado or federal statute, against the assessment liens allowed the association by this Declaration. Such liens are superior to such homestead rights.

Section 12. Subordination of the Lien to Mortgagees. The lien of the assessments provided for herein and any other remedy allowed herein to the association in collection of a delinquent assessment or lien foreclosure, shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Architectural Control. Before anyone shall commence any landscaping or the construction, reconstruction, remodeling, addition to, or alteration of any building, wall, fence, or any structure whatsoever, on any lot or improvements located thereon, or the common areas, including painting, there shall be submitted to the architectural committee (herein referred to as committee), two complete sets of plans and specifications, including samples of the products to be used (if requested by the committee) for said improvements, the erection or alteration of which is desired. No such structure or improvement of any kind shall be erected, altered, placed, or maintained upon any lot or the common areas unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall include plot plans, locations of structures and improvements, fence plans, elevations with the proposed color scheme and materials for fences, roofs, and exteriors. In order to

FILM 1162

avoid unnecessary hardships, it is mandatory that all owners contemplating such construction or alteration as mentioned above should provide preliminary drawings, in duplicate, of such work to the committee in order to obtain tentative action thereon before causing the preparation of detailed or complete drawings, plans, or specifications, or incurring substantial expense. One set of said plans or specifications and details, with the approval or disapproval or changes required thereto shall be endorsed thereon and shall be returned to the person submitting same within thirty (30) days. The other copy thereof shall be retained by the committee. In passing upon such plans, specifications, grading, or landscaping plans, the committee shall have the right to take into account the suitability of the proposed building or other structure and of the materials of which it is to be built, the color scheme, the proposed site upon which it is to be erected, the harmony thereof with the surroundings, the topography of the land, and the effect of the building or other structure or landscaping as planned on the outlook from the adjacent or neighboring property, and if in accordance with all of the provisions of this Declaration. The committee shall take into consideration all applicable rules, regulations, ordinances, and statutes of the local, state, or federal government or political subdivision thereof which have control over the property. The committee may disapprove if the plans and specifications submitted are incomplete. The decision of the committee shall be final. Neither the undersigned nor any architect or agent of the undersigned, nor any member of the committee by virtue of his membership thereon, in discharge of his duties required thereby, shall be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or specification. No building or improvements of any kind constructed or placed upon any of said lots thereafter shall be moved or removed without the prior written approval of the committee. In the event that the committee fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced within one year from the commencement thereof, approval will not be required and there will be deemed to have been full compliance with the related covenants.

FILM 1162Section 2. Organization of the Architectural Control Committee.

The committee shall consist of three (3) persons. Declarant shall have the right to appoint the initial committee members whose terms shall expire upon the conversion of Class B Membership to Class A Membership as provided for in Section 2, Article III, above. The members of the committee need not be owners. Thereafter, committee members shall be appointed by the board and must be owners. In order to assure some degree of continuity on the committee, one committee member shall be appointed to serve for one year; one committee member shall be appointed to serve for two years; and one committee member shall be appointed to serve for three years. The board shall appoint committee members to replace those whose terms expire. Such terms shall then be for a period of three years respectively. In the event of a vacancy on the committee, the board shall appoint a replacement member to serve for the period unexpired in that term. Members of the committee shall not be entitled to compensation.

Section 3. Delegation of Power. The committee may, if it deems necessary, hire consultants to review any submitted plans or specifications and make its determinations from the reports of such consultants. The expense of such consultants shall be an expense of the party submitting the plans and specifications for review.

ARTICLE VI

LAND USE RESTRICTIONS

Section 1. Land Use and Building Type. No structure or structures shall be erected, placed, altered, or permitted to remain on any lot or be occupied or used for any purpose other than single-family dwellings, private garages, and other out-buildings incidental to residential use. An "outbuilding" as used herein shall mean an enclosed covered structure not directly attached to the dwelling which it serves.

Section 2. Dwelling Quality and Size. No residential structure shall be erected on any part of the properties which is not compatible with the character, quality, and amenities associated with the neighborhood and approved in writing by the Architectural Control Committee in accordance with Article V.

FILM 1162

Section 3. Building Locations and Height Restrictions. No building, primary or accessory, shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat.

The Architectural Control Committee shall approve the location and height of any structure placed on any lot. Such approval must be obtained before commencement of any construction or alteration in accordance with Article V.

Section 4. Resubdivision of Lots. No lot or lots shall be subdivided except for the purpose of combining portions with an adjoining lot provided that no additional building site is created thereby. Any ownership or single holding by any person comprising the whole of one lot and part or parts of one or more adjoining lots shall for all purposes of this Declaration be deemed as constituting a single lot. Not less than one entire lot as originally platted shall be used as a building site.

Section 5. Trees. No tree or trees, whether now growing or hereafter grown upon any part of the properties, shall be cut down without prior written approval of the Architectural Control Committee, provided, however, that this restriction shall not apply unless such tree is more than two (2) inches in diameter as measured one (1) foot above grade, and provided further that this restriction shall not be construed to limit in any way reasonable trimming of any trees within the properties.

Section 6. Temporary Structures. No temporary house trailer, tent, garage, or outbuilding shall be placed or erected upon any part of the properties and no residence placed or erected on any lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans nor shall any residence when completed be in any manner occupied until there is compliance with all requirements, conditions, covenants, and restrictions herein set forth; provided, however, that during the actual construction or alteration of a building on any lot reasonable and necessary, temporary buildings for storage of materials may be erected and maintained by the person doing such work. Such temporary storage buildings shall be removed upon completion of the construction, alteration, or remodeling. The work of

FILM 1162

construction, altering, and remodeling any building on the properties shall be prosecuted diligently from its commencement and completed within one year from commencement.

Section 7. Trash, Etc. Each lot shall provide a fully enclosed area for containment of trash, garbage, or other refuse. Each owner must provide for regular removal of garbage, and each lot at all times shall be kept in a clean, sightly, and wholesome condition, and weeds shall be kept mowed. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building materials shall be permitted to remain exposed upon any lot so it is visible from any neighboring lot or the street, except as reasonably necessary during the period of construction. In the event any structure is destroyed either wholly or partially by fire or other casualty, and structure shall be promptly rebuilt or remodeled to conform to this Declaration or all debris and remaining portions of the structure including the foundations shall be promptly removed from the property. The Board of Directors shall have the right and duty to enter upon any lot and remove such unsightly objects, refuse, or other materials and assess the owner of such lot the cost of removal and cleanup expenses as a special assessment pursuant to Article IV, Section 3(c). No noxious or offensive activity shall be carried on upon the properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 8. Nuisances. No boats, trailers, campers, wrecked cars, tractors, equipment, etc., shall be kept or stored so that they are visible from neighboring lots or from the street.

Section 9. Utilities. All electric, television, radio, and telephone line installations and connections from the owner's property line to the residence shall be placed underground. All antennas must be contained within the structure and not exposed to public view. No aerial masts shall be allowed.

Section 10. Signs. No sign or advertising of any character except for those of the Developer and his sales agents shall be erected, placed, permitted, or maintained on any lot except for a "For Sale" or "For Rent" sign not exceeding the size permitted by the Architectural Control Committee.

FILM 1162

OWNER:

Section 11. Mailboxes and Property Identification. The Developer shall provide, and the owner shall maintain, a commonly designed mailbox and address identification to be used consistently throughout the properties. No other mailbox or property identification will be permitted without the Architectural Control Committee approval.

Section 12. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the properties, except that dogs or cats or other household animals may be kept thereon if they are not raised, bred, or maintained for any commercial purpose, and do not make objectional noises or otherwise constitute a nuisance or inconvenience to any of the residents of nearby property.

Section 13. Pets Within the Common Properties. Dogs, cats, and other household animals shall not be allowed to run at large within the common areas, but shall be at all times on a leash or other immediate control of its owner. It shall be the duty of the Association, or its representative, to notify the proper authorities of pets found at large within the properties in violation of municipal ordinances.

It shall be the duty of the Association to keep the common areas free from litter caused by and left by pets or people. The owners of pets known to be at large shall be properly assessed by the association for the cleanup expenses incurred, as a special assessment against the owner of such pets or person causing such litter, pursuant to Article IV, Section 3(c).

Section 14. Oil and Mining Operations. No oil drilling, development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any lot.

ARTICLE VII

INSURANCE

Section 1. Insurance Requirements Generally. The board of directors shall obtain and maintain in full force and effect at all times certain property, casualty, liability, and other insurance as hereinafter provided. All such insurance shall be obtained, to the extent possible, from responsible companies duly authorized and

FILM 1162

licensed to do business in the State of Colorado and having a Best's Insurance Report rating of Class X-R or higher.

To the extent possible, the casualty, property and liability insurance shall: (a) provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, and members; (b) provide that the insurance cannot be cancelled, invalidated or suspended on account of the conduct of the Association, its officers, directors, employees, and agents; and (c) provide that the policy of insurance shall not be terminated, cancelled or substantially modified by either the insured or the insurance company without at least thirty (30) days prior written notice being given to the Association and to each affected living unit owner and each affected first mortgagee. The board of directors shall not obtain any policy where (a) under the terms of the insurance company's charter, by-laws or policy, contributions or assessments may be made against the mortgagor, mortgagee, or mortgagee's designee, or (b) by the terms of carrier's charter, by-laws or policy, loss payments are contingent upon action by the association's board of directors, policyholders or members; or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds.

Any insurance policy may contain such deductible provisions as the association deems consistent with good business practice and which shall be consistent with the requirements of the Federal Home Loan Mortgage Corporation, Federal Housing Authority (FHA), and the Veterans Administration (VA). Any loss falling within the deductible portion of a policy shall be borne by the party suffering the loss.

The insurance purchased in accordance with Section 2 and Section 3 hereof shall be inflation coverage insurance and shall contain an "Agreed Amount Endorsement" if such insurance is available. Such insurance shall at all times represent 100% of the replacement value based on the most recent appraisal of (a) each building, if the association is providing such insurance, and (b) all insurable improvements in the common areas. The replacement value shall not include values of land, foundations, excavation, and other items normally excluded therefrom and shall be without deduction for depreciation and shall contain

FILM 1162

no provision for co-insurance. The board of directors shall review at least annually all of its insurance policies in order to insure that the coverages contained in the policies are sufficient. The board of directors shall also at least every year obtain an appraisal for insurance purposes, which shall be maintained as a permanent record, showing that the insurance represents 100 percent of the replacement value as defined above and for the buildings located upon the properties, if such insurance is being provided, and all insurable improvements in the common areas.

Section 2. Property and Casualty Insurance, Common Areas.

(a) Coverage. If there are insurable improvements located in the common areas, the board of directors shall obtain and maintain at all times insurance coverage providing all risk coverage or the nearest equivalent available for the full replacement cost of such insurable improvements and any personal property owned by the association used in conjunction therewith.

(b) Rebuilding of Damaged Common Areas: Any portion of the common areas damaged or destroyed shall be repaired or replaced promptly by the board of directors unless a "Declaration Not To Rebuild" signed by members holding 75% or more of the total votes hereunder and by 100% of the first mortgagees (one vote for each mortgage owned) is recorded within 100 days of the date of damage or destruction indicating their intention not to rebuild, in the Office of the County Clerk and Recorder, Boulder, Colorado.

The cost of repair or replacement of the common areas in excess of insurance proceeds received and reserves shall be assessed as an individual assessment in accordance with Article IV, Section 3(c) hereof and not as a special assessment and such assessment shall be exempt from any special voting requirements of the membership.

If the entire damaged common area is not repaired or replaced (a) the insurance proceeds shall be used to restore the damaged common areas to a condition compatible with the remainder of the common areas, and (b) the remainder of the proceeds shall be distributed to all owners in the same proportion as annual assessments for common expenses are assessed. Proceeds hereunder shall be paid to the owners and their respective first mortgagees by checks made jointly payable to owners

FILM 1162

and their respective first mortgagees. No owner or other party shall be entitled to priority over a first mortgagee with respect to any such distribution.

Section 3. Property and Casualty Insurance, Living Units.

(a) Coverage: The board of directors shall obtain and continue in effect on behalf of all owners of lots, a blanket property and casualty insurance policy for each lot within the properties. Such insurance shall be in the amount of the full replacement value of all improvements without deduction for depreciation and with no provision for co-insurance.

(b) Requirements: The insurance shall be carried in blanket policy form naming the association as the owner and the beneficiary thereof as trustee for the owners of lots within a building, and shall identify each lot owner and the address of his lot and shall provide a standard noncontributory mortgage clause in favor of each first mortgagee. The association shall furnish a certified copy of such blanket policy and a certificate identifying each party's interest to any party in interest at its request.

(c) Rebuilding of Damaged Units. In the event of damage to or destruction of a unit by fire or any other casualty for which the association is carrying insurance in accordance with the above, the board of directors shall within a reasonable time repair or rebuild the same in a workmanlike manner with materials comparable to those used in the original structure and conformity in all respects with the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. The unit, when rebuilt or repaired, shall be substantially similar to the architectural design of the original unit and the surrounding units which are not so damaged or destroyed. Neither the owner nor the board of directors shall be relieved of this obligation to repair or rebuild by the fact that proceeds received from the insurer to repair or rebuild are not sufficient to cover the cost thereof. If the proceeds received from the insurer by the association are insufficient, it shall be the duty of the owners as a common expense to pay to the association any deficiency required to accomplish the rebuilding or repair. The board of directors shall cause the repair or rebuilding as above provided, and the amount of the

FILM 1162

deficiency shall become a common expense to be borne by the association. In the event a deficiency between the insurance proceeds and the amount of damage occasioned to a lot, such deficiency shall be chargeable to each owner as an annual assessment for common expenses according to Article IV, Section 3, and not as a special assessment, and such assessment shall be exempt from any special voting requirements of the membership. Such lien to have the same priority as that provided for in Article IV, Sections 12 and 13, hereof.

In the event 100% of the lot owners and first mortgagees (based on one vote for each mortgage owned) decide not to rebuild the damaged lot and improvements thereon, then the insurance proceeds shall be distributed by checks made jointly payable to the owner of such damaged lot and his respective first mortgagee.

Section 4. Public Liability and Property Damage Insurance. The board of directors shall obtain and maintain comprehensive general liability insurance and personal injury liability coverage covering liabilities of the association, its officers, directors, employees, agents, and members arising in connection with ownership, operation, and maintenance, occupancy or use of the common areas and any other area the association is required to restore, repair, or maintain pursuant to this Declaration with limits of not less than one million dollars (\$1,000,000) for each occurrence, bodily injury and/or property damage. Each policy shall include a "severability of interest" endorsement.

Section 5. Fidelity Insurance. The board of directors shall also maintain adequate fidelity coverage, if available, to protect against dishonest acts on the part of directors, officers, trustees, and employees of the association and all others who handle or are responsible for handling funds of the association, provided, however, the board of directors shall not maintain fidelity coverage to cover any paid professional management. Such fidelity bonds shall (a) name the association as an obligee, (b) be written in an amount which the association deems consistent with the requirements of the Federal Home Loan Mortgage Corporation, Federal Housing Authority (FHA), and Veterans Administration (VA), (c) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition

FILM 1162

of "employee" or similar expression and (d) provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days' written notice to the first mortgagees and the association.

Section 6. Workmen's Compensation and Employer's Liability Insurance. The board of directors shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

Section 7. Other Insurance. The board of directors may obtain such additional insurance coverage against such additional risks as it shall determine to be appropriate, which may include officers' and directors' liability insurance, which shall include libel and slander coverage.

Section 8. Insurance by Owners. Each lot owner shall at such owner's option, be responsible for obtaining property and casualty insurance for all personal property and furnishings belonging to such owner and obtaining his personal liability insurance.

Section 9. Payment of Insurance Premiums. The cost of the insurance obtained by the association in accordance with this article shall be paid from association funds and be collected from the owners as part of the annual assessment for common expenses as provided for in Article IV, hereof.

In the event there are not sufficient funds generated for the annual assessment for common expenses to cover the cost of the insurance provided for above, then the deficiency shall be chargeable to each owner by individual assessment in accordance with Article IV, Section 3(c), hereof and not as a special assessment, and such assessment shall be exempt from any special voting requirements of the membership.

Due to the fact that the association is maintaining blanket property and casualty insurance as provided for in Section 3 hereof, the cost of such insurance shall be paid for from association funds and shall be collected from the unit owners in the following manner: The cost of the insurance attributable to the owner's unit for one full year shall be prorated according to the number of months remaining between closing and that unit's insurance policy renewal date and shall

FILM 1162

be paid at closing. Thereafter, the cost of such insurance shall be paid by the owners as an annual assessment in accordance with Article IV, Section 3(d), hereof commencing with the first annual assessment after closing. The board of directors shall have the right to create an insurance escrow account for each unit.

ARTICLE VIII

CONDEMNATION

Section 1. Condemnation. If at any time during the continuance of ownership pursuant to this Declaration, all or any part of the common area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, then the proceeds from such condemnation attributable to the common area shall be distributed to the association for repair of the common area after condemnation. Any balance remaining shall be distributed to all owners in proportions as the annual assessments for common expenses are assessed in accordance with Section 10, Article IV above, and subject to the claims of first mortgagees of the effected lots, Section 3 below.

Section 2. Proceeds of Condemnation. If at any time during the continuance of ownership pursuant to this Declaration all or any part of a lot shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, then the proceeds from such condemnation shall be distributed as agreed by owner and the condemning agency, or as ordered by court to each owner of such lot, subject to the claims of the first mortgagees of the effected lot, Section 3 below.

Section 3. Lien Holders. When a condemnation occurs, to the common areas within the property, the proceeds payable thereunder shall be distributed by checks made jointly payable to owners and their respective first mortgagees. No owner or other parties shall be entitled to priority over first mortgagees with respect to any such distribution.

FILM 1162

ARTICLE IX

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the dwelling units upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts of omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator and each arbitrator shall agree on a third arbitrator, and the decision shall be a majority of all the arbitrators and shall be binding on all parties and shall be final.

ARTICLE X

EASEMENTS

Section 1. Utility Easement. Easements for public utilities over and across the common areas shall be those shown upon the recorded plat of the properties, and such other easements as may be established

FILM 1162

pursuant to the provisions of this Declaration or as may hereinafter be granted over and across the common areas by the Board of Directors of the Association. The Association can grant no easement across, under, or above, in or on any lot.

Section 2. Declarant's Easements. Anything to the contrary herein notwithstanding, the Declarant and/or its agents hereby reserve an easement and right-of-way over all common areas and all lots not conveyed for the sole use of constructing improvements, utilities, and other matters, including the right to erect temporary buildings to store any and all materials. Such uses of the common areas shall not unreasonably interfere with the use of other lot owners. This reservation shall terminate upon conveyance of the last lot platted in the properties. Declarant and/or its agents further reserve the right to use any completed structure for the purpose of sales office, construction office, or model home for demonstration purposes. These reservations shall cease on December 31, 1982.

Section 3. Special Easements. Due to the anticipated style of improvements to be placed on certain lots, an improvement may be located on or so near its property line so as to make entry upon an adjoining lot or lots a necessity incident to the construction and maintenance of such improvement. In the event the above situation shall exist, then at the time of the commencement of the construction of such improvement, provided such construction shall commence within twenty (20) years after the date of the recording of this Declaration, there shall thereby be created an easement or easements for the construction, maintenance, repair, replacement, and/or reconstruction of such improvement so located on or near its property line. Said easement or easements (1) shall be over and across the lot or lots immediately adjoining the lot upon which such improvement is so located; (2) shall extend the full depth of the adjoining lot or lots; and (3) shall extend into so much of the adjoining lot or lots as is necessary to provide the owner of such improvement so located with an easement of such width that, when added to the space lying between the improvement and its property line, such easement shall be six feet in width. Construction of any structure shall be prohibited within these easements

except as such structure shall be approved in writing by the Architectural Control Committee.

If any portion of a roof overhang of an improvement as initially constructed by the Declarant, or its agents, encroaches upon an adjoining lot or lots, a valid easement for such encroachment and the construction, maintenance, repair, replacement, and/or reconstruction shall, and does, exist. For title and other purposes, such easements shall not be considered or deemed to be encumbrances upon such adjoining lot.

ARTICLE XI

MAINTENANCE

Section 1. Maintenance of Common Areas. The association shall be responsible for the management and maintenance of the common area. The association shall keep the common area in good, clean, attractive, and sanitary condition, order, and repair, and shall make the changes, alterations, and/or additions it deems necessary upon the common areas.

Section 2. Exterior Maintenance. In addition to maintenance of the common areas, the association shall provide exterior maintenance and exterior repair upon each living unit constructed on a lot as follows: paint or stain; repair, replace and care of roofs; gutters; downspouts, and exterior building surfaces; replace or repair chimney caps. The association shall not be responsible for the planting or maintenance of trees, shrubs, grass, gardens, or ornamental landscaping within the private ownership area on any lot. Such exterior maintenance shall not include the maintenance or repair of entry doors and frames or glass of any nature. Determination of whether such repair or maintenance is an obligation of the association shall rest solely with the board of directors' decision in such regard, which shall also have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

If the need of maintenance or repair is not attributable to ordinary wear, tear, and weathering and is caused through the willful or negligent acts of any owner, his agent, family guests, or invitees, the cost of such maintenance and repair shall be added to and become a part

FILM 1162

of the assessment to which such owner's lot is subject pursuant to Article IV, Section 3(c).

ARTICLE XII

RESTRICTION ON ACTIONS OF ASSOCIATION

Section 1. The prior written approval of all first mortgagees shall be required for the following actions:

a. An amendment to the Declaration which changes the method in which assessments are assessed against members, or lots, or amends this paragraph or any other provision which specifically grants rights to first mortgagees herein;

b. The abandonment, partition, subdivision, sale, or transfer or the encumbrance of the common areas; except that the consent of the first mortgagees shall not be required for action by the board of directors to grant easements for utilities and similar related purposes;

c. the abandonment of the planned unit development scheme or change in the fundamental purposes of such scheme, or the removal of any part or all of the properties from the provision of this declaration; and,

d. The waiver or abandonment of the architectural control scheme or the enforcement thereof;

e. The waiver or abandonment of any scheme of regulations or enforcement thereof pertaining to the architectural design of the buildings, exterior maintenance of common property party walks, or common fences and driveways, or the upkeep of the planned units' lawns, plantings, landscaping, and environs.

f. Lapse or failure to maintain fire and extended coverage on a current replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value as defined in Article VII, Insurance, on the insurable improvements located in the common areas and the use of such hazard insurance proceeds for losses to any part of the common area property for other than repair or replacement of such improvements.

FILM 1162

ARTICLE XIII

RIGHTS OF FIRST MORTGAGEE

Section 1. Requests and Notices. Upon the written request of a first mortgagee, which shall specify which of the following it desires to receive, sent to the board of directors of the association, the association shall send any of the following:

- a. Copies of budgets, notices of assessments, and any other notices or statements provided for under this Declaration sent by the association to the owner of a lot in which the requesting mortgagee has a first security interest;
- b. Financial statements of the association which are prepared by or for the association and distributed to the members;
- c. Copies of notices of meeting of the membership of the association, or the board of directors of the association;
- d. Copies of notices of decisions which would materially affect the Declaration, Articles of Incorporation, or By-laws of the association;
- e. Notice of commencement of any condemnation proceedings with respect to any part of the common area or with respect to a lot or any portion thereof in which a mortgagee has a first security interest therein, notice of any material damage or destruction of any part of the common area or with respect to a lot or any portion thereof in which a first mortgagee has a first security interest therein;
- f. Notice of any default by an owner under any obligation or duty demanded under this Declaration which remains in default for sixty (60) days after such notice, in regard to a lot in which a first mortgagee has a first security interest.

Section 2. Books and Records. A first mortgagee shall have the right to inspect and examine the books, records, and minutes of any meetings of the association, at any reasonable time at the office of the association, upon reasonable notice.

Section 3. Optional Payment of Charges. First mortgagees jointly or severally may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on a lapsed policy, or may also pay taxes or other charges which may have, or will become charges

FILM 1162

against the common areas. Upon such payment, the association shall be liable to such first mortgagee for such payments.

ARTICLE XIV

DURATION AND AMENDMENT

Section 1. Duration. The covenants, restrictions, obligations, and easements contained in this Declaration shall run with and be binding on the land for a term of twenty (20) years from the date this Declaration is recorded. Subsequently they shall be automatically extended for successive ten- (10) year periods.

Section 2. Amendments. This Declaration may be amended during the first twenty- (20) year period from the date this Declaration is recorded by an instrument signed by not less than ninety percent (90%) of the lot owners and thereafter not less than seventy-five percent (75%) of the lot owners. All such amendments must have written approval of not less than seventy-five percent (75%) of the first mortgagees (based on one vote for each mortgage owned). All amendments to be valid must also be recorded with the Clerk and Recorder of Boulder County, Colorado.

If the property has been or is to receive Veterans Administration and/or Federal Housing Administration approval as defined in Section 17, Article I above, then so long as there is a Class B membership in the association, the following actions will require the prior approval of the Veterans Administration and the Federal Housing Administration: annexation of additional properties, mergers and consolidations, mortgaging of common areas, dedication of common areas, dissolution, and amendment of this Declaration.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Enforcement. In the event that any member fails to comply with the provisions of this Declaration, the Articles of Incorporation, or By-laws of the association, such non-compliance shall give rise to a cause of action by the association or to any owner in his individual capacity for recovery of damages or injunctive relief, and/or any other recovery available in any proceedings at law or in equity.

FILM 1162

Section 2. Severability. Invalidity of any one of these covenants, conditions, or restrictions by judgment of court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 3. Waiver. No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same.

Section 4. Registration of Mailing Address. Each owner shall register his mailing address with the association and all notices or demands intended to be served upon any owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address. All notices or demands intended to be served upon the association shall be given by registered or certified mail, postage prepaid, addressed to the address of the association as designated by the By-laws of the association. All notices or demands to be served on mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the mortgagee at such address as the mortgagee may have furnished to the association in writing. Any notice referred to in this section shall be deemed given when deposited in the United States mail in the form provided for in this section.

Section 5. Number and Gender. Whenever used herein, unless the context shall provide otherwise, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 6. Leases. All obligations of the owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that he may have leased said interest. Any leases entered into by owner for lease of his unit shall be in writing and shall provide that the lease is subject to the terms of the Declaration, Articles of Incorporation, By-laws, and the rules and regulations of the association. Any such lease shall lease the entire premises, not parts thereof, and shall be limited to single-family residential use. Such lease shall also state that the failure of lessee to comply with the terms of the Declaration, Articles of Incorporation, By-laws, and rules and regulations of the association shall constitute a default

FILM 1162

of the lease, and such default shall be enforceable by either the association, lessor, or both.

Section 7. Attorney's Fees and Court Costs. If any action is brought in any court of law or put into arbitration for enforcement, interpretation, or construction of any of its covenants, conditions, and restrictions of this Declaration, the prevailing party shall be entitled to reasonable attorney's fees, as well as all costs incurred in the prosecution or defense of such action.

Section 8. Titles and Section Headings. Titles of articles and section headings are used for convenience and reference only and shall be disregarded in the interpretation of this document and shall have no binding effect.

This Declaration is executed on this 22nd day of April, 1981, by the Declarant.

QUALLA, LTD.

By Paul Strance
By Gary Kenneth Read
By William Shub

STATE OF COLORADO)
COUNTY OF DOUGLAS) ss.

Subscribed and sworn to before me this 22nd day of April, 1981, by Paul Strance, Gary Kenneth Read a/k/a Gary E. Read, and William Shub a/k/a Bill Shub, partners, in Qualla, Ltd.

Witness my hand and official seal.

My commission expires Feb. 10, 1983.

Carol L. Hart
Notary Public