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**AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CREEKSIDE TOWNHOMES**

THIS AMENDED AND RESTATED DECLARATION is executed this 13th day of August, 1996, on behalf of Creekside Townhomes Owners Association, Inc., a Colorado nonprofit corporation, with the intention that it supersede and restate the Declaration recorded September 29, 1994 in Book 1220 at page 1996 of the records of Douglas County, State of Colorado.

RECITALS

I. The Declaration of Covenants, Conditions and Restrictions for Creekside Townhomes (the "Declaration") was executed by the Declarant, Stroh Ranch Development Limited Partnership with offices at 6735 Stroh Road, Parker, Colorado 80134, on the 19th day of September, 1994 and recorded on the 29th day of September, 1994 in Book 1220 at page 1996 of the records of Douglas County, State of Colorado.

II. This Amended and Restated Declaration was duly approved by not less than sixty-seven percent (67%) of the votes in the Association at a meeting held on Wednesday, July 17, 1996.

III. The purpose of this Amended and Restated Declaration is to supersede in all respects the Declaration recorded in Book 1220 at page 1996 of the records of Douglas County, State of Colorado, on September 29, 1994.

**ARTICLE 1
SUBMISSION OF REAL ESTATE; DEFINED TERMS**

Section 1.1 Submission of Real Estate. The Declarant, owner in fee simple of the real estate described on Exhibit A, hereby submits the real estate, together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon (collectively, the "Real Estate") to the provisions of the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, et seq., as it may be amended from time to time (the "Act"). The Act, as so amended until repealed, shall remain applicable. Declarant further declares that all of the Real Estate shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Real Estate and be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Unit Owner. For purposes of the Act, the Common Interest Community shall be a Planned Community.

Section 1.2 Defined Terms. Each capitalized term not otherwise defined in this Declaration, the Master Declaration, or in recorded plats or maps for this Planned Community shall have the meaning specified or used in the Act. To the extent that a conflict exists between a provision of the Master Declaration and that contained herein, the provision set forth in the Master Declaration shall control, but only to the extent necessary to avoid invalidating such provision. Provisions of the Act supersede all provisions in this Declaration and the Master Declaration.

ARTICLE 2 NAMES; DESCRIPTION OF REAL ESTATE; DEFINITIONS

Section 2.1 Association. Creekside Townhomes Owners Association, Inc., a Colorado nonprofit corporation, an association of Unit Owners as defined by the Act.

Section 2.2 Common Elements. The Real Estate within this Common Interest Community: (i) owned or leased by the Association, other than a Unit, shown as Tracts A and B on the Plat, and which shall be considered "Local Common Areas," as that term is defined by the Master Association, and (ii) Limited Common Elements as defined in Article 8 below. A brief description and location of the Common Elements, at the time this Declaration is recorded, are shown on Exhibit C-2.

Section 2.3 Common Expense Assessment(s); Assessment(s). In addition to the definition included in the Act, shall include late charges, attorneys' fees, fines and interest charged by the Association at the rate as determined by the Executive Board. As used in this Declaration, this term includes all charges levied for the benefit of the Association, including, but not limited to, (i) annual costs and expenses of the Association, (ii) large, single item expenditures of the Association, and (iii) charges against a particular Unit Owner and the Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by the Unit Owner or residents, guests, or invitees to a Unit.

Section 2.4 Design Review Committee. A three (3) member committee created by the Executive Board and whose members are appointed by the Executive Board, for the purpose of enforcing design guidelines and architectural controls over the real and personal property within the Common Interest Community and ensuring the proper use and appropriate development and improvement thereof. Such design guidelines and architectural controls shall be established by the Executive Board, specific to the Common Interest Community and supplement, but shall not invalidate, any design guideline, architectural control, or covenant of the Master Association.

Section 2.5 District. Cherry Creek South Metropolitan District No. 1, a quasi-governmental entity, which owns and operates certain recreational facilities located within the Master Association Area by virtue of that certain Restated Declaration of Covenants and

Conditions Concerning the Center at Creekside, recorded August 11, 1988 in Book 808 at page 117 of the records of Douglas County, Colorado.

Section 2.6 Expansion Area. All or a portion of the real property described on Exhibit B attached hereto and incorporated herein by reference, which pursuant to Article 6, may be included in the Real Estate.

Section 2.7 Governing Documents. Collective reference to those documents which govern the operation of the Association, including: (i) its Articles of Incorporation, (ii) its Bylaws, (iii) its Rules and Regulations, (iv) the Plat, and (v) this Declaration, as one or more of the same may be amended from time to time.

Section 2.8 Master Association. Stroh Ranch Community Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Section 2.9 Master Declaration. The Master Declaration of Covenants, Conditions and Restrictions for Stroh Ranch, Parker, Colorado, recorded March 18, 1988 in Book 782 at page 39 of the records of the Clerk and Recorder, Douglas County, Colorado, and all recorded amendments thereof.

Section 2.10 Master Association Governing Documents. Collective reference to the Master Association's articles of incorporation, bylaws, and rules and regulations, and the Master Declaration, all as may be amended from time to time.

Section 2.11 Names.

2.11.1 The name of this Common Interest Community is CREEKSIDE TOWNHOMES.

2.11.2 The name of the Association is CREEKSIDE TOWNHOMES OWNERS ASSOCIATION, INC.

Section 2.12 Party Walls. Each wall which is built as a part of the original construction of a Unit and placed on or about the horizontal or vertical boundary line between two Units. To the extent not inconsistent with the provisions of this Declaration and the Act, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2.13 Plat. The engineering survey of the Common Interest Community, commonly referred to as "Stroh Ranch Filing No. 5C," depicting and locating all of the Units and Common Elements which are or may be included in this Common Interest Community; approved by the Town of Parker and duly recorded on August 26, 1993 in the real property records of Douglas County, Colorado, under Reception Number 9339462. References to the Plat shall include any recorded amendments thereto.

Section 2.14 Real Estate. The Common Interest Community is located in the County of Douglas, State of Colorado. The Real Estate of the Common Interest Community is described on Exhibit A, as may be expanded to include additional property pursuant to Article 6.

Section 2.15 Unit. A physical portion of the Common Interest Community which is (i) designated for separate ownership and (ii) the boundaries of which are depicted on the Plat having both horizontal and vertical boundaries. The term Unit shall include the following, as each is defined by the Master Declaration: Owner Occupied Sites, Privately Owned Sites, and Residential Sites.

Section 2.16 Unit Exterior. All exterior surfaces within a Unit, including roof shingles and paper lining, gutters, downspouts, drainspouts, exterior siding, exterior of entry doors, windows, trim around the perimeter of doors and windows, exterior of garage doors, external vents and flues.

Section 2.17 Unit Owner. The Declarant, or any other Person who owns a Unit.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Authority. The business affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws, as amended from time to time.

Section 3.2 Powers; Duties.

3.2.1 The Association shall have all of the powers, authority and duties permitted pursuant to the Act, and insofar as are not otherwise specifically reserved to the Master Association.

3.2.2 The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Common Interest Community.

3.2.3 The Association shall have all of the powers, authority and duties necessary and proper to own, operate, manage, lease, encumber, maintain, repair, reconstruct, replace, improve, and otherwise deal with the Common Elements.

3.2.4 The Association shall be solely responsible for all maintenance, repair, replacement and reconstruction of Unit Exteriors, and shall pay the costs thereof, except for the following items which are the Unit Owner's sole responsibility: all glass surfaces, screens, interior vents and flues. However, in the event that the need for maintenance or repair of any portion of a Unit Exterior which the Association is required to

complete is caused through the willful or negligent act of a Unit Owner, or through the willful or negligent act of a resident of, or guest or invitee to a Unit, and without regard to which Unit Exterior is damaged, the cost of such maintenance or repair shall be added to and become part of the Assessment to which that Unit or Unit Owner is subject. Each Unit shall be subject to an easement in favor of the Association (including its agents, employees and independent contractors) for providing the maintenance, repair, replacement and reconstruction described in this Subsection 3.2.4 or elsewhere in this Declaration or the Act.

3.2.5 The Association may assign its future income, including its rights to receive Common Expense Assessments, upon the affirmative vote of the Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, at a meeting called for that purpose.

3.2.6 The Association, through its Executive Board, may establish such written design guidelines and architectural controls as it deems necessary to ensure the proper use, development and improvement of real and personal property within the Common Interest Community, and to appoint persons to serve on a Design Review Committee. Provided, however, such Design Review Committee shall take no action which obviates the obligation of each Unit Owner to specifically comply with the design guidelines, architectural controls, covenants, rules and regulations or the Master Association and its Architectural Control Committee.

Section 3.3 Declarant Control.

3.3.1 Powers; Turnover Date. The Declarant shall have the powers reserved in C.R.S. § 38-33.3-303(5) of the Act to appoint and remove officers and members of the Executive Board. The period of Declarant control terminates (the "Turnover Date") no later than the earlier of (i) sixty (60) days after conveyance of seventy-five percent (75%) of all Units in the ordinary course of business to Unit Owners who are not the Declarant; or (ii) two (2) years after the right to add new Units was last exercised; or (iii) two (2) years after the last conveyance of a Unit to a Unit Owner who is not a Declarant.

3.3.2 Executive Board Appointment. During the period of Declarant control:

(i) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(ii) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners

other than a Declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the Executive Board must be elected by Unit Owners other than Declarant.

3.3.3 At any time prior to the Turnover Date, the Declarant may relinquish the right to appoint and remove officers, but may require Declarant approval of specific actions of the Executive Board.

ARTICLE 4 UNITS

Section 4.1 Number of Units.

4.1.1 Initial Number of Units. The number of Units in the Common Interest Community at the time this Declaration is recorded is forty-one (41).

4.1.2 Maximum Number of Units. The maximum number of Units in the Common Interest Community is one hundred four (104), subject to the provisions of Article 6.

Section 4.2 Identification of Units. The identification of each Unit is shown on the Plat, and the number of each Unit which is within the Common Interest Community at the time this Declaration is recorded is shown on Exhibit C-1.

Section 4.3 Unit Boundaries. Upon substantial completion of a Unit, the boundaries will be located as shown on the Plat.

4.3.1 Depiction of the boundaries of each Unit shall include the following:

(i) Horizontal Boundaries -- a plane of elevation relative to a described benchmark that defines either a lower or an upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit; and

(ii) Vertical Boundaries -- all other limits of a Unit which are not specifically horizontal boundaries.

4.3.2 Discrepancies between the location of Unit boundaries as shown on the Plat and those of a Unit as constructed of up to ten (10) feet shall be considered insubstantial, shall have no adverse effect on the title of such Unit, and no amendment of the Plat shall be required.

Section 4.4 Easement for Encroachments. If any portion of a Unit encroaches upon any Common Element or adjoining Unit, a valid easement for such encroachment and for the maintenance of same, shall and does exist provided such easements do not exceed ten (10) feet within the boundaries of such Common Element or adjoining Unit; and such encroachments do not interfere with the enjoyment of the Common Element or the adjoining Unit. Similarly, if any portion of the Common Elements encroaches upon a Unit, a valid easement for the encroachment and for the maintenance of same, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or any Units affected thereby. Further, such easements shall be deemed to run with the land upon which the improvements may be found.

Section 4.5 Easement for Use and Access of the Common Elements. Except only in the case of Limited Common Elements, and subject to the rights, duties and powers of the Association as set forth in this Declaration and the Act, every Unit Owner shall have a non-exclusive right and easement (i) of access over, through and upon the Common Elements, and (ii) of enjoyment and use of the Common Elements, and such easements and rights shall be appurtenant to and pass with title each Unit.

Section 4.6 Easement for Utilities. In addition to such easements as may be shown on the Plat, each and every Unit is subject to an easement upon each Unit for installing, replacing, repairing, and maintaining common water, sewer and other utility lines. By virtue of this easement, it shall be expressly permissible for the utility companies or municipalities supplying such utility service or the Association to erect and maintain the necessary equipment within the Property and to affix, repair and maintain water and sewer pipes, gas, electric and telephone wires, circuits, conduits and meters. This easement and related obligations and duties shall be appurtenant to and pass with title to each Unit.

ARTICLE 5 SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

Section 5.1 Special Declarant Rights. Declarant hereby reserves the right, from time to time, for itself and its duly authorized successors and assigns, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Special Declarant Rights include the following:

5.1.1 Completion of Improvements. The right to complete improvements indicated on the Plat.

5.1.2 Sales Management and Marketing. The right to maintain upon, and to remove from, such portion of the Common Interest Community as Declarant may choose, and in such number, size, and location as may be reasonably required by the Declarant, convenient or incidental to the construction of Units and Common Elements:

- (i) employees in offices and sales facilities,

- (ii) signs identifying the Common Interest Community and advertising the sale of Units or in any way related to the business of Declarant,
- (iii) model units constructed or to be constructed,
- (iv) sales offices and construction offices which, to the extent they are not a Unit as defined in this Declaration, are hereby declared to be personal property, removable by Declarant, promptly upon the Declarant ceasing to be a Unit Owner, and
- (v) parking areas and lighting and temporary parking facilities necessary or desirable in marketing to prospective Unit Owners.

5.1.3 Construction Easements. The right to use easements through the Real Estate for the purpose of making improvements within the Common Interest Community. Further, Declarant, expressly reserves the right to perform warranty work, repairs and construction work and to store materials within the Real Estate, and the future right to control such work and repairs, and the right to access thereto, until its completion. All work pursuant to this Subsection 5.1.3 may be performed without the consent and approval of any Unit Owner or Mortgagee. Declarant has such easements through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across and within the Real Estate. Construction easements reserved in this Declaration also include the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Interest Community. If Declarant grants any such easements, Exhibit D to the Declaration will be amended to include reference to the recorded easement.

5.1.4 Merger. The right to merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership with the prior consent of two-thirds (2/3) of the Unit Owners (excluding Declarant).

Section 5.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 5.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

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

and to serve the Unit Owners within the Common Interest Community with the prior consent of two-thirds (2/3) of the Unit Owners (excluding Declarant).

5.2.2 Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 5.3 Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of Declarant may be transferred to any Person, in the manner prescribed by the Act.

Section 5.4 Termination of Special Declarant and Additional Reserved Rights. The Rights reserved to Declarant pursuant to this Article 5 shall expire twenty years from the date of recording this Declaration, unless the expansion and development rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion and development rights by Declarant.

ARTICLE 6 DEVELOPMENT RIGHTS/MAXIMUM NUMBER OF UNITS

Section 6.1 Reservation of Development Rights.

6.1.1 General Rights Reserved. Declarant expressly reserves the right to:

- (i) create Common Elements,
- (ii) expand or contract the size of Units,
- (iii) alter the configuration of Units,
- (iv) expand the Real Estate,
- (v) expand the number of Units, and
- (vi) create Units up to the maximum number of 104 or convert Units into Common Elements on all or any portion of the Common Interest Community (the "Additional Improvements").

Declarant may exercise these Development Rights on all or any portion of the Common Interest Community in whatever order of development Declarant, in its sole discretion, determines. Declarant's exercise of these Development Rights described in this

Section 6.1 shall be effected by recording a document evidencing the change or expansion in the office of the Clerk and Recorder of Douglas County.

6.1.2 Right of Withdrawal. Declarant expressly reserves the right to withdraw all or any portion of the Real Estate within the Common Interest Community (the "Withdrawn Property") from the Common Interest Community; provided, however, such withdrawal will not adversely affect the Unit Owners or the Common Interest Community. Withdrawals of Real Estate may only be effected by recording a document evidencing such withdrawal in the office of the Clerk and Recorder of Douglas County. Each Unit and the Common Elements shown on the Plat shall be separate portions of Real Estate subject to this right of withdrawal; provided, however, once a Unit has been conveyed to a Unit Owner other than the Declarant, that portion of Real Estate is no longer subject to this right of withdrawal.

Section 6.2 Exercise of Development Rights. Different parcels of Real Estate may have a particular Development Right exercised to it at different times, and no assurances are made as to the order such Development Rights might be exercised. In exercising Development Rights, Declarant shall comply with the applicable provisions of the Master Declaration and receive prior approval of the Federal Housing Administration or the Veterans Administration regarding annexation of additional land.

Section 6.3 Amendment of the Declaration. If Declarant elects to exercise a Development Right reserved in this Article 6, Declarant shall record an Amendment to the Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration.

At a minimum, such Amendment to the Declaration shall contain the legal description of the Withdrawn Property or the Expansion Area on which the Additional Improvements being submitted to this Declaration are located and a revised schedule of the Allocated Interests appurtenant to the Units in the Common Interest Community.

Section 6.4 Amendment of the Plat. Declarant shall file an Amendment of the Plat, as required by the Act. However, by the three-dimensional description of Units, Units will not be created until certain improvements have been made to the Property. The Declarant does not expect to amend the Plat solely in order to add Units up to the maximum number set forth in this Declaration.

Section 6.5 Interpretation. Recording of amendments to the Declaration or Plat in the office of the Clerk and Recorder of Douglas County shall automatically:

- (i) vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to his Unit; and

- (ii) vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Upon the recording of an Amendment to the Declaration: (i) the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Common Interest Community; (ii) any Additional Improvements shall be added to and become a part of the Real Estate for all purposes; and (iii) all conveyances of Units after any expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any Amendment to the Declaration or Plat. Reference to the Declaration and Plat in any instrument shall be deemed to include all Amendments to the Declaration and Plat without specific reference thereto.

Section 6.6 Maximum Number of Units. While the maximum number of Units in the Common Interest Community shall not exceed 104 Units, Declarant shall not be obligated to expand the Common Interest Community beyond the number of Units initially submitted to this Declaration.

Section 6.7 Reciprocal Easements. If Real Estate is withdrawn from the Common Interest Community:

- (i) the owner(s) of the Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies and across the Common Interest Community; and
- (ii) the Unit Owner(s) in the Common Interest Community shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Withdrawn Property.

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

Section 6.8 Termination of Development Rights. The Development Rights reserved to Declarant, pursuant to this Article 6, shall expire twenty (20) years from the date of recording this Declaration, unless the expansion and development rights are reinstated or

extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion and development rights of Declarant.

ARTICLE 7
COVENANT FOR COMMON EXPENSE ASSESSMENT

Section 7.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. The Common Expense Assessments shall be a charge of the land and shall be a continuing lien upon the Unit against which each such Common Expense Assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances recorded before the recordation of the Declaration, including but not limited to liens in favor of the Master Association; (ii) except as otherwise provided in the Act and in Section 7.2 below, a first lien Security Interest on the Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; (iii) liens for real estate and other governmental taxes; and liens of the District.

The Association has a statutory lien on all Units for all Assessments imposed against each Unit Owner from the time each such Assessment becomes due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by the Executive Board's acceleration of installment obligations.

Declarant, for each Unit, shall be deemed to covenant and agree, and each Unit Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other instrument of conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense Assessments. Common Expense Assessments shall be the personal obligation of the Unit Owner at the time when the Common Expense Assessment or other charges become due.

Section 7.2 Subordination of the Lien to Mortgage. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Unit shall not affect the lien for a Common Expense Assessment. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 7.3 Apportionment of Common Expenses. Common Expenses shall be assessed against all Units in accordance with the Allocated Interests set forth in Article 11 of this Declaration, provided, however, any Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against all Units to which the Limited Common Element is assigned, equally, or in such other proportion as the Executive Board determines is reasonable.

Section 7.4 Purpose of Assessments. In addition to such other purposes as set forth in the Act, Assessments shall be used for the purposes of promoting the health, safety, and welfare of residents within the Common Interest Community, and, in particular:

7.4.1 to enforce all provisions of the Governing Documents.

7.4.2 to exercise all rights and powers and to discharge all duties and obligations pursuant to the Act and the Governing Documents.

7.4.3 to discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the Common Elements and all improvements located thereon, including fixtures and personal property related thereto.

7.4.4 to discharge all expenses incurred by the Association in the alteration, improvement, construction, reconstruction, repair, maintenance or replacement of the following portions of Unit Exteriors: roof shingles and paper lining, gutters, downspouts, drainspouts, exterior siding, trim around the perimeter of all windows and doors, exterior of entry doors, and exterior of garage doors.

7.4.5 to fund any operating deficit or reserves, the Association deems necessary to meet its financial obligations.

Section 7.5 Computation/Commencement of Common Expense Assessments. The Common Expense Assessment shall be made on an annual basis against all completely built Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. The Executive Board may determine that any Common Expense Assessment shall be payable in installments, and may also elect to accelerate the installments remaining for such assessment year, pursuant to Section 7.8 below. Common Expense Assessments shall be collected by the Executive Board or its agent. Common Expense Assessments shall begin on the first day of the month following the completion of each Unit. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Executive Board shall fix the amount of the annual assessment against each completely built Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Unit Owner subject thereto. The due dates shall be established by the Executive Board.

Section 7.6 Maximum Annual Assessment of Common Expense Assessments. Until January 1 of the year immediately following enactment of this Section, the maximum annual assessment of any Common Expense Assessment shall be one-thousand, six-hundred and ninety-two dollars (\$ 1,692.00) per completely built Unit.

7.6.1 From and after January 1 of the year immediately following enactment of this Section, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

7.6.2 From and after January 1 of the year immediately following enactment of this Section, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of the Unit Owners (excluding Declarant) who are voting in person or by proxy, at a meeting dully called for this purpose.

7.6.3 The Executive Board may fix the annual assessment at an amount not in excess of the maximum.

7.6.4 Written notice of any meeting called for the purpose of taking any action authorized under this Section shall be sent to all Unit Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Unit Owners or of proxies (excluding Declarant) entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7.7 Uniform Rate of Assessment. The Common Expense Assessment must be fixed at a uniform rate for all completely built Units and may be collected on a monthly basis. If the Association performs services which do not benefit Declarant, such as exterior maintenance of residences or recreational supervision, undeveloped lots may be assessed a stated fractional share of the Unit Owners' assessment, provided the financial stability of the Association will not be jeopardized.

Section 7.8 Effect of Nonpayment of Assessments. Any Common Expense Assessment and any monthly or other installment thereof, which is not fully paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate, and assessed a late charge thereon, as determined by the Executive Board, from time to time. The Association, in its sole discretion and without prior notice, may elect to accelerate the installment obligations of any annual Common Expense Assessment. Further, the Association may bring an action at law or in equity, or both, against any Unit Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Unit Owner's Unit. An action at law or in equity by the Association against a Unit Owner to recover a money judgment for unpaid Common Expense Assessments or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor.

Section 7.9 Working Capital. A working capital fund in the amount of two months' regularly budgeted initial Common Expense Assessments, measured as of the date of the first assessment for all Units in proportion to their respective Allocated Interests in Common Expenses, shall be payable by the first Unit Owner of each Unit. Any amounts paid into this fund shall not be considered an advance payment of Assessments. Each Unit's share of the working capital fund shall be collected at the time the first sale of the Unit is closed, and then contributed to the Association by the Declarant when collected. Until termination of Declarant control of the Executive Board, the working capital shall be deposited in a segregated fund for the use and benefit of the Association. While the Declarant is in control of the Executive Board, the Declarant cannot use any of the working capital funds to defray its expenses, reserve contributions or construction costs or to make up budget deficits. Upon the transfer of a Unit, each successive Unit Owner shall be entitled to a credit from the transferee (but not from the Association).

ARTICLE 8 LIMITED COMMON ELEMENTS

Section 8.1 Limited Common Elements. That portion of the Common Elements reserved for the exclusive use of one or more, but fewer than all of the Units, including, but not limited to:

8.1.1 All walkways, driveways, and other improvements designed to serve a single Unit but located outside the Unit's boundaries;

8.1.2 Meter pits, and all walkways, driveways, and other improvements which without regard to their location, are shared by two or more Unit Owners.

Section 8.2 Allocation of Limited Common Elements. All Limited Common Elements described in this Article 8 shall be allocated pursuant to Section 208 of the Act.

ARTICLE 9 GENERAL RESTRICTIONS

Section 9.1 Absolute Authority of the Executive Board. The Executive Board shall have complete authority and control to issue and amend restrictions on use, occupancy and alienation of the Units in addition to those contained in this Declaration. The Association shall have complete authority and control over the maintenance, repair, alteration and improvement of all Common Elements and Unit Exteriors.

Section 9.2 Maintenance, Alterations and Improvements to Unit Exteriors. The Association shall pay all costs of the maintenance, repair, alteration and improvement of all Unit Exteriors; provided, however, the Unit Owner shall keep all glass surfaces, screens, interior vents and flues in such condition and repair as the Association may require and shall pay the costs thereof.

Section 9.3 Maintenance, Alterations and Improvements to Common Elements The Association shall pay all costs of the maintenance, repair, alteration and improvement of the Common Elements, and shall be responsible for removing snow, leaves and debris from all driveways and sidewalks, except the portions of the Limited Common Elements which are required by this Declaration or the Act to be maintained, repaired or replaced by the Unit Owners.

Section 9.4 Party Walls. The cost of maintenance, repair, alteration, improvement and replacement of each Party Wall shall be shared equally by the Owners of the Units adjoining such Party Wall. The right of a Unit Owner to contribution from another Unit Owner pursuant to this Declaration or the Act, shall be appurtenant to the land and such rights and obligations shall pass to the Unit Owners' successors in title.

9.4.1 If a Party Wall is destroyed or damaged by fire or other casualty, any Unit Owner whose Unit adjoins such Party Wall may repair or restore it, and the other Unit Owner shall immediately upon receipt of written demand therefore, pay his or her portion of such costs to the Unit Owner making such restoration or repair.

9.4.2 Notwithstanding any provision to the contrary in this Section 9.4, a Unit Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements or damaged in any manner, shall bear the whole cost of furnishing the necessary protection against such elements or of making the necessary repairs or restoration.

Section 9.5 Right of Access. Provided that (i) requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Unit Owner, and (ii) in case of an emergency, no request or notice is required and the right of entry shall be immediate, and with as much force as is reasonably necessary to gain entrance, whether or not the Unit Owner is present at the time:

9.5.1 Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Interest Community, for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing and replacing utility meters and related pipes, valves, wires and equipment.

9.5.2 Any Unit Owner or his agent shall have the right of access to all portions of an immediately adjacent Unit or any portion of the Common Elements for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of his Unit or a Party Wall.

Section 9.6 Nuisances. No nuisance shall be permitted within the Common Interest Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Unit Owner or which

may unreasonably interfere with the peaceful enjoyment or possession of the proper use of a Unit or Common Element, or any portion of the Common Interest Community by Unit Owners. As used herein, the term nuisance shall not include any activities of Declarant which are reasonably necessary to the development and construction of improvements to the Real Estate within this Common Interest Community so long as such activities do not interfere with any Unit Owner's ingress and egress to and from his Unit and a public way. Further, no improper, offensive or unlawful use shall be permitted within the Common Interest Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Common Interest Community or a portion thereof shall be observed.

Section 9.7 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted within the Common Interest Community, nor shall oil wells, tank tunnels, mineral excavations or shafts be permitted upon or within the Common Interest Community. No derrick or other structure designed for use in boring for oil, natural gas or other minerals shall be erected, maintained or permitted upon the Common Interest Community.

Section 9.8 Vehicular Parking, Storage, and Repairs.

9.8.1 Parking is not permitted on any street or thoroughfare located within the Common Interest Community.

9.8.2 Except as limited by this Section 9.8, trades and noncommercial vans weighing 3/4 ton or less and automobiles ("permitted vehicles") may be parked within the Common Interest Community.

9.8.3 Only permitted vehicles may be parked within carports and nothing else may be parked or stored within carports.

9.8.4 Areas within the Common Elements designated for parking on the Final Site Plan for the Common Interest Community or by the Executive Board shall be limited to the parking of permitted vehicles owned or operated by nonresidents of the Common Interest Community, *i.e.*, shall be used exclusively as "guest parking." Neither Unit Owners nor nonowner residents shall be entitled to use parking areas within Common Elements

9.8.5 No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, motor driven cycle, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, and no commercial vehicle, with words or pictures primarily for the purpose of advertising a business or service displayed thereon, may be parked or stored within the Common Interest Community unless such parking or storage is done wholly within an enclosed garage; provided, however, that any such vehicle may be otherwise parked as a temporary expedience

for loading, delivery of goods or services, or emergency. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Common Interest Community which are necessary for construction or for the maintenance of the Common Elements or Units.

9.8.6 Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked within the Common Interest Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreation vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of seventy-two (72) hours or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Unit Owners while on vacation or during a period of illness shall not constitute abandoned or inoperable vehicles. In the event that the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be conspicuously placed upon the vehicle. If the abandoned or inoperable vehicle is not removed within 72 hours after providing such notice, the Association shall have the right to remove the vehicle, and the vehicle owner shall be solely responsible for all towing and storage charges.

9.8.7 No activity such as, but not limited to, washing, polishing, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted within the Common Interest Community.

9.8.8 In addition to those fines or charges for which the Unit Owner is responsible pursuant to Section 9.20, fines or charges imposed or incurred by the Association in enforcing the provisions of this Section 9.8 shall be assessed against the owner of the vehicle violating this Section 9.8.

Section 9.9 Garages. The doors of any garage located within the Common Interest Community shall be kept closed at all times except when a vehicle is entering into or exiting from such garage.

Section 9.10 Single Family Use. No Unit shall be used for any purpose other than as residential living purposes by one Single Family. No gainful occupation, profession, trade or other nonresidential use shall be conducted within any Unit which business necessitates that its employees, clients, customers, suppliers, or visitors travel to the Unit.

Section 9.11 Leases. A Unit Owner may lease his Unit to a Single Family, in compliance with all the provisions of the Governing Documents and the Master Governing Documents. Any Unit Owner who leases his Unit shall be required to provide copies of the Governing Documents and the Master Association Governing Documents to all tenants of the Unit. Leases of Units must be in writing and for a term of not less than six (6) months. Leases shall be subject in all respects to the provisions of the Governing Documents and the Master Association Governing Documents, and must specifically provide that any failure by

the lessee or tenant to comply with the terms of this Section and with applicable Rules and Regulations may, at the discretion of the Executive Board, result in that Person's forfeiture of the right to lease the Unit.

Section 9.12 Animals. No animals shall be kept within any Unit except an aggregate of two domesticated dogs or cats, and except domesticated birds and fish and other small domestic animals, and then only if kept as pets. All dogs shall be kept on a hand-held leash except when in their owner's Unit. No animal or other pet of any kind shall be permitted which, in the opinion of the Executive Board, might be dangerous or which makes an unreasonable amount of noise or odor or is a nuisance. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept within any Unit. No poultry may be kept within any Unit. No rare, exotic or unusual animals or other pets (except birds and fish) shall be kept within any Unit. Each Unit Owner shall be responsible for cleaning up after his pet and for all damage to Persons or property caused by any pet in the possession of such Unit Owner.

Section 9.13 Mechanical Equipment and Antennae. No swamp coolers, heating units, air conditioning units, electrical or other equipment or antennae of any type shall be erected or maintained which project out from the interior of a Unit or are in any manner affixed to a Unit Exterior of a Building.

Section 9.14 Transmitters. Except garage door openers, no electronic, radio, microwave or similar transmitter or receiver of any kind, including but not limited to satellite dishes and antennae, shall be located or operated within the Common Interest Community, except as may be otherwise set forth in the Rules and Regulations.

Section 9.15 Machinery and Equipment. Except in the following instances, no machinery or equipment of any kind shall be placed, stored or maintained within the Common Interest Community:

- (i) such machinery or equipment as is usual and customary in connection with the construction (during the period of construction) of improvements; or
- (ii) that which Declarant or the Association may require for the development, operation or maintenance of the Common Elements.

Section 9.16 Clothes Drying Facilities. No outside clotheslines or other facilities for drying clothes shall be placed within the Common Interest Community.

Section 9.17 Window Coverings. No external window covering, security bars or reflective covering may be placed, or permitted to remain, on any window of any Unit.

Section 9.18 Mailboxes. No mailboxes may be placed within the Common Interest Community, except those installed by the Association or by the Declarant.

Section 9.19 Utility Connections. All utility connections installed in the Property, including, without limitation, all pipes, ducts, all electrical and telephone connections and installations of wires to buildings, including television, microwave or radio connections shall be made underground from the nearest available source, except that, during the construction of improvements, the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 9.20 Rules and Regulations of the Association. In furtherance of the provisions of this Declaration, Rules and Regulations concerning and governing the Common Interest Community or any portion thereof may be adopted, amended, or repealed, from time to time, by the Executive Board, or its successors and assigns; and the Executive Board may establish and enforce penalties for the infraction thereof. All Unit Owners shall be responsible for fines assessed against other nonowner residents of their Unit, and their tenants, guests, invitees, family members, employees or agents. All monetary penalties enforced pursuant to this Declaration or the Rules and Regulations shall be collectible as Common Expense Assessments.

ARTICLE 10 INSURANCE

Section 10.1 Insurance. The Association shall comply with C.R.S. §§ 38-33.3-313 and all other provisions of the Act regarding insurance, as follows:

10.1.1 The Association shall maintain, to the extent reasonable, available all policies of insurance of type and in the form required by the Act.

10.1.2 Application of insurance proceeds and procedures of adjustment must be made pursuant to the Act.

10.1.3 The Rules and Regulations may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Unit Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

10.1.4 Any portion of the Common Interest Community for which insurance is required under the Act which is damaged or destroyed must be repaired or replaced promptly pursuant to, and as required by, the Act.

10.1.5 The Association and its Manager must obtain policies of fidelity insurance in amounts and under the circumstances prescribed by the Act.

10.1.6 All costs and expenses borne by the Association in compliance with or as may be permitted by the Act, including, but not limited to, insurance premiums, and all costs and expenses borne by the Association in connection with insured and uninsured losses to Persons or property within the Common Interest Community, repairs and replacement of insured and uninsured property, and claims settlement or adjustment shall be considered common expenses.

Section 10.2 Unit Owners' Insurance. All Unit Owners shall obtain (i) all-risk insurance for their own benefit sufficient to insure against loss of all or any portion of the Unit, including but not limited to the Unit Exterior and the furniture and furnishings, floor coverings (e.g., tile, wood floors, carpet, rugs), window and wall coverings, built-in and free-standing appliances, items of personal property belonging to a Unit Owner; and (ii) public liability coverage within each Unit.

ARTICLE 11 ALLOCATED INTERESTS

Section 11.1 Formula for Determining Allocated Interests. The Common Expenses and the Votes in the Association shall be allocated to each Unit, calculated as follows:

- (i) the percentage of liability for Common Expenses: on the basis of a fraction, the numerator is one and the denominator is the total number of Units within the Common Interest Community; and
- (ii) the number of votes in the Association: on the basis of one Unit, one vote; cast in accordance with the provisions of the Bylaws of the Association.

Section 11.2 Allocated Interests. The Allocated Interests of each Unit at the time this Declaration is recorded is shown on Exhibit E attached hereto and incorporated herein by reference.

Section 11.3 Reallocation. When Units are withdrawn from the Common Interest Community or additional Units are created by virtue of the addition of all or a portion of the Expansion Area, pursuant to the provisions of this Declaration and the Act, the formula set forth in Section 11.1 above shall be used to reallocate the Allocated Interests.

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**ARTICLE 12
MASTER ASSOCIATION**

Section 12.1 Membership in Master Association. Each Unit Owner shall be a Member of the Master Association pursuant to the terms of the Master Declaration.

Section 12.2 Inclusion of the Property in the Master Association. The inclusion of the Property in the Master Association shall be evidenced by the recording of a Notice of Addition of Land in form and content and in the manner provided by the Master Declaration. For all purposes, this Declaration shall be considered a Supplemental Declaration as that term is defined by the Master Declaration. Upon recordation of this Declaration, the Property shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in the Master Declaration.

Section 12.3 Delegate District. Pursuant to the Master Declaration:

12.3.1 The Master Association has been divided into Delegate Districts.

12.3.2 Each Delegate District elects one Delegate to the Master Association to exercise the voting power of all the Members in such Delegate District.

12.3.3 Pursuant to the Master Declaration, the Property is hereby established as a portion of Delegate District No. 6 of the Master Association.

12.3.4 Each Member shall have the right to cast votes for the election of the Delegate to the Master Association to exercise the voting power of Delegate District No. 6.

Section 12.4 Delegation of Powers. In addition to those powers specifically reserved or granted to the Master Association pursuant to the Master Declaration or to the District, the Executive Board may delegate certain powers to the Master Association, as it deems appropriate, and in such case, the members of the Executive Board shall have no liability for the acts or omissions of the Master Association with respect to the powers following delegation.

Section 12.5 Obligation to Pay Master Association Charges. In addition to the obligation to pay all Association Assessments, each Member shall, by virtue of ownership of a Unit, be obligated to pay all Master Association Assessments. The lien for Association Assessments shall be subordinate to the lien for Master Association Assessments and all charges levied by the District, except as otherwise provided by law.

ARTICLE 13
MISCELLANEOUS PROVISIONS

Section 13.1 Variance. The Executive Board or its designee may grant variances or adjustments from any conditions and restrictions imposed by this Declaration or the Rules and Regulations, if it determines, in its sole discretion that such variance is reasonable and necessary in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of such restrictions and covenants. Such variances or adjustments shall be granted only in the case the granting thereof shall not be materially detrimental or injurious to other Unit Owners, other Units or any Common Element, shall not militate against the general intent and purpose of this Declaration or the Rule or Regulation. Granting a variance in a particular situation does not require the granting of another variance in the same or similar circumstance.

Section 13.2 Duration, Revocation and Amendment. Each and every provision of this Declaration of Covenants shall run with and bind the land from the date of recording of this Declaration. The Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Unit Owners.

Section 13.3 Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of the Unit Owners (excluding Declarant), except when annexed pursuant to a staged development plan.

Section 13.4 FHA/VA Approval. As long as the Declarant controls the Association, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 13.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Units and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado. This Declaration shall be considered to supplement the provisions of the Act, which provisions are incorporated herein by reference as though restated in this Declaration.

Section 13.6 Construction. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any Person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

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Section 13.7 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular; and words of one gender may be construed as denoting such other gender as is appropriate.

Section 13.8 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 13.9 Notices. Any notice required to be given to any party pursuant to any provision of this Declaration shall be in writing, and shall be deemed given when delivered personally or when deposited into the United States mail, first class prepaid, sent by certified mail, return receipt requested, addressed as follows:

(i) if to a Unit Owner, to the address of the Unit; and

(ii) if to the Declarant, at the address shown on the first page of this Declaration.

Any party may change its address for the giving of notice hereunder by written notice given to the Association in compliance with this Section 13.9.

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IN WITNESS WHEREOF, the undersigned has executed the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions this 13th day of August, 1996.

CREEKSIDE TOWNHOMES OWNERS ASSOCIATION, INC.

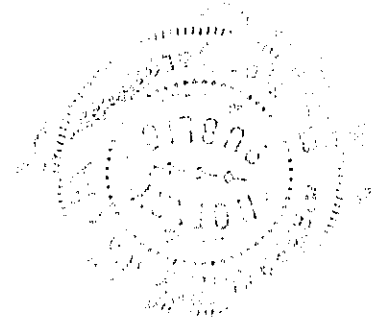
By: [Signature]
John Healy, President

STATE OF COLORADO)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 13th day of August, 1996, by John Healy as President of Creekside Townhomes Owners Association, Inc.

Witness my hand and official seal.
My commission expires: 6-8-2000

[Signature]
Notary Public



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