

D E C L A R A T I O N
of
Conditions, Covenants, Restrictions and Easements
for
WINDJAMMER

The Briargate Joint, Venture" a Colorado joint venture (called the "Declarant" in this Declaration), is the sole owner of property described as follows:

All of Windjammer Subdivision Filing No.1 according to the plat thereof recorded in El Paso County, Colorado. This land is called the "Subdivision" and individual lots designated by the recorded plat are called "Lots".

Declarant desires to place protective covenants, conditions, restrictions, reservations, liens and charges upon the Subdivision to protect the Subdivision's quality residential living environment and also to protect its desirability, attractiveness and value. Consequently, the Subdivision is hereby subjected to the following easements, covenants, restrictions and conditions (collectively referred to as "Covenants"), all of which shall run with the Subdivision and shall be binding upon all parties having or acquiring any rights, title or interest in it or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

COVENANTS TO PRESERVE THE RESIDENTIAL
CHARACTER OF THE SUBDIVISION

Section 101. Property Uses. All Lots and building sites in the Subdivision shall be used exclusively for private residential purposes. No dwelling erected or maintained within the Subdivision shall be used or occupied for any purpose other than for a single family dwelling. No business, profession or other activity conducted for gain shall be carried on or within any Lot or building site.

Section 102. Structures. No structure shall be erected within the Subdivision except single family dwellings and those accessory buildings and accessory structures which have been approved by the Approving Authority. No structure other than a dwelling, no accessory building other than a guest house or servants' quarters, no trailer, tent or other similar or dissimilar temporary quarters may be used for living purposes. No other structure may be placed on any building site before completion of the dwelling upon such building site except with the permission of the Approving Authority.

Section 103. Construction Type. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling or structure may be moved onto a lot or building site except as expressly hereinafter provided for temporary buildings.

Section 104. Storage. No building materials shall be stored on any Lot except temporarily during continuous construction of a building or its alteration or improvement.

Section 105. Substantial Completion. A structure shall not be occupied in the course of original construction until substantially completed. All work of construction shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 106. Construction Completion. The exterior of all buildings or other structures must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. If not so completed, or if construction shall cease for a period of 60 days without permission of the Approving Authority, the Approving Authority will give the owner thereof Due Notice of such fact, and if construction on such structure is not diligently commenced within 30 days after such notice, the unfinished structure or unfinished portion thereof shall be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner.

Section 107. Construction or Sales Offices. Temporary buildings for construction or administration purposes or for sales offices may be erected or maintained only by Declarant or with the permission of the Approving Authority. Model homes may be used and exhibited only by Declarant or with the permission of the Approving Authority. Temporary buildings permitted for construction or administration purposes or for sales offices shall be promptly removed when they cease to be used for these purposes.

Section 108. Drilling Structures. No derrick or other structure designed for use in or used for boring or drilling for water, oil or natural gas shall be permitted upon or above the surface of any Lot, nor shall any water, oil, natural gas, petroleum, asphaltum or other hydrocarbon substances be produced from any well located upon, in or under any Lot.

Section 109. Easements. There are hereby reserved to Declarant, its successors and assigns, perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the seven foot strips along and adjoining each rear lot line of each Lot, and each of the five foot strips along and adjoining each side lot line of each Lot for use, of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for water lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes.

Section 110. Underground Utilities. All utilities except lighting standards and customary service devices for access, control or use of utilities shall be installed underground.

Section 111. Access Restriction.

(a) Restricted Lots. Access to and from certain Lots onto arterial streets will be restricted. The Lots and arterial streets subject to this restriction (called "Restricted Lots") will be specified by a properly recorded document, referring to these Covenants, at the time final plats for those lots are placed of record.

(b) Terms of Restriction. All persons or entities having any interest in any of the Restricted Lots are required to and shall arrange and maintain any drives, dwellings or other structures so that ingress and egress to and from their Lots is exclusively from a publicly dedicated street other than the arterial streets referred to in subsection 111 (a) above.

Section 112. Installation of Standard Fence. On each of the Restricted Lots, Declarant reserves the right to construct a standard fence and to install and landscape the public planting area between the fence and the street. In order to provide adequate privacy and still maintain sight distances at intersections, this fence will be installed on the boundaries of Restricted Lots which are adjacent to the arterial streets referred to in section 111, except that on such Lots bordering the intersection of two or more public streets, the fence will angle into the Lot at approximately 45 degrees between points on the Lot's boundary no more than 25 feet along each side from the corner of the Lot forming the intersection. Declarant also reserves the right to extend this standard fence along the side street boundary of any such corner Lot to the point of the side yard setback. Declarant's entry on the Lot in order to construct and maintain shall not be a trespass. The height of the standard fence, installed by Declarant may not be increased. Except with the Approving Authority's approval, no other fence on these Lots which is within 75

feet of this standard fence and is parallel or within 30 degrees of parallel with the standard' fence, shall be of greater height than the standard fence.

Section 113. Standard Fence and Landscaping Maintenance. The Association shall maintain, in good condition, the portion of the standard fence and landscaping located on, and/or immediately adjacent to Restricted Lots (including watering and replacing any dead landscaping). If such maintenance is not properly performed, Declarant also has the right (but not the obligation) after Due Notice to the Association, to enter any Lot which is subject to this easement and perform this maintenance, in which case the Association will promptly pay the reasonable actual costs incurred in such maintenance.. Except in cases of emergency, Due Notice will also be given to Owners of these Lots prior to any such entry and, maintenance by Declarant. The party performing the maintenance shall not be liable for any loss, costs of damages to any Owner of a Lot on account of its performance of such maintenance, except for any such loss, cost or damage caused by gross negligence or willful misconduct. Once the standard fence and landscaping have been installed, no modifications shall be made to them without the prior approval of the Approving Authority, and the Approving Authority may require Owners of the affected Lots to perform maintenance in such a way as to preserve the uniform and harmonious visual appearance of the standard fence.

ARTICLE II

DENSITY, SETBACK AND QUALITY STANDARDS

Section 201. Resubdivision. No more than one dwelling shall be erected or maintained within any Lot or the combination of two or more Lots or portions thereof as approved by the Approving Authority and aggregating not less than 6,000 square feet.

Section 202. Setback Areas. Except with approval of the Approving Authority no building, porch, eave, overhang, projection or other part of a building shall be located within 25 feet of a front Lot line, or within five feet of a side Lot line or within 15 feet of a side Lot line adjoining a street. The Approving Authority's approval may be given only (a) for fireplace projections integral with the building; (b) for eaves and overhangs; (c) for construction which extends less than five feet into the setback area and which the Approving Authority determines to have only minor impact, to be minor in nature and to be in the interest of superior design. All construction must also conform to the building code, zoning code and subdivision regulations of the City of Colorado Springs, which regulations may vary from the provisions of this section and other sections.

Section 203. Dwelling Area Requirements. No dwelling shall be erected which, exclusive of basements below garden level, porches, patios, covered but unenclosed areas, garages and any attached accessory building, has a gross livable floor area of less than 1,000 square feet if a single story dwelling or less than 1,400 square feet if a multi-level dwelling.

Section 204. Height Restrictions. No dwelling or other structure shall be more than two stories in height except with the prior permission of the Approving Authority. Height shall be measured from the highest finish grade contour at any point adjoining the foundation perimeter of the structure to the highest point on the structure exclusive of standard chimneys. Finished grade contour shall mean the ground contour established by Declarant during development of the Lots and existing immediately prior to commencement of construction of any dwelling or other structure, or such other finished grade as may be approved by the Approving Authority.

Section 205. Roofs. All roof areas shall be of wood shakes, wood shingles, composition shingles or shall be of a type of material approved by the Approving Authority.

Section 206. Accessory Buildings. Any accessory building or structure shall harmonize in appearance with the dwelling situated on the same Lot.

Section 207. Antennas. No aerial or antenna for reception or transmission of radio or television or other electronic signals shall be maintained on the roof of any building nor shall they be maintained at any other, exterior location so as to be visible from neighboring property or adjacent streets.

Section 208. Owner Maintenance. Each Owner shall maintain the exterior of the dwelling, any accessory building and all other structures, lawns and landscaping, walks and driveways, in good condition and shall cause them to be repaired as the effects of damage or deterioration become apparent. Exterior building surfaces and trim shall be repainted periodically and before the surfacing becomes weatherbeaten or worn off.

Section 209. Rebuilding or Restoration. Any dwelling or building which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to a slightly condition, such rebuilding or restoration to be completed with reasonable promptness and in any event within six months from the time the damage occurred.

Section 210. Fences. All fences shall be constructed of natural rough cedar wood of the type similar to that used in Declarant's standard fencing referred to in section 112 above, or such other comparable fence as may be approved by the Approving Authority, and shall be no more than six feet high. No other material may be used for fences unless previously approved by the Approving Authority. 20th sides of the supporting framework of the fence shall be covered or if only one side is covered it shall be the side facing outward from the Lot on which constructed. Except with approval of the Approving Authority, no fence or hedge more than two feet high shall be installed closer to an adjoining street than the dwelling or any other building located on the Lot.

ARTICLE III

LIVING ENVIRONMENT STANDARDS

Section 301. Building and Grounds Conditions. Each Owner shall prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on his Lot which tends to substantially decrease the beauty of the neighborhood as a whole or in the specific area. NO building material shall be stored on any Lot, except temporarily during continuous construction of a building, unless enclosed out of view in a service yard or within a building.

Section 302. Garage Doors. Garage doors shall be kept closed except, when being used to permit ingress or egress to or from the garage.

Section 303. Maintenance Equipment. All maintenance equipment shall be stored in an enclosed structure or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets.

Section 304. Clotheslines. All outdoor clothes poles, clotheslines and other facilities for drying or airing of clothing or household goods shall be placed or screened by fence or shrubbery so as not to be visible from neighboring property or adjacent streets.

Section 305. Refuse. No ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefor, shall be stored, accumulated or deposited outside or so as to be visible from any neighboring property or street, except during refuse collections.

Section 306. Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No 'offensive or hazardous activities may be carried on on any Lot or in any living unit. No annoying lights, sounds or odors shall be permitted to emanate from any living units.

Section 307. Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices except security devices used exclusively for security purposes shall be located, used or placed on any structure or within any building site.

Section 308. Landscaping. Within six months after completion of a dwelling or within any extension of that period granted by the Approving Authority, all yards and open spaces shall be landscaped and thereafter maintained in lawn or landscape. Unless otherwise approved by the Approving Authority, at least 50 percent of the front yard area shall be covered with bluegrass lawn or its equivalent. For purposes of this paragraph, the front yard is defined as the area of the Lot between the paved surface of any street adjacent to the Lot and the line on the Lot which is approved in these Covenants for the installation of fences.

Section 309. Weeds. All yards and open spaces and the entire area of every Lot on which no building has been constructed, shall be kept free from plants or weeds infected with noxious insects or plant diseases and from weeds which in the reasonable opinion of the Approving Authority, are likely to cause the spread of infection or weeds to neighboring property and free from brush or other growth or trash which in the reasonable opinion of the Approving Authority causes undue danger of fire.

Section 310. Mowing and Pruning. In order to effect insect, weed and fire control and to prevent and remove nuisances, the Owner of any Lot upon which a building has not been constructed shall mow, cut, prune, clear and remove from the premises unsightly brush, weeds and other unsightly growth and shall remove any trash which may collect or accumulate on the Lot. The Association has the right (but not the duty) to enter any Lot and perform this work after Due Notice to the Owner, in which case the reasonable costs incurred by the Association in performing such work will be an additional assessment against the Lot involved.

Section 311. Grading Patterns. No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original finish grading except after first obtaining the prior consent and approval of the Approving Authority. Grading shall be maintained at all time so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture.

Section 312. Transmitters. No electronic or radio transmitter of any kind other than garage door openers shall be operated in or on any structure or within any building site.

Section 313. Animals. No animals except domesticated birds or fish and other small domestic animals permanently confined indoors and except an aggregate of two domesticated dogs or cats shall be maintained in or on any Lot within the Subdivision and then only if kept as pets. No animal of any kind shall be permitted which in the opinion of the Approving Authority makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Subdivision for any commercial purposes.

Section 314. Trailers, Campers, etc. No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, motorcycle, any towed trailer unit or truck, excepting only pickups solely for the private use of the residents of a dwelling, shall be parked overnight on any street or within any Lot or building site except in a completely enclosed structure, or fully screened in a manner approved by the Approving Authority so as not to be visible at ground level from any neighboring property or street.

Section 315. Junk Cars. No stripped down, partially wrecked or junk motor vehicle or part thereof, shall be permitted to be parked on any street or on any Lot in such manner as to be visible at ground level from any neighboring property or street.

Section 316. Vehicle Repairs. No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, boat, machine or device may be carried on except within a completely enclosed structure which screens the sight and sound of the activity from the street and from adjoining property.

Section 317. Signs. The only signs permitted on any Lot or structure shall be:

- (a) One sign of customary size for offering of the signed property for sale or for rent;
- (b) One sign of customary size for identification of the occupant and address of any dwelling;
- (c) Multiple signs for sale, administration and directional purposes installed by, or with the permission of Declarant during development;
- (d) Signs as may be necessary to advise of rules and regulations or to caution or warn of danger; and
- (e) Such signs as may be required by law.

Except for permitted signs, there shall not be used or displayed on any Lot or structure, any signs or any banners, streamers, flags, lights or other devices calculated to attract attention in aid of sale or rental. All permitted signs must be professionally painted, lettered and constructed.

ARTICLE IV

ARCHITECTURAL CONTROL

Section 401. Building Approval. No structure shall be commenced, erected, placed, moved onto a Lot, permitted to remain on any Lot or altered in any way so as to materially change the Lot's previously existing exterior appearance, except in accordance with plans, specifications and other information submitted to the Approving Authority and approved by the Approving Authority no more than one year before start of the construction, alteration or installation. Matters which require the approval of the Approving Authority include but are not limited to: the exterior appearance, material, color, height and location of each structure, covering, drive, walk and fence, and grading of site. In granting or withholding approval, the Approving Authority shall consider among other things: the adequacy of the materials for their intended use, the harmonization of the external appearance with the surroundings, the proper relation of the structure or covering to the environment and to surrounding uses, the degree, if any, to which the proposed structure or covering will cause intrusions, of sound_ light or other effect on neighboring sites beyond those reasonably to be expected in a quality urban residential area from considerate neighbors.

Section 402. Plans Submissions. All plans, samples and other materials to be submitted to the Approving Authority shall be submitted in duplicate. The minimum scale of these plans shall be one-twentieth inch equals one foot. The plot plan in this minimum scale shall show the location of all buildings, drives, walks, fences and any other structures. Proposed new contours throughout the Lot and abutting street elevations on all sides shall be shown. Structure plans shall show all exterior elevations, and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples.

Section 403. Approval Process. All action required or permitted to be taken by the Approving Authority shall be in writing and any such written statement shall establish the action of the Approving Authority and shall protect any person relying on the statement. If the Approving Authority does not execute and acknowledge such a statement within 30 days after delivery of all the required materials to the Approving Authority the materials so delivered shall be deemed approved for the purpose of these Covenants. The Approving Authority may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to this Declaration, exclusive of reimbursement to the members of the Approving Authority for their services. The Approving Authority shall be entitled to retain one copy of all approved plans as part of its files and records.

Section 404. Variances. The Approving Authority shall have the authority: to grant for a Lot or building site a variance from the terms of one or more of sections 106, 110, 202, 203 and 209 subject to terms and conditions which may be fixed by the Approving Authority and will not be contrary to the interests of the Owners and residents of the Subdivision where, owing to exceptional and extraordinary circumstances, literal enforcement of all of those sections will result in unnecessary hardship. Following an application for a variance:

(a) The Approving Authority shall, within 30 days after the request for the variance was delivered, determine whether to grant or deny the variance. If the Approving Authority fails to act on the request for a variance within this 30 days, the variance will be deemed granted.

(b) A variance granted hereunder shall run with the Lot or building site for which granted.

(c) A variance shall not be granted unless the Approving Authority shall find that all of the following conditions exist:

(i) the variance will not authorize the operation of a use other than private, single family residential use:

(ii) owing to the exceptional and extraordinary circumstances, literal enforcement of the section above enumerated will result in unnecessary hardship.

(iii) the variance will not substantially or permanently injure the use of other property in the Subdivision;

(iv) the variance will not alter the essential character of the Subdivision;

(v) the variance will not weaken the general purposes of these Covenants:

(vi) the variance will be in harmony with the spirit and purpose of these Covenants;

(vii) the circumstances leading the applicant to seek a variance are unique to the Lot or building site or its Owner and are not applicable generally to Lots in the Subdivision or their Owners.

(d) If the Approving Authority denies the request for a variance, the applicant may request a meeting of the Owners be held to reconsider the denial. In this case, the Approving Authority shall call a meeting of Owners of Lots in the Subdivision, to be held at the Approving Authority's principal office, notice of which meeting shall be given to the Owners at least 10 days in advance, at which meeting all Owners shall have an opportunity to appear and express their views. Whether or not anyone appears at the meeting in support of or in opposition to the application for variance, the Approving Authority shall within one week after the meeting either grant or confirm its denial of the variance. The decision to grant or deny the variance shall always rest with the Approving Authority.

(e) If the variance is denied, another application for a variance for the same Lot or building site may not be made for a period of one year after submittal of the original request.

ARTICLE V

APPROVING AUTHORITY

Section 501. Composition of the Approving Authority. The Approving Authority shall consist of three individuals. The Declarant reserves the right, until December 31, 1985, to appoint all members of the Approving Authority. Thereafter, the Board of Directors of the Association may change the membership of the Approving

Authority, so long as the members of the Approving Authority so appointed are all Owners of Lots within the Subdivision. Whenever a member shall be deceased or unwilling or unqualified to act, the Board of Directors shall appoint Owners of Lots within the Subdivision as members of the Approving Authority so as to fill the existing vacancies, except until December 31, 1985, any such vacancy may be filled by Declarant. Any residents appointed to the Approving Authority by Declarant or by the Board of Directors may be removed and replaced by the record Owners of a majority of Lots in the Subdivision. Any appointment, removal or replacement of residents as members of the Approving Authority shall be by written instrument signed and acknowledged by Declarant or other person or persons above authorized to make appointment, removal or replacement and filed for record with the Clerk and Recorder of the County of El Paso, State of Colorado.

Section 502. Delivery of Items. Any item required or permitted to be delivered to the Approving Authority shall be deemed properly delivered when actually received by the Approving Authority at the registered office of the Association.

Section 503. Liability. Members of the Approving Authority shall not be liable to any party whatsoever for any act or omission unless the act or omission is in bad faith and amounts to fraud.

ARTICLE VI

THE ASSOCIATION AND MAINTENANCE AREAS

Section 601. Nominal Amenity PUD. It is contemplated that the Subdivision will have only minimal common areas which will be landscaped to benefit the overall appearance and attractiveness of the Subdivision. Thus, it is contemplated that the Subdivision and the Association will function "as a "De Minimus" or "Nominal Amenity" POD, as those terms are defined by the Veteran's Administration and Federal National Mortgage Association. "

Section 602. The Association.

(a) Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. If additional Lots are added to the Association, membership shall automatically be expanded thereby.

(b) Classes of Members. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be Declarant and shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, provided, however, if additional Lots are added to the Association, Declarant's Class B membership shall revive upon each such addition and continue until the total votes outstanding in the Class A membership for the entire project, including the annexed Properties, equal the total votes outstanding in the Class B membership for the entire project, including the added Lots or

(ii) on December 31, 1989.

(c) Nonliability of Association and Others. Declarant and the Association and its officers, directors and Members, including without limitation, Members of the Approving Authority, and agents of each of them, shall not be liable in damages or otherwise to any person whatsoever for any act or omission incident to their office, unless the act or omission is in bad faith or amounts to fraud.

Section 603. Covenant for Maintenance Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges; such assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The board of directors or the managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by one of the board of directors or by the managing agent and may be recorded in the office of the Clerk and Recorder of the County of El Paso, Colorado. The lien for each unpaid assessment attaches to the Lot at the beginning of each assessment period and shall continue to be a lien against the Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for which it is filed and collected as part and parcel thereof. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. Assignees of such Owner shall not be personally liable for such assessment by virtue of their acquisition of title, but except in the case of a First Mortgagee or a purchaser at a foreclosure sale, the lien for unpaid assessments shall continue to encumber the Lot until paid.

(b) Purpose of Assessments. The assessment levied by the Association shall be used exclusively to maintain and replace or repair, as necessary, the: Maintenance Area and pay for all expenses or charges reasonably determined by the Association's board of directors to be necessary or desirable in carrying out these purposes. The Association may also levy assessments for any other purposes provided at least two-thirds of each class of Members consents to such additional assessments.

(c) Basis and Maximum of 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 \$120.00 per Lot. 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 effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the preceding year. 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 that established by the Consumer Price Index formula by a vote of the Members for the next succeeding year and at the end of each such period of one year, for each succeeding period of one year, provided that any such change shall have the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

(d) Special and Emergency Assessments. In addition to the annual assessments authorized above, the Association may, in any assessment year, levy additional special assessments applicable to that year only for the purpose of defraying, in whole or in part, any additional or unanticipated expenditures provided that any such assessment shall have the assent of two-thirds of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

(e) Notice and Quorum for any Action Authorized Under Sections 603(c) and 603(d). Written notice of any meeting called for the purpose of taking any action, authorized under sections 603(c) and (d) shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called,

the presence of Members or of proxies entitled to cast 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 requirement, 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 60 days following the preceding meeting.

(f) Uniform Rate of Assessment. Both annual, and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, except that: (i) Declarant shall not be required to pay assessments on Lots owned by it until the public street adjacent to such Lot has been completed and accepted by the City; and (ii) the Board of Directors may reasonably determine that, because of special or unequal costs or benefits incurred or caused by the actions or neglect of specific Owners, another basis is more equitable for certain special or emergency assessments. If, while Class B Membership exists, assessed fees collected for the Association fail to adequately meet Association expenses, then Declarant shall contribute sufficient capital to cover such deficit, up to the amount which Declarant would have paid if all Lots owned by it were fully subject to assessment. Any amendment to this subsection (f) must have the prior written approval of the holders of all First Mortgages.

(g) Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence as to all Lots subject to such assessments under subparagraph (f) above on the first day of the month following recording of the plat, establishing the Lots pursuant to the subdivision ordinances of the City. 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 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, 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.

(h) Effect of Nonpayment of Assessments. Remedies of the Association. Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 12% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot involved. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

(i) Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a recorded First Mortgage or recorded first deed of trust, and to any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not. However, the lien of such assessments shall be superior to any homestead exemption as now or hereafter may be provided by Colorado law and the acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead exemption as against the said assessment lien. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any First Mortgage, or any proceeding in lieu thereof, or the cancellation or foreclosure of any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not, shall extinguish the lien of such assessments as to payments which became 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.

(j) Working Capital. If required by regulations of the Veteran's Administration, the Federal Housing Authority, Federal National Mortgage Association, or other similar entity as a condition to purchasing or insuring any First Mortgage, the Association may require the first Owner of any Lot who purchases that Lot from Declarant to pay to the Association an amount equal to two times the amount of the estimated monthly assessment, which sum shall be held by the Association as and for working capital. Such sum shall not be refundable to such Owner,