

AMENDED AND RESTATED
 CASTLE PINES
 DECLARATION AND AGREEMENT CREATING
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

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Amended and Restated Castle Pines
Declaration and Agreement Creating Covenants,
Conditions, Restrictions and Easements

THIS AMENDED AND RESTATED DECLARATION AND AGREEMENT (this “Declaration and Agreement”) is made as of this 2nd day of May, 1989, by and among CASTLE PINES LAND COMPANY, a Colorado limited partnership (the “Land Company”), CPV, INC., a Colorado corporation (“CPV”), FIDELITY CASTLE PINES, Ltd., a Maryland limited partnership (“Fidelity”), and THE CASTLE PINES GOLF CLUB, INC., a Colorado corporation (“Golf Club”).

RECITALS

The Land Company, CPV, Fidelity and Golf Club make this Declaration and Agreement upon the basis of the following facts and intentions:

A. This Declaration and Agreement amends and restates the Castle Pines Declaration and Agreement Creating Covenants, Conditions, Restrictions and Easements dated as of May 19, 1981, made by and between the Castle Pines Land Company, a Colorado joint venture, predecessor to the Land Company, and the Golf Club, and recorded on June 19, 1981, in the records of the Clerk and Recorder of Douglas County, Colorado (the “Records”), in Book 415 at Page 262 and in Book 415 at Page 324 and recorded January 14, 1982, in Book 432 at Page 158 (the “Original Declaration”). The Original Declaration has been supplemented by a Declaration of Annexation dated November 15, 1981, and recorded in the Records of January 14, 1982, in Book 432 at Page 158, by a Declaration of Annexation dated June 5, 1986, and recorded in the Records on June 5, 1986, in Book 644 at Page 600, and by a Declaration of Annexation dated November 19, 1987, in Book 760 at Page 232.

B. The Land Company, CPV, Fidelity and the Association (as defined below) acting by and through the Board (as defined below) have the right to amend and restate this Declaration and Agreement with respect to all that certain real property located in the County of Douglas, State of Colorado, more particularly described and graphically depicted on Exhibit A, attached hereto and incorporated herein by reference thereto (the “Property”). The Property includes all real property, which is currently anticipated to be developed in accordance with the Development Plan (hereinafter defined). The Land Company has developed, and the Land Company, CPV, and Fidelity intend to continue to develop (but are not obligated to develop) the Property subject to the Development Plan (and other areas which may be added

thereto) as a high-quality residential project consisting of single family residences and various multi-family residential projects with recreational amenities and certain limited commercial facilities. To date, the subdivision and platting has occurred on that portion of the Property more particularly described in Exhibit B attached hereto and incorporated herein by reference thereto (the "Developed Property").

C. The Land Company has subdivided and developed, and the Land Company, CPV, and Fidelity may continue to subdivide and develop, the Property in accordance with the Master Development Plan shown on the plat attached hereto, marked Exhibit C, and incorporated herein by reference thereto (the "Development Plan"). The Land Company subdivided and developed the Developed Property in accordance with the Development Plan, reserving the right to impose similar restrictions upon portions of additional property from time to time so that the property so encumbered may ultimately be developed, owned, used, occupied and improved as a single project for the benefit of every part thereof and interest therein under a uniform series of restrictions and covenants to preserve the natural amenities of the project, to assure architectural harmony of the improvements and to preserve the environmental values inherent in the Development Plan.

D. The Developed Property includes a parcel of property described on Exhibit D and known herein as the "Founders Parcel." By executing the consent attached hereto, Castle Pines Founders Co., a Colorado corporation which is the owner of the Founders Parcel ("Founders"), allows the Founders Parcel to be included as part of the Developed Property for all purposes hereof. All of the provisions herein contained shall apply to the Founders Parcel to the same extent as to every other portion of the Developed Property.

E. The Property comprises parcels surrounding a golf course owned by Golf Club and shown on the Development Plan. The property owned by Golf Club is referred to herein as the "Golf Course Parcel." The legal description of the Golf Course Parcel is attached hereto as Exhibit E and by this reference incorporated herein. The Land Company, CPV, Fidelity, the Association, and Golf Club desire to amend and restate restrictions upon use of the Property and the Golf Course Parcel, each for the benefit of the other, and for the joint maintenance and operation of certain roads, utility installations and other improvements necessary or desirable for the joint use and operation of the Golf Course Parcel and the Property as integral parts of the project shown on the Development Plan. The Land Company, CPV, Fidelity, and the Association desire that the covenants herein contained with respect to restrictions imposed on the Property and easements created hereunder shall run with the land for the benefit of the Golf Course Parcel and may be enforced by Golf Club. By its execution hereof, Golf Club agrees to be bound to the provisions of this Declaration and Agreement and imposes with respect to the Golf Course Parcel the restrictions and easements more particularly set forth herein, and agrees that such restrictions and

easements shall run with the land for the benefit of the Property affected thereby, and may be enforced by the Association or any affected Owner (as hereinafter defined).

F. The Property comprises parcels surrounding a golf course owned by CPV and shown on the Development Plan. The property owned by CPV and used for golf course purposes is referred to herein as the "Country Club Course Parcel." The legal description of the Country Club Course Parcel is attached hereto as Exhibit F and by this reference incorporated herein. The Land Company, CPV, Fidelity, the Association, and Golf Club desire to amend and restate restrictions upon use of the Property and the Country Club Course Parcel, each for the benefit of the other, and for the joint maintenance and operation of certain roads, utility installations and other improvements necessary or desirable for the joint use and operation of the Country Club Course Parcel and the Property as integral parts of the project shown on the Development Plan. The Land Company, CPV, Fidelity, and the Association desire that the covenants herein contained with respect to restrictions imposed on the Property and easements amended and restated hereunder shall run with the land for the benefit of the Country Club Course Parcel and may be enforced by CPV or any purchaser of the Country Club Course Parcel. By its execution hereof, CPV agrees to be bound to the provisions of the Declaration and Agreement and imposes with respect to the Country Club Course Parcel the restrictions and easements more particularly set forth herein, and agrees that such restrictions and easements shall run with the land for the benefit of the Property affected thereby, and may be enforced by the Association or any affected Owner (as hereinafter defined).

NOW, THEREFORE, the Land Company, CPV, Fidelity, Golf Club, the Founders (by consenting hereto) and the Association (by consenting hereto) agree to and do hereby impose the following restrictions upon the Developed Property, the Golf Course Parcel, the Country Club Course Parcel and so much of the balance of the Property as is made subject hereto, as follows:

1. Definitions.

(a) "Additional Property" shall mean: (i) that portion of the Property not included in the Developed Property; and, (ii) such additional real property contiguous to the Property including, but not limited to, the real property described on Exhibit G attached hereto and known herein as the "Hockaday and 1-25 Parcels," which is to be developed in accordance with the Development Plan and as shall be declared by the Association, the Land Company, CPV or Fidelity to be within the definition of "Property" used herein by duly recorded declaration. The Land Company, CPV and Fidelity shall have the right to assign the right to declare such additional real property to be within the definition of "Property."

- (b) “Additional Property Owner” shall mean the record owner, whether one or more persons or entities, or a fee simple title to any portion of the Additional Property.
- (c) “Annexation” shall mean the process by which portions of the Additional Property are made subject here to pursuant to paragraph 2 hereof.
- (d) “Assessments” shall mean the obligations to be paid to the Association pursuant to paragraph 7 hereof, including both Monthly Assessments and Special Assessments.
- (e) “Association” shall mean Castle Pines Homes Association, Inc., a Colorado non-profit corporation, or any successor thereof charged with the duties and obligation as set forth herein.
- (f) “Board” shall mean Board of Directors of the Association, duly elected and acting pursuant to its Articles of Incorporation and By-Laws.
- (g) “Building” shall mean all of the improvements located upon a Lot.
- (h) “Cluster Lot” shall mean a Lot upon which a Project is located.
- (i) “Commercial Lot” shall mean a lot that is designated for commercial uses on both a recorded plat map or a portion of the Properties and in the Development Plan.
- (j) “Common Area” shall mean all real property in which the Association owns an interest for the common use and enjoyment of all of the Members. Such interest may include, without limitation, estates in fee, estates for a term of years or easements.
- (k) “Condominium” shall mean a condominium interest within a Project, including, without limitation, the unit, the proportionate interest in Project Common Area and the other interests appurtenant thereto.
- (l) “Country Club” shall mean The Country Club at Castle Pines, Inc., a Colorado not-for-profit corporation, or any party having possessory rights under a lease to the Country Club Course Parcel.
- (m) “Country Club Course Parcel” shall mean that real property described

in Exhibit F attached hereto and by this reference made a part hereof, and any additional real property as may be included as such parcel may from time to time be expanded.

(n) “Custom Lot” shall mean a Lot upon which a residence intended for occupancy by one (1) family is or will be located.

(o) “Declaration of Annexation” shall mean a declaration recorded in the Records in which an Additional Property Owner annexes a portion of Additional Property into the Properties and makes it subject to the provisions of this Declaration and Agreement, pursuant to paragraph 2 hereof.

(p) “Design Guide” shall mean the Castle Pines Design Guide and Custom Home Design Procedural Criteria from time to time adopted by the Design Review Committee.

(q) “Design Review Committee” shall mean the committee formed pursuant to paragraph 15 hereof to perform the duties and functions delegated and assigned to it herein.

(r) “Developed Property” shall mean the real property described on Exhibit B attached hereto and by this reference made a part hereof.

(s) “Development Guide” shall mean the Castle Pines Planned Unit Development Guide adopted by the Board of County Commissioners of the County of Douglas, State of Colorado, on September 20, 1985, and recorded in the Records on October 7, 1985, in Book 600 at Page 001, as amended on January 9, 1986, and recorded in the Records on January 13, 1986, in Book 619 at Page 009, as further amended on August 18, 1987, and recorded in the Records on September 9, 1987, in Book 745 at Page 921, and as further amended on November 1, 1988, as recorded in the Records on November 1, 1988, in Book 825 at Page 845, as the same may be amended from time to time, all of which is incorporated herein by reference.

(t) “Development Plan” shall mean the Development Guide and the Master Development Plan shown on Exhibit C as the same may be amended or supplemented from time to time by the Board of County Commissioners of the County of Douglas, State of Colorado, which said amendments or supplements may include Additional Property not subject to the Development Plan on the date hereof.

(u) “District” shall mean Castle Pines Metropolitan District or a successor agency, political subdivision or special district empowered by law to provide fire protection, emergency ambulance, water, sewer and/or other services of a governmental nature to or with respect to the Properties or any part thereof. If such services are provided by more than one such political subdivision, the term “District” shall be inclusive unless the context precludes such an interpretation.

(v) “Dwelling Unit” shall mean:

(1) where a lot is a Custom Lot, “Dwelling Unit” shall mean the Lot and all improvements thereon and appurtenances thereto;

(2) where a Lot is a Cluster Lot, “Dwelling Unit” shall mean:

(i) where the Cluster Lot consists of condominiums that have been constructed, each condominium unit thereon;

(ii) where the Cluster lot is platted for construction of condominiums, which construction has not been completed, each one of the maximum number of condominiums permitted thereon; or,

(iii) where the Cluster Lot consists of improved “townhouse,” “cluster-home” or “zero lotline development” Lots, the Lot and all improvements on each Lot and appurtenances thereto;

(3) no Commercial Lot shall contain any Dwelling Unit.

(w) “Golf Club” shall mean The Castle Pines Golf Club, Inc., a Colorado corporation.

(x) “Golf Course Parcel” shall mean that real property described on Exhibit E attached hereto and by this reference made a part hereof.

(y) “Lot” shall mean any Custom Lot or Cluster Lot, but not a Commercial Lot, shown on a recorded plat map of a portion of the Properties.

(z) “Maintenance Fund” means the fund created by Assessments levied pursuant to paragraph 7 of this Declaration and Agreement to provide the Association with the

moneys from which to purchase the goods and services which it is required to provide or cause other suppliers to provide to carry out its duties hereunder.

(aa) “Manager” shall mean such person or firm of professional managers retained pursuant to paragraph 10 hereof for administration of all or portions of this Declaration and Agreement.

(bb) “Member” shall mean any Owner of one (1) or more Dwelling Units. Status as an Owner is the sole qualification for membership in the Association.

(cc) “Monthly Assessments” shall mean Assessments levied pursuant to paragraph 7(a) hereof to provide funds to meet the estimated cash requirement of the Association.

(dd) “Mortgage” shall mean a contract by which specific property is hypothecated to secure payment or performance of a bona fide third party monetary or other obligation and shall include a deed of trust.

(ee) “Mortgagee” shall mean a beneficiary under or holder of a Mortgage as well as a named mortgagee.

(ff) “Owner” shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Dwelling Unit, including contract sellers.

(gg) “Project” shall mean either:

(1) a condominium project currently existing or hereafter created upon a Cluster Lot or Cluster Lots included within the Properties pursuant to the provisions hereof, and so designated in the Declaration of Annexation; or

(2) a group of Dwelling Units intended for development in the style commonly known as “townhouse,” “cluster-home” or “zero lotline development” where architectural, land use, common elements or other integrating factors require imposition of special restrictions or management arrangements, and so designated in the Declaration of Annexation.

(hh) “Project Assessment” shall mean assessments levied pursuant to the Project Declaration.

(ii) “Project Association” shall mean the governing body of each Project created pursuant to each Project Declaration.

(jj) “Project Common Area” shall mean the area within a Project restricted in whole or in part to use primarily by or for the benefit of the Owners of Dwelling Units within the Project, their lessees and invitees.

(kk) “Project Declaration” shall mean the Declaration Establishing A Plan Of Condominium Ownership or Declaration Of Covenants, Conditions And Restriction to be filed with respect to each Project.

(ll) “Properties” shall mean the Developed Property plus portions of the Additional Property from time to time made subject hereto pursuant to the terms of paragraph 2 hereof.

(mm) “Special Assessments” shall mean all Assessments other than Monthly Assessments.

(nn) “Village Golf Courses” shall mean the Golf Course Parcel and the Country Club Course Parcel, collectively.

2. Annexation.

(a) Overall Development Plan. All use and development of the Property shall conform to the Development Plan and the exhibits submitted in connection therewith as amended from time to time with the approval of all applicable public authorities.

(b) Right of Annexation. From time to time, and without requirement of consent by any of the Owners, the Members, the Association or the Golf Club, an Additional Property Owner (or in certain instances, the Association, as provided in this paragraph) may annex any portion of the Additional Property to which such Additional Property Owner possesses fee simple title, which has been or is in the course of being platted and subdivided pursuant to and substantially in accordance with the Development Plan, by recording a Declaration of Annexation meeting the requirements hereinafter set forth. No Additional Property Owner shall have any obligation to annex any Additional Property prior to the approval of a final plat for such portion of the Additional Property, and no such obligation shall be inferred from any provision hereof; provided, however, that an Additional Property Owner shall be required to annex a subject portion of the Additional Property upon receipt of final approval of the plat for such portion, and the failure for a period of ninety (90) days of any such Additional Property owner to annex such

Additional Property shall result in that portion of the Additional Property being annexed by the Association. In such instance, the Association shall follow the procedure for a Declaration of Annexation as is set forth in this paragraph for the Additional Property Owners. No Additional Property may be the subject of a Declaration of Annexation unless and until it is part of the Development Plan, as approved by the Board of County Commissioners of the County of Douglas, State of Colorado. No part of the Additional Property may be made subject to any other covenants, conditions, and restrictions other than a Project Declaration, and further, no Additional Property Owner shall be made a member of any homeowners' association or similar organization other than the Association or a Project Association.

(c) Annexation Declaration. The Declaration of Annexation shall be recorded in the Records, and shall:

- (1) describe the portion of the Additional Property to be annexed;
- (2) declare that the Additional Property so described is annexed pursuant to the provisions here of;
- (3) declare that the Additional Property so described is being and shall be developed substantially in accordance with the Development Plan citing the specific portions of the Development Plan applicable thereto (if any);
- (4) provide an Assessment allocation for the Dwelling Unit or Dwelling Units to be included in such Annexation, which Assessment allocation must be consistent with the current Assessment allocation shown on Exhibit H, and with respect to each Custom Lot and Cluster Lot to be created:
 - (i) identify all Lots and Commercial Lots, if any;
 - (ii) identify the Project Declaration (s), if any;
 - (iii) designate Project Common Area (s), if any; and
 - (iv) provide for allocation of Project Assessment, if any;
- (5) describe the Common Area to be designated in the Annexation (if any); and
- (6) provide for other restrictions, conditions and allocations of rights and benefits, not inconsistent with the provisions hereof and the Development Plan, as such Additional Property Owner (and with respect to property contiguous to the Golf

Course Parcel, the Golf Club) may deem appropriate. Specifically, but without limiting the generality of the foregoing, the Declaration of Annexation may provide:

(i) for the creation of special rights, restrictions and provisions for management and maintenance of Cluster Lots configured to accommodate improvements with common walls and/or other integrating features and facilities in the type of Project defined in paragraph 1(gg)(2) and the establishment of areas intended for use by the Owners of the Dwelling Units in such a Project in a manner comparable to the use rights of Owners of Dwelling Units in Projects consisting of condominium interest; and

(ii) for reciprocal, nonexclusive easements for vehicular and pedestrian ingress and egress and for access to utilities over, under and along driveways and utility easements common to two (2) or more Lots.

Where the Additional Property to be annexed will create one or more Cluster Lots and no other property, the Declaration of Annexation may be incorporated as one document in the Project Declaration. Where the Declaration of Annexation is being recorded by the Association pursuant to the provisions of paragraph 2(b) hereof, the Association shall not be required to include in such Declaration of Annexation any of the items described in paragraphs 2(c)(3) or 2(c)(6) hereof.

(d) Effect Of Annexation. From and after the date of recording of a Declaration of Annexation, the Additional Property subject thereto shall become part of the Properties and the annexing Additional Property Owner shall become an Owner for all purposes of this Declaration and Agreement and the definitions contained herein shall be applicable thereto; provided, however that the Additional Property so annexed shall not be or become liable for Assessments due prior to the date of the recording of the Declaration of Annexation in the Records. The Association shall accept conveyance of all Common Area in the area to be annexed if such Common Area has been designated as such on a plat approved pursuant to the Development Plan, and the Board may, at its option, elect by majority vote to accept conveyance of Common Area that is designated as such on a plat but not on the Development Plan. The Association shall accept conveyance of all other interests to be conveyed to the Association designated in a Declaration of Annexation and consistent with the Development Plan.

(e) Limitation On Annexation. Any Additional Property Owner's rights of Annexation pursuant to the terms hereof shall expire with respect to any portion of the Additional Property not theretofore annexed, and there shall be no further Annexation

thereafter without a vote of seventy-five percent (75%) of the Members holding Class A voting power as hereinafter provided, from the date which is twenty (20) years from the date of this Declaration and Agreement, or thereafter.

(f) Power of Assignment by Additional Property Owner. An Additional Property Owner may assign its rights of Annexation with respect to any portion of the Additional Property owned by such Additional Property Owner to a purchaser of that portion of the Additional Property. Similarly, an Additional Property Owner may pledge its right to annex its Additional Property to a Mortgagee.

3. Membership in Association.

(a) Owners As Members. Every Owner shall be a Member of the Association. Status as an Owner is the sole qualification for membership.

(b) Termination of Ownership Status. Rights to a membership and status as a Member terminate upon termination of status as an Owner. Upon sale or other conveyance of the Owners interest in such Owner's Dwelling Unit or Dwelling Units, the selling or conveying Owner or Owners shall be relieved of liability for Assessments levied from and after the date of such sale; provided, however, that no such sale or assignment shall relieve an Owner of liability arising prior to the date such sale or assignment is consummated. Acceptance by a purchaser or assignee of such sale or assignment evidences such purchaser's or assignee's assumption of personal liability for all Assessments arising from and after the date such sale or assignment is consummated. A sale or assignment of Owner's interest shall be deemed to have occurred for all purposes of this Declaration and Agreement upon the recording in the Records of an instrument of conveyance of such interest.

(c) No Avoidance By Non-Use. No Owner may avoid the obligations of membership during the period of ownership by non-use of the Common Area, renunciation or abandonment of such Owner's Dwelling Unit, or any other act of abandonment or renunciation.

4. Voting Rights. There shall be two (2) classes of voting rights: Class A voting rights and Class B voting rights.

(a) Class A Voting Rights. All members other than the Land Company, CPV, and Fidelity (or a designated assignee of the Class B voting rights of any one of these entities) shall have Class A voting rights, entitling each to one (1) vote for each Dwelling Unit of which such Member is the Owner. When more than one person holds an

interest in a Dwelling Unit, the vote for such Dwelling Unit shall be exercised as the Owners thereof determine, but votes attributable to the Dwelling Unit shall be cast by only one (1) Person.

(b) Class B Voting Rights. The Land Company, CPV and Fidelity shall have Class B voting rights entitling each to three (3) votes for each Dwelling Unit of which it is the Owner. Further, whenever the Land Company, CPV or Fidelity causes Additional Property to become subject hereto by recording a Declaration of Annexation as provided in paragraph 2 hereof, then such annexing entity shall be given Class B voting rights corresponding to the Dwelling Unit or Dwelling Units included in such Annexation. In addition, the Land Company, CPV, and Fidelity shall have the right to assign Class B voting rights corresponding to a portion of Developed Property consisting of at least one hundred (100) Dwelling Units, or the potential Class B voting rights corresponding to a portion of Additional Property consisting of acreage zoned for a maximum permissible density of at least one hundred (100) Dwelling Units pursuant to the Development Plan, or a combination of Developed Property and Additional Property totaling at least one hundred (100) Dwelling Units, as calculated above, to a purchaser of such portion of Developed Property, Additional Property, or combination thereof, provided that: (i) such purchaser has agreed under binding agreement to plat any Additional Property into Custom Lots or Cluster Lots and to offer the same for sale to persons who, upon purchase, shall become Members entitled to exercise Class A voting rights; and, (ii) the assignment is made by specific written instrument signed by both assignor and assignee. An Owner's right to exercise Class B voting rights and an Owner's or an Additional Property Owner's right to assign the right to exercise Class B voting rights to purchasers of all or a portion of its Developed Property or Additional Property as provided in this paragraph 4(b), may be made subject to a Mortgage and subsequently exercised by the Mortgagee who forecloses or obtains a deed or conveyance in lieu of foreclosure. The Land Company, CPV, or Fidelity may convert its Class B voting rights into Class A voting rights at any time on the conditions hereinafter described.

(c) Conversion of Class B to Class A Voting Rights. Class B voting rights then existing shall be converted to Class A voting rights upon the earliest to occur of the following events:

(1) receipt within sixty (60) days after the beginning of the fiscal year of the Association of written notice from the Land Company, CPV, or Fidelity that such entity elects to convert its Class B voting rights into Class A voting rights, in which case such conversion shall be effective as of the first day of such fiscal year; or

(2) in the case of a Custom Lot, a final certificate of occupancy has been obtained from the appropriate governmental authority for construction of the improvements on a Dwelling Unit to which such Class B voting rights correspond; or

(3) in the case of a Cluster Lot, the number of Dwelling Units for which final certificates of occupancy have been obtained is greater than fifty percent (50%) of all Dwelling Units comprising the Cluster Lot (in which event all the remaining Dwelling Units shall convert to Class A voting rights); or

(4) twenty (20) years from the date of this Declaration and Agreement.

(d) Suspension of Membership. During any period in which a Member shall be in default in the payment of any Assessment levied by the Association, the voting rights and rights to use of the recreational facilities of such Member may be suspended by the Board until such Assessment has been paid. Such rights of a Member may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days, for violation of any rules and regulations established by the Board, including, but without limitation, rules governing the use of Common Area and recreational facilities.

5. Duties of Association. The Association, for the benefit of the Members, shall provide or cause other suppliers to provide the following on a basis which does not discriminate between or among any individual Members or classes of Members, and which does not give priority to any individuals or groups.

(a) Utilities. Water, sewer, electrical, telephone, cable television, gas and other utility service, road maintenance, snow removal and tree maintenance, husbandry and management for the Common Area to the extent such services are not provided by the District, for the benefit of the Dwelling Units and, where applicable, for the benefit of the Village Golf Courses (as provided in paragraph 16 hereof), including, but without limitation, the duty to grant utility easements along, over, across, under and through the Common Area as may be required to provide such utility service to the Common Area, the Dwelling Units, and the Village Golf Courses. If the Association provides the services described in this paragraph for the benefit of the Village Golf Courses, the Village Golf Courses shall pay the Association the actual cost of such services plus fifteen percent (15%), as provided in paragraph 16(d)(3) hereof.

(b) Garbage and Trash Removal, Etc. Garbage and trash removal service for the Dwelling Units and the Village Golf Courses to the extent that such services are not provided by public agencies, public utility companies or other service companies, and such other services and materials of a public utility nature as are not provided by a public utility, public agency or other public service company for the Dwelling Units or the Village Golf Courses.

(c) Property Insurance. A policy or policies of fire insurance, with extended coverage endorsement, including, without limitation, insurance against theft, vandalism and malicious mischief, for the full insurable replacement value of any improvements on the Common Area, insurance against forest fire covering fire suppression costs and the value of the trees and shrubs on Common Area, and such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection; such policy or policies to be purchased jointly with coverage for the improvements on the Village Golf Courses where a savings in cost may be achieved by such joint purchase.

(d) Liability Insurance. A policy or policies insuring the Board, the Association, the Members and the Association's employees against any liability to the public or to the Members, incident to the ownership and use of the Common Area and any other property or interest owned by the Association, and including the personal liability exposure of the Members with respect to such property, subject to the right of the Village Golf Courses to be separately insured. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) for any one person injured. Three Million Dollars (\$3,000,000.00) for any one accident, and Five Hundred Thousand Dollars (\$500,000.00) for property damage each occurrence (to the extent that such limits and coverages are available at commercially reasonable rates, such limits and coverage to be reviewed at least annually by the Board and increased at its discretion). Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced as respects his, her or their action against another named insured with a provision for thirty (30) days written notice prior to the effective date of any cancellation.

(e) Workers' Compensation. Workers' Compensation Insurance to the extent necessary to comply with any applicable laws, which shall include the Golf Club or the Country Club, at the option of each.

(f) District Services. Such services in the nature of fire protection, emergency ambulance, water, sewer and other services of a governmental nature from

time to time offered by District for which the Board shall contract (unless such services may be obtained without contract); provided, however that the Board shall have the right to contract for all or any part of such services privately upon a determination that the services provided by District are inadequate to meet the needs of the Association.

(g) Security Services. Procurement of security services for the protection of the Dwelling Units, Common Area and Village Golf Courses as the Board shall consider reasonably necessary which such services shall include, without limitation, the following:

(1) regular security patrol; and,

(2) such additional services as may be required for the Village Golf Courses, which shall be provided for the account of the Golf Club and the owner of the Country Club Course Parcel and without cost and expense to the Association under paragraph 16(d)(3).

In addition, the Board shall diligently seek to procure burglar alarm, fire alarm and emergency medical alarm services for the Dwelling Units under separate security service contract or arrangement with each Owner or under joint services contract for the Properties to include fire and burglary alarm services.

(h) Legal and Accounting. Legal and accounting services as the Board shall require in connection with operation of the Association or enforcement of the provisions hereof.

(i) Bonds or Insurance. A fidelity bond or fidelity insurance naming the Manager and such persons as may be designated by the Board as principals and the Members as obligees or insured, for each year in an amount equal to at least ten percent (10%) of the total sum collected through the Maintenance Fund during the preceding year.

(j) Maintenance. Painting, main tenance, replacement, repair and all landscaping of the Common Area and other property and interests owned by the Association, and such furnishings and equipment as the Board shall determine proper.

(k) Tree and Brush Maintenance: Fire Hazard Reduction. Pruning, trimming and husbandry service for trees located upon the Custom Lots, Cluster Lots and Common Area, including, without limitation, removal of dead branches, dead brush and

performance of other tasks calculated to remove or eliminate material which constitutes or creates a fire hazard from Lots and Common Areas; provided, however, that such service shall be performed only where deemed necessary by the Board.

(l) Other Association Requirements. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration and Agreement or by law or which in the discretion of the Board shall be necessary or proper for its operation or the enforcement of this Declaration and Agreement; provided, however, that if any such materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Lots, the cost thereof shall be specially assessed to the Owners of such Lots.

(m) Liens. The Association shall also pay the amount necessary to discharge any lien or encumbrance upon the Common Area or any other property or interest of the Association. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specially assessed to said Owner.

6. Association Powers.

(a) Exclusive Power. Except as expressly otherwise provided herein, the duties of the Association enumerated in paragraph 5 shall be exclusively performed by the Association, and any duty to be performed or right to be exercised by the Association, as enumerated therein, shall not be performed by any Owner individually without the written consent of the Association. The Association shall have the exclusive right and obligation to contract for all goods, services and insurance, payment for which is to be made from the Maintenance Fund. The Association shall have a reasonable right of entry upon all Lots, including Cluster Lots, to determine compliance with and enforce the provisions hereof.

(b) Project Management. The Association shall have the power to contract with the various Project Associations to provide the management services required to be performed for the Projects pursuant to the applicable Project Declaration. If such services are provided, they shall be offered by the Association to all Projects on a basis which does not discriminate between them except on the basis of the cost of services actually contracted to be provided.

(c) Utility Services. The Board shall have the right to contract or arrange for the provision of any good or service to be provided by it hereunder from any public utility or public utility company and such contract or arrangement shall constitute performance on the part of the Board of its obligation with respect to such good or service until such time as the contract or arrangement is terminated. To effectuate the foregoing, the Board shall grant such utility easements as may be required, over, along, across, under and through the Common Area (including, but without limitation, the roads owned by the Association) for the provision of such utility service as may be required to effectuate and carry out the Development Plan.

(d) Right to Cure Owners' or Additional Property Owners' Defaults. Where any Owner or Additional Property Owner has an obligation to perform any act of maintenance, preservation, construction, alteration or repair on such Owner's Dwelling Unit or such Additional Property Owner's portion of Additional Property, or with respect to any improvements thereon, and such Owner or Additional Property Owner fails to perform such work within thirty (30) days after notice of the need to perform the same and demand for such performance from the Association (or fails to commence to perform such work and diligently proceed to complete the same where completion cannot be accomplished within said thirty (30) day period), then the Association shall have a right to enter upon the Dwelling Unit or the portion of Additional Property and perform the work for the account of the delinquent Owner or Additional Property Owner. All costs and expenses incurred in connection therewith shall be assessed against the delinquent Owner as a Special Assessment hereunder, or shall be paid by the Additional Property Owner on receipt of an invoice for such work.

(e) Maintenance and Enhancement of Common Areas. The Board shall have the right to make expenditures for the maintenance and enhancement of Common Areas and other areas having recreational uses, including (but without limitation): construction of recreational improvements; enhancement of permanent structures already existing thereon; and expansion and maintenance of the pedestrian and equestrian trail system as required by the Development Plan or as otherwise required or constructed. The Board may levy Special Assessments for such purposes, if required.

(f) Maintenance of Association Roads. The Association shall have the right to provide or contract for maintenance of roads owned by the Association, to the extent such maintenance is not provided by the District at all, or is not provided in a manner acceptable to the Association. The Board may levy a Special Assessment for such purpose, if required.

(g) Construction and Maintenance of Drainage. The Association shall have the right to provide or contract for construction and maintenance of drainage facilities on property not included within the District, or where the District fails to provide adequate drainage, as determined by the Board. The Board may levy a Special Assessment for such purpose, if required.

(h) Maintenance of Exterior Boundaries. The Board shall have the right to maintain all setbacks located on the exterior boundaries of the Properties and so designated on recorded plats or on the Development Plan.

(i) Annexation After Final Platting. The Association shall have the right to annex a portion of Additional Property for which a final plat has been approved and recorded if the Additional Property Owners fails to record a Declaration of Annexation to effect such Annexation within ninety (90) days of the recording of the final plat, as described in paragraph 2 hereof.

7. Maintenance Fund: Assessments.

(a) At least thirty (30) days prior to the end of the Association's fiscal year, the Board shall adopt a budget for the following calendar year in which it shall estimate the net charges to be paid during such year by the Association in the performance of its duties (including a reasonable provision for contingencies and replacements and reasonable contributions to necessary reserves, and less any expected income other than Assessments), which net charges shall be equal to the total estimated cash requirement for the following calendar year. Said total estimated cash requirement shall initially be assessed to the Members having Class A voting rights at the Monthly Assessment rate of \$125.00 per month for Class A member who own Custom Lots and \$93.75 per month for Class A Members who own Dwelling Units on Cluster Lots. When adjusted, Monthly Assessments shall be set at a level such that the total Monthly Assessments to be paid shall equal or exceed the total estimated cash requirements for such year, but Monthly Assessment amounts shall not be increased until after January 1, 1993. Any difference between the total expenditures for a particular year and the total Monthly Assessments paid by Class A Members for such year shall be paid in arrears by Members having Class B voting rights, if any, on a pro rata basis (based on such Members' ownership of Dwelling Units) among such Class B Members. If, however, the Association has no Class B Members at such time, or if for any reason the Association does not receive the requisite funds from the Class B Members, then the deficiency described in the previous sentence shall be divided among and paid by the Class A Members in the manner

provided in Exhibit H attached hereto, and, in the latter case, the Association shall be entitled to exercise the remedies provided in paragraph 8 hereof against any Class B Members who failed to make such pro rata payments referred to in paragraph 8. If the total estimated cash requirement proves inadequate for any reason, the Board may at any time levy a Special Assessment, which shall be assessed as provided herein. Each Member shall pay Monthly Assessments so levied against such Member's Dwelling Unit to the Association in equal monthly installments on or before the first day of each calendar month, or in such other reasonable manner as the board shall designate (provided that such designation is applicable equally to all Members of a particular class of voting rights).

(b) The Board shall have the power to levy Special Assessments for all purposes and in the manner provided for herein; provided, however, that when the Board intends to make a particular Special Assessment in excess of twenty-five percent (25%) of the annual total of the Monthly Assessments of a Member who owns one (1) Custom Lot, such expenditure must be approved by a majority of each of the Class A Members and the Class B Members (based on the number of Dwelling Units owned by such Members and not on the number of Members themselves) at a duly held meeting of the Association, unless such Special Assessment is to be made pursuant to either paragraph 17(a) or 17 (b) hereof.

8. Default in Payment of Assessments. Each Monthly Assessment and each Special Assessment shall be separate, distinct and personal debts and obligations of the Member against whose Dwelling Unit or Dwelling Units the same are assessed. In the event of a default or defaults in payment of any such Assessment or Assessments and in addition to any other remedies herein or by law provided, the Association may enforce such obligations as follows:

(a) Suit at Law. The Association may bring a suit at law. Each such action such action must be authorized by a majority of the Board. Any judgment rendered in any such action shall include, where permissible under any law, a sum for reasonable attorneys' fees.

(b) Lien. Within ninety (90) days after the occurrence of any such default, the Board may give a notice to the defaulting Member, stating the date of the delinquency, and the amount of the delinquency. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may file a claim of lien against the Dwelling Unit of such delinquent Member. All Members waive the right to claim or assert a homestead exemption as against any such claim of lien. Such claim of lien shall state (1) the name of the delinquent Member, (2) a description of the Dwelling Unit

against which claim of lien is made, and (3) that the claim of lien is made by the Board pursuant to this Declaration and Agreement in an amount equal to the delinquency stated in the claim. The lien so claimed shall immediately attach as of the due date of the Assessment, subject to perfection by recordation of the statement of lien in the Records. Each default shall constitute a separate basis for a lien. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a Mortgage. In such action, reasonable attorneys' fees shall be allowed.

(c) Interest. Any such delinquent Assessments shall bear interest at the rate of two percent (2%) per month or the maximum rate allowable by law, whichever is the lesser, from the date of delinquency until the date the Assessment is paid in full, such amount to be added to the judgment recovered by exercise of the rights set forth in paragraphs 8(a) and 8(b) above.

(d) Estoppel Certificate. For the purposes of this paragraph, a certificate executed by a majority of the members of the Board shall be conclusive upon the Board, the Association and the Members in favor of any and all persons who rely thereon in good faith as to the matters therein contained. Any Member shall be entitled to such a certificate setting forth the amount of any due and unpaid Assessments with respect to such Member's Dwelling Unit (or the fact that all Assessments due are paid if such is the case) within fifteen (15) days after demand therefor and upon payment of a reasonable fee not to exceed Seventy-Five Dollars (\$75.00).

9. Mortgagee Protection. Notwithstanding all other provisions hereof, the following provisions shall prevail.

(a) Subordination of Lien. The lien which may be created pursuant to paragraph 8 hereof upon any Dwelling Unit shall be subject and subordinate to liens to secure payment of real estate taxes and assessments, rates, tolls, fees and charges of the District, and the indebtedness secured by any recorded first lien Mortgage (meaning a Mortgage with first priority over other Mortgages) upon such interest made in good faith and for value; provided, however, that after the foreclosure of any such Mortgage, or after a deed or conveyance in lieu of foreclosure transaction, then a lien may be created pursuant to paragraph 8 hereof on the interest of the purchaser at such foreclosure sale or the grantee of a deed or other conveyance in lieu of foreclosure or similar transaction to secure all Assessments assessed hereunder to such purchaser or grantee as a Member after the date of such foreclosure sale or deed or conveyance; further provided, however, that a Mortgagee or its nominee taking title by foreclosure or deed in lieu of foreclosure shall not be liable for unpaid Assessments arising prior to the date of the transfer of title,

but instead that the former Owner shall remain liable for such Assessments.

(b) Rights upon Foreclosure. In the event a Mortgagee or its nominee succeeds to the interest in a Dwelling Unit or any Additional Property through foreclosure (whether judicial or non-judicial) or by deed or other conveyance in lieu of foreclosure, such Mortgagee or its nominee shall succeed to the rights of such Owner or such Additional Property Owner which were specifically enumerated by the terms of the Mortgage, which rights could have included, without limitation (but only as appropriate), the right of Annexation described in paragraph 2, the Class B voting rights described in paragraph 4, the right to assign Class B voting rights also described in paragraph 4, the right to engage in commercial activity described in paragraph 13(a), and the right to appoint members of the Design Review Committee provided for in paragraph 15(a)..

(c) No Amendments. No amendment of this paragraph shall affect the rights of the holder of any such Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof.

(d) Subordinate Mortgages. Upon request of a Mortgagee, the benefits of (a) above may be extended to Mortgages not otherwise entitled thereto by subordination agreement authorized by the Board.

10. Delegation to Manager. The Association may employ or contract for the services of a Manager. No such employment shall be by contract having a term of more than three (3) years and each such contract shall be subject to the provisions of paragraph 5(e) hereof. The Board may not delegate to a Manager the authority to make expenditures for capital audits or improvements chargeable against the Maintenance Fund or subject to a Special Assessment, but the Board may delegate to a Manager the authority to implement the Board's decisions. The members of the Board shall not be liable for any omission or improper exercise by a Manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

11. Use of Common Area. The Common Area shall be used in accordance with the following restrictions:

(a) No Alteration. Nothing shall be altered, constructed, placed or stored in the Common Area except upon the direction and under the authority of the Association. No addition to or alteration of the Common Area shall be made which changes or interferes with the character thereof as an element of the entire Properties intended for the common use and benefit of all of the Dwelling Unit and the Village Golf Courses with respect to the matters specified in paragraph 16 hereof.

(b) Rules and Regulations. All Members, their lessees and invitees shall comply with the rules for the use of the Common Area and for personal property of the Association maintained or utilized in or on the Common Area not inconsistent herewith and furnished in writing to the Members.

12. Construction of Improvements. No work of improvement, grading, excavation, landscaping, tree or shrub planting or removal shall be undertaken upon any Lot or Lots without the prior approval of the Design Review Committee given as provided in paragraph 15 hereof. All plans and specifications for any structure or improvements whatsoever to be erected on or moved upon or to any Lot, and the proposed location thereof on any Lot or Lots, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof, and any remodeling, reconstruction, alterations or additions thereto on any Lot shall be subject to and shall require the approval in writing before any such work is commenced of the Design Review Committee, as the same is from time to time composed.

13. Restrictions On Use.

(a) Use. No commercial enterprise (except as hereinafter provided), noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may, in the opinion of the Association, be or become an annoyance or nuisance to the neighboring Owners or residents. For the purposes hereof, leasing or renting of the Dwelling Units shall not constitute a commercial use or enterprise notwithstanding the provisions of hotel or resort-type services in connection with such leasing or renting. Uses other than residential use will be permitted in those areas designated for other forms of uses in the Development Plan. For purposes hereof, the restrictions on use shall include and be subject to all of the restrictions contained in the Development Guide. Whenever the provisions of these Restrictions and the provisions of the Development Guide conflict or are inconsistent, the more restrictive shall control.

(b) No Trucks, etc. No trucks, trail bikes, recreational vehicles, snowmobiles, campers, trailers, boats or boat trailers or vehicles other than passenger vehicles or pickup or utility trucks with a capacity of one (1) ton or less shall be parked, stored or in any manner kept or placed on any Dwelling Unit or street within the Properties except as permitted under the Development Plan and the Development Guide or in a closed garage. No skimobile or recreational vehicle powered by an internal combustion engine may be operated within the Properties except for purposes of ingress and egress. Use of golf carts shall be subject to rules and regulations adopted by the Board, subject to the prior written approval of the Golf Club and the owner of the Country Club Course Parcel, provided that the rules and regulations regarding use of golf carts shall remain the same as those existing prior to the date of this Declaration and

Agreement if either the Golf Club or the owner of the Country Club withholds its approval. This restriction shall not, however, be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing service to any of said Properties.

(c) Excavating. No excavation shall be made except in connection with improvements approved as herein provided. Upon completion of such construction, exposed openings shall be backfilled and disturbed ground shall be graded and landscaped.

(d) No Wells. No well for the production of or from which there is produced water, oil or gas, shall be dug nor storage tanks or reservoirs, nor any installation of power, telephone or other utility line (wire, pipe or conduit) be made or operated anywhere on the Properties except water wells and works operated by the District, public agencies, or duly certified public utility companies; provided, however, that the foregoing shall not prevent drilling or installation of additional water wells by the District.

(e) No Signs. No sign of any kind shall be displayed to the public view on or from any Dwelling Unit designated for residential use on the Development Plan, except signs permitted under the Development Guide or approved by the Design Review Committee.

(f) Animals and Pets. No animals, livestock, insects, or poultry of any kind shall be kept, raised or bred on or in any Dwelling Unit other than dogs, cats or other household pets in such numbers as not to constitute a nuisance. No horses, mules, burros or other animals shall be ridden on any roads or trails within the Properties except such trails as are designated by the Board for equestrian use. All dog runs, kennels and fenced-in areas for the confinement of permitted animals shall be maintained in a location not visible from any other Dwelling Unit, the Common Area or the Village Golf Courses.

(g) Drainage. No Owner shall do any work, construct any improvement, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Dwelling Units or Common Area as established in connection with the approval of the final plat maps applicable to the Properties, except to the extent such alteration in drainage pattern is approved in writing by the Design Review Committee, the Board, any public authorities having jurisdiction, and the Golf Club where the drainage affected serves the Golf Club or is utilized by it in any way, or the owner of the Country Club Course Parcel where the drainage affected

serves the Country Club Course Parcel or is utilized by it in any way.

(h) Garbage and Trash. No Lot shall be used or maintained as a dumping ground for rubbish. All trash, garbage or other waste receptacles shall be maintained in good, clean condition and (exception collection days) in a location not visible from any other Dwelling Unit, the Common Area or the Village Golf Courses. The containers shall be made of a material which does not emit excessive noise during handling.

(i) Outside Storage. No furniture, fixtures, appliances, or other goods and chattels not in active use shall be stored in any building or open area or on any Lot in such manner that such material is visible from the improvements constructed on a contiguous Lot, from the Common Area or the Village Golf Courses, unless previously approved by the Design Review Committee. Construction materials shall not be stored on any Lot for a period exceeding thirty (30) days prior to commencement of construction.

(j) No Tents or Outbuildings. No mobile home, tent, shack or other outbuilding shall be kept upon any Lot or in any street within the Properties except in connection with work of construction diligently pursued. No swing set or other large-scale recreational equipment shall be maintained on any Lot in an area not first approved by the Design Review Committee.

(k) Compliance With Laws. Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable statutes, ordinances, administrative rulings or regulations pertaining to such Owner's Dwelling Unit.

(l) No Outside Clotheslines. No laundry or wash shall be dried or hung outside any Building

(m) Parking and Auto Repair. No resident shall park any automobiles in any street or upon any Lot except within garages, carports, or designated parking areas. No work of automobile repair shall be performed on any Lot or on the Common Area in areas visible from any other parcel, the Common Area or the Village Golf Courses, except in emergency cases.

(n) Antennae. No exterior antennae shall be permitted without the prior approval of the Design Review Committee. No activity shall be conducted on any Lot which materially interferes with television or radio reception on any other Lot.

(o) Work Affecting Exterior Appearance. No work shall be undertaken (other than routine maintenance and repair) which may result in changes in the exterior appearance of any Building or Dwelling Unit (including, but without limitation, erection of fences, planting of shrubs or installation of paving, or other cement flatwork) without the prior written consent of the Design Review Committee. Window hangings, draperies, awnings and the backings for all draperies and curtains visible from other Lots, Common Area or the Village Golf Courses shall be a color approved by the Design Review Committee.

(p) Outside Burning. There shall be no exterior fires, except barbeque, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in improved areas designated for such purposes. No Owner or Owners shall permit any condition on such Owner's Lot which creates a fire hazard or is in violation of fire prevention regulations.

(q) Preservation of Trees and Shrubs. No trees or shrubs shall be removed from any Lot without the prior consent of the Design Review Committee.

(r) Maintenance of Building. Each Owner of each Lot shall maintain the Building or Buildings upon each Lot such Owner owns, including walkways and paving, in good condition, making all appropriate repairs and replacements as often as the same shall become necessary. In the case of Cluster Lots, the obligation shall be the joint and several obligation of all Owners within the Project and shall be performed by the Project Association.

(s) Maintenance of Landscaping. Each Owner of each Lot and each Additional Property Owner shall maintain the landscaping upon such Owner's Lot or such Additional Property Owner's portion of Additional Property in good condition. Each Owner and each Additional Property Owner shall diligently maintain, cultivate, husband, protect and preserve the shrubs and trees upon the Lot of the Owner or the portion of Additional Property of the Additional Property Owner, including, but without limitation, removal of dead branches, dead brush and performance of other tasks calculated to remove or eliminate material which constitutes or creates a fire hazard. Each Owner and each Additional Property Owner shall cooperate with the Association in its brush clearing and fire protection husbandry program for reduction of fire hazard on Common Areas and Dwelling Units. In the case of Cluster Lots, the obligation shall be the joint and several obligation of all Owners within the Project and shall be performed by the Project Association. Where required by the Design Review Committee, vegetable and other gardens shall be screened so as not to be visible from any Dwelling Unit, the Common

Area or the Village Golf Courses.

(t) Insurance. All Owners shall maintain insurance with respect to their Dwelling Units and all improvements thereon in amounts and insuring against risks and hazards in accordance with insurance standards from time to time established by the Board with notice to the Owners. In the case of Cluster Lots, the obligation shall be the joint and several obligation of all Owners within the Project and shall be performed by the Project Association.

(u) Noise. No exterior horn, whistles, bells or other sound devices except security devices used exclusively to protect the security of Commercial Lots, Custom Lots or Cluster Lots and improvements located thereon shall be placed or used on any Commercial Lot, Custom Lot, Cluster Lot or Common Area.

(v) Outside Lighting. All exterior lighting installed or maintained on any residential building shall be placed so that the light source is not visible from the improvements on a neighboring Custom Lot, Cluster Lot, Common Area, the clubhouse located on the Golf Course Parcel or any clubhouse to be located on the Country Club Course Parcel, except such light sources as the Design Review Committee shall approve by variance or special exception. The Association may establish various standards for exterior lighting including, without limitation, standards for hue and intensity, but such standards shall be subject to the approval of the Design Review Committee. In the case of Custom Lots, all driveway entrances shall be lighted in the manner established by the Design Review Committee, and the main entrance of all Dwelling Units which have been improved shall be kept lighted during all hours of darkness.

(w) No Obstruction. There shall be no obstruction of the pedestrian walkways located upon any Lot for purposes of circulation of foot traffic or any interference with free use thereof except such obstruction as may be reasonable required in connection with repairs of such walkways. The Members, their tenants, licensees and guests are granted nonexclusive easements to use all of the pedestrian walkways within the Properties. Use of all the walkways shall be subject to regulations by rules adopted by the Association and furnished in writing to the Members. The Association shall promptly take such action as may be necessary to abate or enjoin any interference with or obstruction of the pedestrian walkways contrary to the provision hereof and shall have a right of entry for purposes of removing the same, and any costs incurred by the Association in connection with such abatement, injunction or corrective work shall be specially assessed to the Owner or Owners responsible therefor. Free use of the

pedestrian walkways and free circulation of foot traffic are essential elements of the Development Plan.

(x) Camping and Picnicking. No camping or picnicking shall be allowed within the properties except in areas designated for such purposes.

(y) No Subdivision. No Lot shall be subdivided or utilized for more than one home site without the prior approval of the Design Review Committee, and applications for such approval shall not be favored in the absence of extreme hardship or extraordinary circumstances. The foregoing shall not be deemed to disfavor Lot line adjustments which do not result in an increase in the number of building sites and which are made to accommodate building plans approved by the Design Review Committee. The foregoing restriction shall not apply to Cluster Lots which may be subdivided to carry out any plan of improvement established by an Additional Property Owner and approved by the Design Review Committee.

(z) Provisions For Fire Protection And Security. Improvements on each Lot shall be constructed in a manner which will accommodate connection with a security and cable television system for central service under a master service contract or central, computer-controlled monitoring program for security and fire protection purposes to accommodate and connect with the system designated by the Association. Each residential unit shall be equipped with internal fire suppression sprinklers and smoke detectors at such standards as are established from time to time by the Design Review Committee. All roofs composed of combustible materials shall be equipped with an exterior sprinkler system for fire suppression purposes. The Owner of each Dwelling Unit shall participate in and be a part of the security system or systems from time to time established by the Association, making such improvements to such Owner's Dwelling Unit as may be required to participate fully in the designated system.

14. Sales Models or Offices. Notwithstanding any provision to the contrary herein contained, any Owner of a Cluster Lot or any Owner of at least ten (10) Custom Lots shall be allowed to use Dwelling Units designated by the Owner and approved by the Design Review Committee as sales and lease models or offices, conducting therein through agents or employees sales or development activities customarily associated with model units. Approval of the Design Review Committee shall be given by the same process as that described in paragraph 15(d) with respect to initial applications for improvement. In addition, such Owner described in this paragraph may maintain such signs as may be required to advertise Dwelling Units for sale and to direct prospective purchasers and lessees to the sales and lease models, subject to the approval of the Design Review Committee as to the form, content and location of the signs.

15. Design Review Committee.

(a) Composition of Design Review Committee. Five (5) persons shall be appointed to act as a Design Review Committee and perform the functions set forth herein. Each appointee must be qualified to serve on the Design Review Committee. Initially, the Association shall be entitled to appoint one (1) of the five members of the Design Review Committee, which individual shall be selected by a vote of the Members holding Class A voting rights only. In addition, the Land Company and CPV each shall be entitled to appoint one (1) member, and Fidelity shall be entitled to appoint two (2) members. Each of the Land Company, CPV, and Fidelity is sometimes known herein as an "Appointing Entity." At such time as an Appointing Entity owns or has the right to develop fewer than fifty (50) Dwelling Units, such Appointing Entity shall no longer be entitled to appoint any member to the Design Review Committee, and the member or members appointed by such Appointing Entity must resign. At such time as a member of the Design Review Committee selected by an Appointing Entity must resign as a result of such Appointing Entity having reduced its ownership of or right to develop Dwelling Units, the vacancy thus created thereafter shall be filled by the Association in the manner provided above. Each of the Association, the Land Company, CPV and Fidelity shall have the sole right to appoint, replace and remove its appointee or appointees to the Design Review Committee. Each appointee shall serve at the pleasure of the entity that appointed him or her. The right to appoint a member to the Design Review Committee described in this paragraph 15(a) may be pledged in a Mortgage made by the Appointing Entity as grantor thereunder in accordance with a pledge of all Property then owned by such Appointing Entity. The right to appoint a member to the Design Review Committee may be assigned by an Appointing Entity in connection with the conveyance of all or substantially all Property then owned by such Appointing Entity.

(b) Addresses of Design Review Committee Members. The address of the Design Review Committee shall be at the address of the principal office of the Association. The current record of the names, qualifications and business addresses of the members of the Design Review Committee shall be kept there. The Design Review Committee shall meet at the convenience of the members thereof and as often as necessary to transact its business, acting on the votes of three (3) out of five (5) members thereof. Applicants for Design Review Committee action may, but need not, be given an opportunity to be heard in support of their application.

(c) Applications, Standard of Review and Action by Design Review Committee. Applications for Design Review Committee approval, the standards by which such applications shall be reviewed and the procedures for review shall be

controlled by the Design Guide. The Design Review Committee shall not have the authority to approve any applications for projects that would include significantly different designs or materials from those permitted in the Design Guide without amending the Design Guide, as hereinafter provided. A true and correct copy of the Design Guide shall be maintained at all times at the office of the Association and each Owner and Additional Property Owner shall be entitled to a copy thereof upon written request and payment of the copying costs.

(d) Mechanism of Approval. When an application is made to the Design Review Committee for initial improvement of an undeveloped Custom Lot, Cluster Lot or Commercial Lot, and the owner of such Custom Lot or Cluster Lot or the owner of such Commercial Lot is an Appointing Entity or obtained title to the same from an Appointing Entity, then the member or members of the Design Review Committee who were appointed by that Appointing Entity (i.e., if such Appointing Entity still has the right to representation on the Design Review Committee) shall be entitled to a total of three (3) votes for the purposes of voting on the approval of that application, and the remaining members of the Design Review Committee shall be entitled two (2) votes among them for such purpose, to be allocated on a pro rata basis. If such Appointing Entity no longer has representation on the Design Review Committee, and in all other instances, each member of the Design Review Committee shall be entitled to one (1) vote each, and approval of such applications shall be given by majority vote of the Design Review Committee.

(e) No Design Responsibility. Neither the Design Review Committee nor any member or agent thereof, or any of the Appointing Entities shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

(f) Limitations. Notwithstanding anything to the contrary here in contained, any work performed upon any Lot or Commercial Lot which required the prior approval of the Design Review Committee shall be deemed approved unless an action to enjoin or abate the same has been commenced by delivery of written notice to the Owner by the Design Review Committee within one hundred twenty (120) days of the date when the Design Review Committee acquires actual knowledge or notice of the commencement or performance of such work.

(g) Amendments to the Design Guide. All amendments and changes to the Design Guide must be approved by four (4) members of the Design Review Committee. In connection with the approval of an amendment or change to the Design

Guide all members of the Design Review Committee shall have one (1) vote.

16. Reciprocal Easements and Restrictions Between the Village Golf Courses and Lands of the Owners and the Additional Property Owners.

(a) Grant of Easements by the Owners and the Additional Property Owners to Golf Club and the Owner of the Country Club Course Parcel. The Owners and the Additional Property Owners grant to the owners of the Village Golf Courses the following nonexclusive easements:

(1) The right of ingress and egress over, across and along streets, roadways, pedestrian walkways, vehicular paths and other accessways from time to time established by the Owners or the Additional Property Owners for access between either of the Village Golf Courses (and all part thereof) and the public streets, roads, the private roadways, walkways and accessways established from time to time by the Owners or the Additional Property Owners and made part of Common Area, the use thereof to be consistent with the nature of the improvement;

(2) The right to utilize and make connection with: (i) utility services from time to time established within the Common Area and; (ii) dedicated or granted public utility easements where established adjacent to or contiguous with or underneath any boundary of either of the Village Golf Courses;

(3) The right to utilize for typical golf course play and marking of “out of bounds” signs the area designated “Golf Course Setback” either on the final plat map of any portion of the Properties with respect to both Lots and Common Area (where applicable) as part of the Village Golf Courses, or on plat maps, site plans or diagrams maintained by the Design Review Committee, but in no event shall the Golf Course Setback be less than twenty-five (25) feet unless such setback is platted as such on a final plat map, which has been consented to by the Golf Club for Additional Property contiguous with the Golf Course Parcel or by the owner of the Country Club Course Parcel for Additional Property contiguous with the Country Club Course Parcel. No permanent improvements in or alterations of the Lots and Common Areas within the Golf Course Setback shall be made or allowed (other than “out of bounds” markers or signs consistent with those utilized elsewhere in connection with the Village Golf Courses), and no portion thereof shall be incorporated in any fairway, trap, water hazard, green or paved cart path. All areas lying within the out-of-bounds stakes shall be maintained by the Golf Club (with respect to the Golf Course Parcel) and the owner of the Country Club Course

Parcel (with respect to the Country Club Course Parcel), with the balance of the Golf Course Setback maintained by the Owner of Additional Property Owner affected thereby. Nothing shall be placed or maintained in the Golf Course Setback which shall interfere with utilization thereof as a playable part of either of the Village Golf Courses or an area for gallery use; and

(4) The right to utilize areas of the Property and Additional Property lying within twenty-five (25) feet of the edge of the Village Golf Courses as an area for observation by tournament galleries. No such areas shall be improved except as permitted under paragraph 16(a)(3) above. The foregoing grant of easement is made for use by Golf Club and Country Club in conjunction with tournaments and special events on the Village Golf Courses by members, invited guests and members of the public. Any installations made in connection with this grant of easement shall be removed by the Golf Club or the Country Club (whichever has made use thereof), and all damage repaired promptly upon conclusion of each such tournament and special event.

(5) The right to utilize areas of the Property and Additional Property contiguous to and lying within twenty-five (25) feet of the edge of the Village Golf Courses for temporary, aboveground utility lines for use solely in conjunction with tournaments and special events on the Village Golf Courses. Such use shall not interfere with or damage the primary use of the Property or Additional Property so affected, and the utility lines and installations shall be removed by the Golf Club or the Country Club (whichever has made use thereof), and all damage repaired promptly upon conclusion of each such tournament and special event.

The foregoing grants of easement are made for use by the owners of the Village Golf Courses for golf course and related purposes, for the members and invited guests thereof and for maintenance and service personnel and employees of the Golf Club and the Country Club related to and associated with the implementation of such use. Location and use of specific easements must be reasonably acceptable to Golf Club or the owner of the Country Club Course Parcel, as appropriate (depending on the affected parcel) and the relevant Owner or Additional Property Owner. Any attempt to utilize the easements for expanded or intensified use of the Village Golf Courses shall constitute a surcharge thereof and an excessive burden upon the easements herein created and may be remedied by injunctive relief or an award of damages. If an easement granted herein affects Additional Property which is subsequently platted, the utility and access easements provided for on such plat shall govern, and the easements provided for herein shall no longer have force or effect.

(b) Grant of Easements by Golf Club and the owner of the Country Club

Course Parcel to Owners and Additional Property Owners. Golf Club and the owner of the Country Club Course Parcel grant to Owners and Additional Property Owners nonexclusive easements as follow:

(1) The right in ingress and egress to and from the Property or Additional Property over, across and along the roadways, pedestrian walkways and vehicular accessways and paths located on the Village Golf Courses; provided, however, that the foregoing grant shall not include easements to utilize golf cart paths, pedestrian walkways, driveways and service roads on the Village Golf Courses established solely for use in connection with golf play, maintenance of the Village Golf Courses or which constitute driveways for internal circulation purposes;

(2) The right to utilize and make connection with utility installations located within the Village Golf Courses and intended to provide service across and through either of the Village Golf Courses for the benefit of any part of the Property or Additional Property; provided, however, that all such utilization and connection shall be subject to control by the Golf Club or Country Club, as affected thereby, and no surface disturbance or interference with the use of either of the Village Golf Courses for its primary purpose shall be allowed; and

(3) An easement over the Village Golf Courses to the extent reasonably necessary for the purpose of providing the security services referred to in paragraphs 5(g) and 6(h); provided, however, that the foregoing easement shall not include the right to create or establish improvements upon either of the Village Golf Courses.

The foregoing grants are made for the benefit of the Owners and Additional Property Owners and their successors in connection with use of the Property or Additional Property by the Owners or the Additional Property Owners, members, invitees, licensees, employees and contractors thereof for use pursuant to the terms of the Development Plan. Location and use of specific easements must be reasonably acceptable to both Golf Club (with respect to the Golf Course Parcel) or the owner of the Country Club Course Parcel (with respect to the Country Club Course Parcel) and the relevant Owner or Additional Property Owner. Any attempt to utilize the easements for expanded or intensified use of the Village Golf Courses shall constitute a surcharge thereof and an excessive burden upon the easements herein created and may be remedied by injunctive relief or an award of damages. If an easement granted herein affects Additional Property which is subsequently platted, the utility and access easements provided for on such plat shall govern, and the easements provided for herein shall no longer have force or effect.

(c) Maintenance.

(1) The Association shall maintain in good condition and repair all roadways, accessways, walkways and utility installations with respect to the Developed Property to which the Village Golf Courses easements apply pursuant to paragraph 16(a)(1), making such improvements to and replacements of said easement areas and the component parts thereof as may be required from time to time to keep them functional and operative for the uses and purposes of easement grants.

(2) The Additional Property Owners whose Additional Property is directly burdened thereby shall maintain in good condition and repair all roadways, accessways, walkways and utility installations to which the Village Golf Courses easements apply pursuant to paragraph 16(a), making such improvements to and replacements of said easement areas and the component parts thereof as may be required from time to time to keep them functional and operative for the uses and purposes of the easement grants.

(3) Golf Club shall maintain in good condition and repair all roadways, access ways, and walkways to which the easements burdening the Golf Course Parcel granted pursuant to paragraph 16(b) apply, making such improvements to and replacements of said easement areas and the component parts thereof as may be required from time to time to keep them functional and operative for the uses and purposes of the easement grants.

(4) Country Club shall maintain in good condition and repair all roadways, accessways, and walkways to which the easements burdening the Country Club Course Parcel granted pursuant to paragraph 16(b) apply, making such improvements to and replacements of said easement areas and the component parts thereof as may be required from time to time to keep them functional and operative for the uses and purposes of the easement grants.

(d) Restriction On Use Of Village Golf Courses

(1) Specific Use Restrictions.

(i) The Village Golf Courses shall be utilized for the maintenance and operation of a golf course, country club, and purposes ancillary and incidental thereto. No other use shall be permitted of the Village Golf Courses. Specifically, but without limiting the generality of the foregoing, no

construction of any permanent structural improvements shall be made on any portion of the Village Golf Courses other than improvements necessary, desirable or ancillary to their primary use as golf courses, country clubs, and for related purposes.

(ii) No permanent residences shall be established on the Village Golf Courses except for residences of security and maintenance personnel or other employees of the Golf Club (in the case of the Golf Course Parcel) whose residence upon the Golf Course Parcel is essential or desirable (in the opinion of the Golf Club) to the preservation and protection thereof for its intended use and purpose; residences of security and maintenance personnel or other employees of the Country Club (in the case of the Country Club Course Parcel) whose residence upon the Country Club Course Parcel is essential or desirable (in the opinion of the Country Club) to the preservation and protection thereof for its intended use and purpose; residential and rental units for use by guests and members of Golf Club (in the case of the Golf Course Parcel), or guests and members of Country Club (in the case of the Country Club Parcel), subject to the prior approval of all such structures by the Design Review Committee.

(iii) No commercial activity shall be conducted on the Village Golf Courses except as a service to the members of the Golf Club and their guests, in the case of the Golf Course Parcel and the members and guests of the Country Club, in the case of the Country Club Course Parcel. No enterprise or business or other activity shall be conducted therefrom which shall be open to members of the public generally or result in a general solicitation to members of the public; provided, however, that nothing here in contained shall be deemed to prevent the conduct of special tournaments or events; and further provided that nothing herein contained shall be deemed to prevent the owner of the Country Club Course Parcel from offering for sale to the general public interim or temporary memberships for use of the Country Club Course Parcel on terms and conditions acceptable to the owner of the Country Club Course Parcel in its sole discretion.

(2) No Fences. The Village Golf Courses shall not be separated from any part of the Property or Additional Property by fencing nor any other physical division constructed for or intended to impede or discourage access; provided, however, that the foregoing shall not be construed to prevent construction on the Village Golf Courses of fencing or other physical division around enclosed equipment and

storage areas and decorator stone or other architectural fencing or wall material as an appurtenance of the clubhouse or any other improvement; and provided, further, that all or portions of the Village Golf Courses may be fenced if such fencing is necessary or desirable to preserve security in view of the inability or unwillingness of the Association and public agencies to provide adequately for such security as contemplated herein.

(3) Accounting For Costs. In addition to the costs it shall incur in connection with performance of the obligations on its part to be performed pursuant to the provisions of this paragraph 16, Golf Club or Country Club, as appropriate, shall pay to the Association the actual cost plus fifteen percent (15%) allowance for administrative overhead of all goods and service actually provided to each entity by the Association. Such amounts shall be due within thirty (30) days after presentation of the proper invoice therefore, together with such accounting for the costs as either entity may reasonably request. Any amount not paid when due shall accrue interest at the rate specified in paragraph 8(c) above, and if any amount is past due for sixty (60) days or more, then the Association shall be entitled to suspend services until the past due amount has been paid in full. The Association shall provide to each entity a full, complete and accurate accounting for all costs chargeable to such entity hereunder. Golf Club and Country Club and their respective agents, employees and accountants shall have the right, at reasonable notice, to have access to the Association's books and records and to conduct an audit thereof to determine the propriety of any amounts charged to such entity by the Association during any year and the results of such audit disclose that such entity hereunder. If either entity conducts an audit of the Association's books and records with respect to charges made to such entity by the Association during any year and the results of such audit disclose that such entity has been overcharged by an amount exceeding five percent (5%) of the amount actually owed, the Association shall pay, in addition to the amount of such overcharge, the reasonable cost of the audit so conducted. The right of either entity to such an audit with respect to any calendar year shall expire unless exercised within twelve (12) months after the end of such calendar year, and the right to such an audit may be exercised only once with respect to any calendar year.

17. Damage and Destruction Affecting The Common Area. If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) Minor Casualty. If:

(1) the insurance proceeds initially offered or paid by the insurer do not exceed the sum of Twenty Thousand Dollars (\$20,000.00); and

(2) the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than Twenty Thousand Dollars (\$20,000.00);

(b) the insurance proceeds shall be paid to the Association, to be held and disbursed as hereinafter provided. The Association shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original condition thereof. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Association shall levy a Special Assessment on all Members to make up any deficiency which shall be levied in the proportions for which Members are assessable as herein provided and which shall not be subject to the approval of a majority of each of the Class A Members and the Class B Members as provided in paragraph 7(b) hereof.

(c) Major Casualty. If subparagraph (a) is not applicable:

(1) All insurance proceeds shall be paid to an insurance trustee designated by the Board to be held for the benefit of the Members as their respective interests shall appear;

(2) The Board shall obtain firm bids (including a performance bond premium) from two or more responsible contractors to rebuild the Common Area substantially in accordance with its original condition. As soon as the Board has obtained bids, it shall call a special meeting of the Members to consider the bids. At such meeting, the Members may, by vote of sixty-six and two-thirds percent (66-2/3%) of the total voting power entitled to vote at that meeting, elect to reject all of such bids. Failure to reject all such bids shall authorize the Board to accept the bid it considers most favorable;

(3) If all such original bids are rejected, the Board may prepare and present to the Members various alternative plans for repair and reconstruction. Before presenting any such plan to the Members, however, the Board shall obtain approval of the Design Review Committee and obtain firm bids (including a performance bond premium) from two or more responsible contractors to perform the work of repair or reconstruction in accordance with each such plan. Such bids shall be considered at a meeting of the Members as soon as possible after they have been obtained. The Members may, by sixty-six and two-thirds percent (66-2/3%) vote of the total voting power entitled to vote at that meeting, elect to reject all of such bids, or by fifty percent (50%) vote of

the total voting power entitled to vote at that meeting, elect to reject all such bids involving a total cost exceeding the amount of available insurance proceeds by more than Twenty Thousand Dollars (\$20,000.00). Failure to reject all of such bids shall authorize the Board to accept the bid it considers most favorable. Rejection of all bids which exceed available insurance by amounts exceeding Twenty Thousand Dollars (\$20,000.00) shall constitute a directive to accept the best bid which does not exceed said amount;

(4) If a bid is accepted, the Board shall levy a Special Assessment against the Members in the proportion for which they are assessable hereunder to make up any deficiency between the total insurance proceeds and the contract price for such repair or rebuilding, and such Special Assessment and all insurance proceeds whether or not subject to liens or mortgages, shall be paid to said insurance trustee to be used for such rebuilding. If any Member shall fail to pay the Special Assessment within thirty (30) days after the levy thereof, the Board shall make up the deficiency by payment from the Maintenance Funds, and such deficiency shall be treated as would any other unpaid Assessment, as described in paragraph 8 hereof. Upon payment, the Board shall let the contract to the successful bidder;

(5) If no such bid is accepted within eighteen (18) months after the date such damage or destruction occurs, then the Board shall use any insurance proceeds to demolish and remove all damaged or destroyed structures or improvements from the Common Area and level and landscape the sites thereof. In the event that all of said insurance proceeds are not required to perform this work, the excess not so required shall be deposited in the Maintenance Fund. In the event the insurance proceeds are not sufficient to accomplish such demolition and removal and site finishing, then the Board shall levy a Special Assessment against the Members to make up the deficiency, which Special Assessment shall not be subject to the approval of a majority of each of the Class A Members and the Class B Members as provided in paragraph 7(b) hereof.

18. Damage to or Destruction of Buildings.

(a) Reconstruction. In the event of damage or destruction by fire or other casualty affecting a Building, the Owner or Owners thereof shall, within six (6) months thereafter either:

(1) diligently commence to rebuild the same in accordance with the terms hereof, or

(2) clear and level the Lot, removing all wreckage, debris and remains of the building or buildings therefrom and leaving the same in a level, clean condition.

(b) Revisions. Upon reconstruction, the Building shall be rebuilt substantially in accordance with the original plans and specifications therefor; provided, however, that the exterior appearance thereof shall substantially resemble the appearance in form and color prior to such damage and destruction. Notwithstanding the foregoing, however, the Owner of such damaged Building may reconstruct or repair the same in accordance with new or changed plans and specifications with the prior written consent of the Design Review Committee.

19. Commercial Lots. An owner of a Commercial Lot shall not be a Member of the Association by virtue of such owner's ownership of such Commercial Lot, nor shall such an owner of a Commercial Lot be subject to Assessments based on ownership of such Commercial Lot. Notwithstanding the foregoing, all improvements to be constructed on any Commercial Lot shall be subject to the approval of the Design Review Committee, as provided in paragraph 15 hereof, and owners of Commercial Lots shall be required to comply with standards and restrictions set forth in the Design Guide, including without limitation, those pertaining to noise and outside lighting.

20. Mortgages' Rights. By execution hereof, The Friedkin Companies, a Texas corporation, BANK IV Wichita, N.A., a national banking association, Barclay's Bank PLC, New York Branch, by its attorney-in-fact, United States Fidelity & Guaranty Company, a Maryland corporation, First Capital Corporation, a Colorado corporation, Jack A. Vickers, and The J.A. Vickers Trust Estates and the J.A. Vickers Testamentary Trusts have accepted and approved the terms and conditions stated herein, and agree to be bound thereby.

21. Indexation. Notwithstanding any provision to the contrary contained herein, where any dollar amount is specified hereunder or in any document or instrument referred to or incorporated herein, the date of reference for the value thereof is December 30, 1988, and the amount thereof shall be subject to indexation to conform to variations in the purchasing power of the U.S. dollar by reference to the United States Department of Labor, Bureau of Labor Statistics Costs of Living Index (all Urban Consumers) for that region of which the Greater Denver Metropolitan Area forms a part, or such successor index for said area as may from time to time be established by the United States government as an index for determining variations in the purchasing power of the dollar. In the event that such index or indices are discontinued, the dollar amounts specified herein shall be indexed with references to the

mechanism for adjusting payment of benefits under the Social Security system.

22. Inspection and Audit of Books and Records. Any Member may, at any reasonable time and at such Member's own expense, inspect the books and records of the Association and, in addition, cause an audit or inspection to be made of the books and records of the Association, and the Association shall furnish to each Member a copy of the audit of its books and records performed by a certified public accountant.

23. Amendment. The provisions of this Declaration and Agreement may be amended by an instrument in writing signed and acknowledged by all owners of the Property except those who are Members of the Association. The Association shall approve an amendment hereto by the majority of the members of the Board certifying under penalty of perjury that the amendment set forth therein was duly adopted at a duly called meeting of the Members by vote of Members entitled to exercise sixty-six and two-thirds percent (66-2/3%) of each class of the voting power at that meeting, except where a greater percentage or different vote is required hereunder. This Declaration and Agreement shall become effective immediately upon its recordation in the Records.

24. Attorney's Fees. In any action to enforce the provisions hereof, whether legal or equitable, the prevailing party shall be entitled to reasonable attorneys' fee as fixed by the Court.

25. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

26. Binding Effects. The terms, covenants and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The provisions hereof shall constitute covenants running with the land, burdening and benefitting each and every part of the Property and every interest therein. In addition, the provisions hereof shall be enforceable in equity as equitable servitudes upon the land and as covenants in an agreement between Owners.

27. Right to Cure.

(a) Where Association has an obligation to perform any act of maintenance, preservation, construction, alteration or repair hereunder and fails to perform such work within thirty (30) days after written notice of the need to perform the same and demand for such performance from the Golf Club or the Country Club (or fails to commence to perform such work within said thirty (30) day period and diligently proceed to complete the same where completion cannot be accomplished within said thirty (30) day period) then the Golf Club or the Country Club (whichever has made the demand) shall have the right to enter upon the easement area affected and perform the

work for the account of Association. All costs and expenses incurred in connection therewith shall be paid by Association upon demand, and shall accrue interest at the maximum rate permitted by law, but in no event at a rate greater than one and one-half percent (1 ½%) per month; provided, however, that the Association may elect to offset any amounts owing the Golf Club or the Country Club pursuant to this paragraph against amounts owed to the Association by the Golf Club or the Country Club, respectively, pursuant to paragraph 16(d)(13) hereof.

(b) Where the Additional Property Owners have an obligation to perform any act of maintenance, preservation, construction, alteration or repair hereunder and fail to perform such work within thirty (30) days after written notice of the need to perform the same and demand for such performance from the Association, the Golf Club or the Country Club (or fail to commence to perform such work within said thirty (30) day period and diligently proceed to complete the same where completion cannot be accomplished within said thirty (30) day period), then the Association, the Golf Club or the Country Club (whichever has made the demand) shall have the right to enter upon the easement area affected and perform the work for the account of the Additional Property Owners. The Association also shall have the right after thirty (30) days' written notice, to enter upon the easement area affected and perform any work that has been demanded by the Golf Club or the Country Club for the account of the Additional Property Owners. All costs and expenses incurred in connection therewith shall be paid by the Additional Property Owners upon demand, and shall accrue interest at the maximum rate permitted by law, but in no event at a rate greater than one and one-half percent (1 ½%) per month.

(c) Where Golf Club has an obligation to perform any act of maintenance, preservation, construction, alteration or repair hereunder and fails to perform such work within thirty (30) days after written notice of the need to perform the same and demand for such performance from the Owners or the Additional Property Owners (or fails to commence to perform such work within said thirty (30) day period and diligently proceed to complete the same where completion cannot be accomplished within said thirty (30) day period), then the Owners or the Additional Property Owners (whichever has made the demand) shall have the right to enter upon the easement area affected and perform the work for the account of Golf Club. The Association also shall have the right, after thirty (30) days' written notice, to enter upon the easement area affected and perform the work for the account of the Golf Club. All costs and expenses incurred in connection therewith shall be paid by Golf Club upon demand, and shall accrue interest at the maximum rate permitted by law, but in no event at a rate greater than one and one-half percent (1 ½%) per month.

(d) Where Country Club has an obligation to perform any act of maintenance, preservation, construction, alteration or repair hereunder and fails to perform such work within thirty (30) days after written notice of the need to perform the same and demand for such performance from the Owners or the Additional Property Owners (or fails to commence to perform such work within said thirty (30) day period and diligently proceed to complete the same where completion cannot be accomplished within said thirty (30) day period), then the Owners or the Additional Property Owners (whichever has made the demand) shall have the right to enter upon the easement area affected and perform the work for the account of Country Club. The Association also shall have the right, after thirty (30) days' written notice, to enter upon the easement area affected and perform the work for the account of the Country Club. All costs and expenses incurred in connection therewith shall be paid by Country Club upon demand, and shall accrue interest at the maximum rate permitted by law, but in no event at a rate greater than one and one-half percent (1 ½%) per month.

28. Interpretation. The provisions hereof shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and operation of the Properties. Failure to enforce any provision thereof shall not constitute a waiver of the right to enforce said provision or any other provisions hereof. In any conflict between the terms of these Restrictions and the terms of the Development Guide, the more restrictive shall control. In determining which of two interpretations shall be deemed "more restrictive," the restriction which prevents the greatest variety and intensity of use shall be deemed the most restrictive.

29. Conveyance in Lieu of Foreclosure. The certification of a Mortgagee to the Board that it has obtained any right of any Owner or any Additional Property Owner which, by the terms of this Declaration and Agreement, may be made subject to a Mortgage pursuant to a deed or conveyance in lieu of foreclosure shall be conclusive evidence as against the Board and all Owners that the transaction by which such certifying Mortgagee acquired title to the mortgaged property was in fact pursuant to a deed or conveyance in lieu of foreclosure.

30. Effect of Declaration and Agreement. This Declaration and Agreement supersedes and replaces in its entirety the Original Declaration, which shall be of no force or effect from the recording of this Declaration and Agreement in the Record.

31. Status of Founders. No principal of Founders (i.e., F.W. Baumgartner, Zach K. Brinkerhoff, Jr.; Samuel Butler, Jr.; Cortlandt Dietler; Raymond T. Duncan; L.C. Fulenwider, Jr.; Frederic C. Hamilton; J.B. Ladd; Robert L. Manning; Frederick R. Mayer; Jack Nicklaus; Nicholas R. Petry; Jack A. Vickers) shall become a Member unless or until such individual is the purchaser of Property other than that currently owned by such individual, the ownership of which would require him to become a Member.

When a Lot currently owned by any such individual is conveyed to a purchaser for value, such purchaser shall become a Member of the Association with Class A voting rights.

32. Additional Golf Course. CPV, its successors and assigns, reserve the right to designate on Property or Additional Property owned by CPV, its successors or assigns, an additional golf course, subject to the inclusion as such in the Development Plan, by an amendment thereto signed by CPV, its successors or assigns, and by the Owners who own the Property contiguous with such additional golf course and/or the Additional Property Owners who own the Additional Property contiguous with such additional golf course, and approved by the Board of County Commissioners of the County of Douglas, State of Colorado. Upon the inclusion of such additional golf course on the Development Plan, CPV, its successors or assigns, as owner of such additional golf course, shall have the same benefits, burdens, rights and obligations as those granted to or imposed on Golf Club and the owner of the Country Club Course Parcel in paragraph 16 of this Declaration and Agreement, and the Owners and/or Additional Property Owners who own the Property or Additional Property contiguous with such additional golf course shall have the same benefits, burdens, rights and obligations as those granted to or imposed on the relevant Owners and Additional Property Owners described in paragraph 15 hereof.

33. Counterparts. This Declaration and Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed an original, but all counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument this 2nd day of May, 1989.

(SEAL)

CASTLE PINES COMPANY,
a Colorado limited partnership,
general partner

By: Vickers Properties, Inc.,
a Colorado corporation
general partner

By: _____
Jack A. Vickers III
President