

PREFACE TO  
THE  
DECLARATIONS OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
LOWRY VILLAGE I ASSOCIATION, A  
NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY MASTER ASSOCIATION

PLEASE BE ADVISED THAT THE HOMES ARE ALSO SUBJECT TO THE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE LOWRY MASTER COMMUNITY, RECORDED JUNE 23, 1997 @ #9700080387, IN DENVER COUNTY, COLORADO AS WELL AS THE DESIGN GUIDELINES FOR THE LOWRY MASTER COMMUNITY. PLEASE BE SURE TO REVIEW THESE DECLARATIONS (ATTACHED AT THE END OF LOWRY VILLAGE I ASSOCIATION'S DECLARATIONS), AS WELL AS THE DESIGN GUIDELINES FOR THE MASTER ASSOCIATION.

THANK YOU.

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DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY

WESTWIND  
MANAGEMENT GROUP, INC.



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**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

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**Exhibit A - Property**

**Exhibit B - Common Areas**

**Exhibit C - Additional Lands**

**Exhibit D - Easement Premises**

**Exhibit E - Map of Easement Premises**

**Exhibit F - Title Exceptions**

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LOWRY VILLAGE I ASSOCIATION, INC., A  
NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**THIS DECLARATION is made and entered into by VILLAGE HOMES OF COLORADO, INC., a Colorado corporation ("Declarant").**

**WITNESSETH:**

**WHEREAS, Declarant is the owner of the real property situated in the City and County of Denver, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and**

**WHEREAS, by virtue of recording of this document, the property described on the attached Exhibit A will become subject to a certain Master Declaration of Covenants, Conditions Restrictions for The Lowry Community, recorded on June 23, 1997, at Reception No. 9700080387, in the office of the Clerk and Recorder of the City and County of Denver, Colorado and recorded on June 23, 1997, at Reception No. A7074484 in the office of the Clerk and Recorder of Arapahoe County, Colorado, as amended and supplemented ("Master Declaration"). The Lowry Village I Association, Inc. is a sub-association of the Lowry Community and nothing in this Declaration is intended to be, and shall not be construed to be, inconsistent with the provisions of the Master Association, and;**

**WHEREAS, in addition to the Master Declaration, the Declarant desires to subject and place upon the property described on the attached Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein; and**

**WHEREAS, a common interest community may be created pursuant to the Act (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.**

**NOW, THEREFORE, Declarant hereby declares that a plat which includes the property described on the attached Exhibit A has been recorded and that, in addition to the provisions of the Master Declaration, all of the real property described on the attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.**



**ARTICLE I.  
DEFINITIONS**

1. **"Act"** means the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101, et al., as amended.
2. **"Active Area"** shall mean the area of each Unit which is provided for the general use and enjoyment of the Owner of such Unit and on which (or on a portion of which) may now or hereafter be located landscaping, a deck, patio, hot tub, barbecue, chairs and tables, and other improvements, as may be determined from time to time by the Owner of such Unit with Design Review Committee approval. The Active Area of each Unit shall generally and approximately consist of that portion of the Unit which lies between the side property line which is approximately seven feet (7') from the Dwelling Unit on such Unit and the exterior side wall of the Dwelling Unit on such Unit, which side wall runs from the front most corner of such Dwelling Unit to what would be a point on the rear property line of the Unit if such side wall were extended to such rear property line.
3. **"Additional Lands"** means the real property described on Exhibit C attached hereto and incorporated herein by this reference together with undescribed additional real property not to exceed 10% of the total area of the Property: provided, however, that in no event may the Declarant increase the number of Units beyond the number stated in section forty-seven (47) below.
4. **"Agencies"** means the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.
5. **"Articles"** means the articles of incorporation of the Lowry Village I Association, Inc., a Colorado nonprofit corporation, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may from time to time be amended.
6. **"Assessments"** means the Regular Assessments and the Special Assessments.
7. **"Association"** means Lowry Village I Association, Inc., a unit owners' association organized under section 38-33.3-301 of the Act. The Association constitutes a Subassociation as defined in the Master Declaration.
8. **"Board of Directors" or "Board"** means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

9. "Bylaws" means the Bylaws of the Association which may be adopted by the Board, as such Bylaws may be amended from time to time.

10. "Common Area" means any portion of the Property together with all improvements thereon other than a Unit, owned or leased by the Association for the primary benefit of all Members and the Property as a whole including, without limitation, landscaped areas adjacent to public rights-of ways, landscaped areas within island and/or median areas associated with public rights-of ways, entrance areas, postal facilities and other personal and real property now or hereafter owned or controlled by the Association. The Common Areas at the time of recordation of this Declaration are described on Exhibit B attached hereto and incorporated herein by this reference.

11. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

12. "Compliance Expenditures" shall have the meaning provided in Article IV, section .

13. "Declarant" means Village Homes of Colorado, Inc., a Colorado corporation, and any other Person(s) acting in concert, to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds), and who:

(a) As part of a common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Unit not previously disposed of to a purchaser; or

(b) Reserves or succeeds to any Special Declarant Right.

14. "Declaration" means this Declaration of Covenants, Conditions and Restrictions of Lowry Village I Association, Inc., including any supplements and amendments.

15. "Design Review Committee" or "Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

16. "Development Rights" means any right or combination of rights reserved by the Declarant in this Declaration to:

(a) add real estate to the Property and make subject to this Declaration any Additional Lands;

(b) Create Units and/or Common Areas in connection with the addition of such real estate;

- (c) further subdivide Units or convert Units into Common Areas;
- (d) withdraw real estate from the Property.

17. "Dwelling Unit" means one or more rooms of a lawfully habitable residential structure physically arranged so as to create an independent housekeeping establishment for occupancy by one single family with separate toilets and facilities for cooking and sleeping; each Unit is planned to have one Dwelling Unit thereon.

18. "Easement Premises" shall mean that portion of any Passive Area (as hereinafter defined) that is granted to or reserved for the perpetual, exclusive use of the adjacent Unit, in accordance with and subject to the provisions of Article XII hereof. An Easement Premises will generally consist of the Passive Area of the Unit on which the Easement Premises is located and will be next to the Active Area of the adjacent Unit. Those Units on which an Easement Premises is planned to be located and those Units which are planned to benefit from such Easement Premises are listed on Exhibit D attached hereto and incorporated herein by this reference and are further identified on the map shown on Exhibit E attached hereto and incorporated herein by this reference. However, the attached Exhibit D and the attached Exhibit E are subject to change as provided in Article XII hereof.

19. "First Mortgage" means any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering a Unit or portion thereof recorded in the Records having priority of record over all other recorded liens except those liens made superior by statute (such as, for example, general ad valorem tax liens and special assessments, mechanic's liens and the Master Association's and the Association's lien for Assessments). The phrase "First Mortgage" shall also include a leasehold mortgage or deed of trust; provided that the leasehold estate encumbered by the leasehold mortgage or deed of trust is for a term of not less than twenty (20) years and the leasehold mortgage or deed of trust encumbers an entire Unit.

20. "First Mortgagee" means any Person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such Person under such First Mortgage.

21. "General Common Allocation" means with respect to each Unit, the percentage number obtained by dividing the vote or votes allocated to a Unit by the total number of votes allocated to all Units within the Property existing from time to time. The General Common Allocation for each Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units then within the Property; provided that the General Common Allocation for each Unit is subject to decrease with the annexation of additional property to the Property as provided in Article XIV, Section 5 hereof. The General Common Allocation is intended to provide for and allocate among all Units 100% of the voting rights existing within the Lowry Village I Association, Inc. from time to time and provide a means of allocating among all Units 100% of the costs and expenses of the Lowry Village I Association, Inc. Addition or

withdrawal of Units from the Property shall require recalculation and adjustment of the General Common Allocation as provided in this Declaration.

22. "Improvements" means all exterior improvements, structures, utilities and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, antennas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball hoops, dog runs, mailboxes, aerials, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

23. "Lowry Design Review Committee" (sometimes referred to as the "LDRC") means the Lowry Property Master Association Design Review Committee described in Article 5 of the Master Declaration.

24. "Lowry Property" means that property which is subject to the Master Association for the Lowry Property by virtue of being described in the Master Declaration or having been annexed into the Lowry Property by the Master Association pursuant to the Master Declaration.

25. "Lowry Redevelopment Authority" (also known as the "Lowry Economic Redevelopment Authority" or "LRA") means the nonprofit public entity formed to redevelop the former Lowry AFB and established pursuant to C.R.S. 29-1-203 and in an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado, dated August 1, 1994, and recorded at Filing No. 94-496A (and also known as Auditor's No. XC4X040) in the office of the Clerk and Recorder for the City and County of Denver and shall include any successor assign of the LRA. The LRA is the declarant of the Lowry Property as provided by the Master Declaration.

26. "Master Association" means the Lowry Community Master Association, Inc. a Colorado non-profit corporation, which is designated as the "Association" in the Master Declaration (as hereinafter defined).

27. "Master Association Property" means all real and personal property now or hereafter owned by, or leased to, the Master Association.

28. "Master Declaration" means that certain Master Declaration of Covenants, Conditions and Restrictions for The Lowry Property, recorded on June 23, 1997, at Reception No. 9700080387, in the office of the Clerk and Recorder of Denver County, Colorado, as amended and supplemented and recorded on June 23, 1997, at Reception No. A7074484 in the office of the Clerk and Recorder of Arapahoe County, Colorado, as amended and supplemented.

29. "Member" means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

30. "Owner" means the Declarant or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation.

31. "Passive Area" shall mean the area of each Unit which is not intended for the general use and enjoyment of the Owner of such Unit, and such Owner's family members, tenants, guests and invitees, if such Passive Area is part of an Easement Premises subject to the easement(s) provided for in Article XII hereof. The Passive Area of each Unit shall generally and approximately consist of that portion of the Unit which lies between the side property line which is approximately three feet (3') from the Dwelling Unit on such Unit and the nearest exterior side wall of the Dwelling Unit on such Unit, and which side wall runs from the front most corner of such Dwelling Unit to what would be a point on the rear property line of such Unit if such side wall were extended to such rear property line.

32. "Period of Declarant Control" means that period commencing upon recordation of this Declaration and terminating seven (7) years after initial recording of this Declaration in Denver County, Colorado; provided, that the Period of Declarant Control shall terminate no later than either sixty (60) days after conveyance of seventy-five percent (75%) of the Units that May Be Included to Owners other than a Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two (2) years after any right to add new Units to the Declaration was last exercised.

33. "Person" means a natural person, a corporation, a partnership, an association, a trust, a limited liability company, a joint venture, or any other entity recognized under the laws of the State of Colorado or any combination thereof.

34. "Plans and Specifications" means any and all documents designed to guide or control the construction of an Improvement including, but not limited to, those indicating size, shape, configuration or materials, all site plans; excavation and grading plans; foundation plans, specifications on all building products and construction techniques; samples of exterior colors; plans for utility services and all other documentation or information relevant to the particular improvement.

35. "Property" means all of the real property described on Exhibit A to this Declaration, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in this Declaration. Additional Lands as defined in section 2 above will become part of the Property upon annexation to the Declaration. The Property is a planned community under the Act.

36. "Records" means the official real property records of the City and County of Denver, Colorado; "to Record" means to file for recording in the Records; and "of Record" and "Recorded" means having been recorded in the Records.

37. "Regular Assessments" means those Assessments levied by the Association pursuant to Article IV.

38. "Restrictions" means all terms and provisions contained in (i) this Declaration as amended from time to time; (ii) the Rules in effect from time to time; (iii) the Articles and Bylaws of the Association in effect from time to time; (iv) the Design Guidelines applicable to the Property as amended from time to time; (v) the Master Declaration as amended from time to time; and (vi) the Design Guidelines for the Lowry Property as amended from time to time.

39. "Rules" or "Rules and Regulations" means the rules and regulations adopted by the Board of Directors pursuant to the Bylaws of the Association, as they may be amended from time to time, including rules or regulations, however denominated, which are adopted for the regulation and management of the property, including but not limited to architectural standards and design guidelines.

40. "Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Article IV, Section 12 hereof, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 3 hereof, "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of Denver County, Colorado, show the Administrator as having the record title to the Unit.

41. "Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Article IV, Section 12 hereof, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 3 hereof, the Administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of Denver County, Colorado, show the said Administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

42. "Special Declarant Rights" means rights reserved for the benefit of Declarant to perform the acts specified in parts 2 and 3 of the Act and Section 17 above and to perform specifically the following acts, subject to the provisions of the Master Declaration: to build and complete Improvements in the Property; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the Property and sale of Units; to use easements through the Common Areas for the purpose of making Improvements within the Property or within real estate which may be added to the Property; to make the Property subject to a master association; to merge or consolidate a Property of the same form of ownership; or to appoint or remove any officer of the Association or any members of the Board of Directors during any Period of Declarant Control. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Property. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events: (a) conveyance of the last Unit by Declarant to an Owner other than Declarant; or (b) seven (7) years from the date of recordation of this Declaration; except that such rights shall not terminate automatically with respect to the appointment of officers and directors, which may only be exercised in accordance with Article III hereof.

43. "Special Assessment" means those Assessments levied by the Association pursuant to Article IV, section 6 of this Declaration.

44. "Unit" means each platted lot shown upon any recorded subdivision map of the real property described on the attached Exhibit A, as the same may be resubdivided or replatted from time to time, or any other real property as may hereafter be brought within the jurisdiction of the Association, with the exception of the Common Areas and any publicly dedicated property, but including all appurtenances and improvements now or hereafter located within the Unit. The term "Unit" is intended to be synonymous with the term "unit" as defined in the Act.

45. "Units that May Be Included" means ninety (90) Units, which shall be the maximum number of Units that may be subject to this Declaration, including those Units which may be included if all of the property provided for in Article XIV, Section 5 hereof is annexed to this Declaration. However, the aforesaid number of Units that May be Included is not a representation or a guarantee as to the actual number of Units that will ultimately be included in the Property.

## ARTICLE II. ORGANIZATION, MEMBERSHIP AND VOTING RIGHTS

1. Organization. The Association may exercise all powers identified in part 3 of Article 33.3, Title 38, C.R.S., subject to the provisions of this Article. The Association shall be organized no later than the date that the first Unit is conveyed to a purchaser other than Declarant. The Association shall be a non-profit Colorado corporation created for the purpose, charged with the duties, and invested with the powers prescribed by law, the Act,

and set forth in the Articles, Bylaws, Rules and in this Declaration. Neither this Declaration, the Articles, Bylaws nor any Rules promulgated by the Board shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with the Master Declaration.

2. **Membership.** The membership of the Association at all times shall consist exclusively of all Owners or, following termination of the Property, of all former Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Every Owner (including Declarant) shall remain a Member for so long as that Person continues to be an Owner of a Unit. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

3. **One Class of Membership.** The Association shall have one class of voting membership. As Members of the Association, each Owner of a Unit shall be entitled to cast the total vote for the Owner(s) Unit in accordance with the following General Common Allocation: one (1) vote for each Unit owned, except that no votes allocated to a Unit owned by the Association may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Units then existing within the Association. In all elections of the members of the Board in which Owners other than Declarant are eligible to vote, all Owners other than Declarant shall be authorized to cast votes pursuant to this section, for each Board position being voted upon. Except as otherwise provided in Article III of this Declaration, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

4. **Articles and Bylaws.** The purposes and powers of the Association and the rights and obligations with respect to Memberships may be amplified by provisions of the Articles and Bylaws of the Association. Such Articles and Bylaws may include any provisions with respect to corporate matters including provisions with respect to notices, record dates and quorums for meetings of directors and Members, but no such provisions may be inconsistent with any provision of this Declaration or the Master Declaration.

### ARTICLE III. BOARD OF DIRECTORS AND OFFICERS

1. **Authority of Board of Directors.** The affairs of the Association shall be governed by a "Board of Directors" (sometimes referred to as the "Board") which may, by resolution, delegate any portion of its authority to an executive committee, an officer, executive manager, managing agent, Person, or the Master Association Board of Directors.



The qualifications and number of directors, the term of office of directors, the manner in which directors shall be elected and the manner in which directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws. Except as provided in this Declaration or the Association Bylaws, the Board of Directors may act in all instances on behalf of the Association. Without limiting the generality of the foregoing, the Association, through its Board of Directors, shall have the right to contract with the Master Association for performance of services by the Master Association, collection of assessments or other amounts by the Master Association, or any other matters, as more fully provided in the Master Declaration or in this Declaration.

2. Election of Part of Board of Directors During Period of Declarant Control. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that May Be Included to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that May Be Included to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by Owners other than the Declarant.

3. Authority of Declarant During Period of Declarant Control. Except as otherwise provided in this Article, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and may remove all officers and directors of the Board of Directors appointed by it.

4. Termination of Period of Declarant Control. Not later than the termination of the Period of Declarant Control, the Owners shall elect a Board of Directors of at least three members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers. Such members of the Board of Directors and officers shall take office upon election.

5. Delivery of Documents by Declarant. Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by the Act.

6. Budget. Within thirty (30) days after adoption of any proposed budget for the Property, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) days nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by the vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, then the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is

rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

**ARTICLE IV.  
COVENANT FOR MAINTENANCE ASSESSMENTS**

1. **Creation of the Lien and Personal Obligation for Assessments.** Each Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, any "Compliance Expenditures" (as defined in section 12 of this Article) and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments and any Compliance Expenditures, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Unit. Each assessment, late charge and any Compliance Expenditures, shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

2. **Purpose of Assessments.** The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Members, Owners and/or residents of the Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

3. **Initial Annual Assessment.** Until the effective date of an Association budget ratified by the Owners with a different amount for the annual assessment, as provided above, the amount of the annual assessment against each Unit shall not exceed One Hundred and No/100 Dollars (\$100.00) per Unit per month.

4. **Rate of Assessment.** Annual and special assessments shall be fixed at a uniform rate for all Units sufficient to meet the expected needs of the Association. The

annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. All Common Expenses shall be assessed against all the Units in accordance with the General Common Allocation (as such allocation is determined by the Board from time to time in accordance with the formula described in Article II, section 3 of this Declaration.) If the General Common Allocation is reallocated, annual assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated General Common Allocation.

5. Date of Commencement of Annual Assessments. The annual assessment shall commence at such time as the Board of Directors may determine in its discretion. After any annual assessment has been made by the Association, annual assessments shall initially not be greater than the amount set forth in Section 3 of this Article, and thereafter shall be based on a budget adopted by the Association as provided in this Declaration. A budget shall be so adopted by the Association no less frequently than annually. The annual assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Unit between installment due dates shall pay a pro rata share of the last payment due.

6. Special Assessments. In addition to the annual assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of two-thirds (2/3) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Unit in accordance with the General Common Allocation set forth in this Declaration. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 7 of this Article IV. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

7. Notice and Quorum for Any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Association 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 60 days following the preceding meeting.

**8. Lien for Assessments.**

(a) The Association has a statutory lien on a Unit for any assessment levied against that Unit for fines or Compliance Expenditures imposed against its Owner. Fees, charges, fines and Compliance Expenditures charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become 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 any valid Association acceleration of installment obligations.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Unit is located, a written "Notice of Lien" setting forth the amount of the unpaid indebtedness, the date the amount was due and payable and from which interest accrues, the name or names, last known to the Association, of the Owner of the Unit, and a description of the Unit. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Unit against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments becomes due.

**9. Priority of Association Lien.**

(a) A lien under this Article IV is prior to all other liens and encumbrances on a Unit except:

(i) Liens and encumbrances recorded before the recordation of the Declaration;

(ii) A Security Interest on the Unit which was recorded or perfected before the date on which the assessment, fine, or Compliance Expenditure or other amount due and owing to the Association sought to be enforced became delinquent; and

(iii) Liens for real estate taxes and other governmental assessments or charges against the Unit.

(b) A lien under this Section is also prior to the Security Interests described in the preceding subsection (a)(2) to the extent of an amount equal to the annual assessments based on a periodic budget adopted by the Association as provided above, which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this Section of an action or nonjudicial foreclosure either to enforce or extinguish the lien.

(c) This Section does not affect the priority of mechanics' or material men's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S. 1973, as amended, or to the provisions of Section 15-11-201, C.R.S. 1973, as amended.

10. Assessment/Charges for Services to Separate Areas of the Property. The Association may, at any time from time to time, provide services to one or more of the Units. Any such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Units for which such services are to be provided, with such agreement to include a statement of the costs, fees and expenses reasonably expected to be incurred by the Association in providing such services, including overhead expenses of the Association. All such fees, costs and expenses shall be levied by the Association against the owners of the applicable Units as assessments in addition to the annual and special assessments which are provided for above. Services which may be provided by the Association pursuant to this Section include, without limitation: (a) the construction, care, operation, management, maintenance, repair, replacement and renovation of improvements or property owned by such Owner(s); (b) the provision of any services or functions to such Unit(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the collection of assessments for and on behalf of the Master Association; (e) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (f) the procurement of insurance for Owners. The Association may, at its election, at any time from time to time, collect the aforesaid costs, fees, expenses and other charges in any manner deemed appropriate by the Association, including without limitation in advance or arrears, in monthly or other installments, or on the same date for payment of the annual or special assessments.

11. Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally or by

certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Unit for unpaid assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

12. Effect of Non-Payment of Assessments and Compliance Expenditures, Remedies of the Association. Any assessment or fine not paid within ten (10) days after the same becomes due shall be deemed delinquent. If an assessment or fine is delinquent, the Association may recover all of the following (collectively, the "Compliance Expenditures") in addition to the delinquent assessment or fine:

(a) Reasonable costs incurred in collecting the delinquent assessment or fine including, without limitation, reasonable attorneys' fees and court costs; and

(b) Interest on the delinquent assessment or fine and the cost of collection described in section 12(a) above at an annual percentage rate equal to 21% per annum, or at such lesser rate as may be set from time to time by the Board of Directors; and

(c) Monthly late charges in such amounts as the Board of Directors may, in their sole discretion, impose by resolution from time to time.

The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include reasonable attorneys' fees to be fixed by the court, together with the costs of the action, and may include Compliance Expenditures as above provided. No Owner may be exempt from liability for payment of any assessments, fine or Compliance Expenditure by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Unit against which the assessments, fine or Compliance Expenditure is made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

13. Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as reserves and need not be paid to the Owners in proportion to their General Common Allocation or credited to them to reduce their future assessments.

14. Working Capital Fund. The Association or Declarant shall require the first Owner (other than Declarant) of any Unit who purchases that Unit from Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the then current monthly installment of the annual assessment (regardless of whether or not annual assessments have commenced as provided in Section 5 of this Article). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit and shall, until use, be maintained for the use and

benefit of the Association, including, without limitation, to meet Association expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

15. Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that Common Expense exclusively against such Owner and his Unit.

16. Other Charges. The Association may levy and assess charges, costs and fees for the following matters, among others, in such reasonable amount(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement for charges to the Association by its managing agent or other Person: copying of Association documents or other documents; return check charges; charges for telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Unit; charges for notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.

#### ARTICLE V. DESIGN REVIEW COMMITTEE

1. Existing Design Guidelines and Review Process. The Property is governed and controlled by a design review committee known as the Lowry Design Review Committee ("LDRC") created pursuant to the Master Declaration. Nothing in this Declaration is intended to supersede, waive, circumvent, or limit the applicable design review and approval requirements set forth in the Master Declaration and the Design Guidelines for the Lowry Community, as amended, which are adopted in accordance with the Master Declaration. This Declaration provides for design review, such review shall be an additional requirement and process separate and apart from the review and approval process provided by the Master Declaration (unless such processes are coordinated as permitted by this Declaration). Owners and Members are advised that pursuant to the Master Declaration, the Lowry Design Review Committee may, from time to time, publish, amend, and promulgate architectural standards and/or design guidelines which shall be applicable to all or any portion of the Property. Prior to acquiring any Unit or undertaking any Improvement of a Unit, each prospective purchaser, transferee, mortgagee and/or Owner must contact the Lowry Design Review Committee to obtain and review the most current architectural standards and design guidelines which will control the development, construction, landscape and use of the Unit, the property and the structures to be constructed or renovated thereon. The architectural standards and design guidelines may contain standards, requirements, recommendations, or limitations in addition to those expressly set forth or referred to in the Restrictions and more stringent

standards, requirements or limitations than the specific standards, requirements or limitations set forth or referred to in the Restrictions. Subject to the above, the Declaration provides additional design review, processes, or standards as follows.

**2. Composition of Committee; Possible Delegation or Acceptance of Authority under the Master Declaration.**

(a) The Design Review Committee shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until all of the Units that May Be Included have been conveyed to the first Owner thereof (other than Declarant), Declarant shall have the right to appoint the Design Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Design Review Committee; appoint member(s) to the Design Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Design Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

(b) In addition to the approval of any Improvement by the Design Review Committee, the approval of any Improvement shall also be required by the Lowry Design Review Committee, as defined and provided in the Master Declaration (the Lowry Design Review Committee shall hereinafter be referred to the "LDRC"). Notwithstanding the other provisions of this Article V or this Declaration, the Design Review Committee may, in its discretion from time to time: elect to abide by the decision(s) of LDRC on specified matter(s) over which the Design Review Committee has jurisdiction; accept from, and act on behalf of, the LDRC with respect to any matter(s); cooperate with the LDRC with respect to any matter which is subject to the jurisdiction of both the LDRC and the Design Review Committee; and/or take any other action(s) with respect to any matter(s) which is subject to the jurisdiction of both the LDRC and the Design Review Committee. Any or all of the foregoing may be accomplished by the Design Review Committee, at any time from time to time, by general resolution(s) or decision(s), or on a case-by-case basis. Without limiting the generality of this subsection, the Design Review Committee may, as long as its members are appointed by the Declarant, as provided above, delegate to the LDRC all authority of the Design Review Committee as to review and approval or disapproval of Improvements and may accept from the LDRC (if so delegated) the authority of the LDRC to review and approve or disapprove any matter(s) in the Property.

**3. Review by Design Review Committee.** No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Unit unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, fencing, walls,



windbreaks and grading plan, as well as such other materials and information as may be required by the Design Review Committee), shall have been first submitted to and approved in writing by the Design Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Design Review Committee approval during Declarant's development of, construction on, or sales of any Unit or residences on any Unit. The Design Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and that such Improvements are consistent with the Design Guidelines referenced in Section 4 of this Article. In its review of such plans, specifications and other materials and information, the Design Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Design Review Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the assessment against the Unit for which the request for Design Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

4. Procedures. The Design Review Committee shall decide each request for approval within thirty (30) days after the complete submission of the plans, specifications and other materials and information which the Design Review Committee may require in conjunction therewith. If the Design Review Committee fails to decide any request within thirty (30) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then approval shall be deemed to have been denied.

5. Design Guidelines. The Design Review Committee, with the advice of the Board of Directors, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce, a Design Guidelines Manual for the Property, or other design or architectural standards, to interpret and implement the provisions of this Article and the Declaration, including, without limitation, those relating to procedures, materials to be submitted, specifications of items, types or kinds of Improvements, and other matters. Any architectural or design standards so adopted by the Design Review Committee shall be consistent, and not in conflict, with this Article and the Declaration.

6. Vote and Appeal. A majority vote of the Design Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Design Review Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Design Review Committee, upon a written request therefor submitted to the Design Review Committee within thirty (30) days after such decision by the Design Review Committee's representative. Subsequent to conveyance of the last Unit owned by the Declarant, if the Design Review Committee decides a request for architectural approval (whether by original decision or on appeal) which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the Board of Directors, upon a written

request therefor, submitted to the Board of Directors within thirty (30) days after such decision by the Design Review Committee.

7. **Records.** The Design Review Committee, or its assigned agent(s), shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

8. **Variance.** The Design Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article IX hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

9. **Waivers; No Precedent.** The approval or consent of the Design Review Committee or any representative thereof, or the Board of Directors, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Design Review Committee or any representative thereof, or the Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

## ARTICLE VI. INSURANCE

1. **Insurance.** The Association shall maintain the following types of insurance on the Common Areas, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

(a) Property insurance for broad form covered causes of loss; except that the total amount of insurance must not be less than the full insurable replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundations, excavations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the

**Common Areas, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring the Board of Directors, the Association, any managing agent, and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board of Directors. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas. The insurance shall cover claims of one or more insured parties against other insured parties.**

**(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Property and/or any Owner who controls or disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate assessments on the Units, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Property to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subparagraph (c).**

**(d) If any of the Common Areas are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such Common Areas in an amount at least equal to the lesser of:**

**(i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or**

**(ii) one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.**

**(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including, but not limited to, personal**

liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

2. **General Provisions of Insurance Policies.** All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

3. **Deductibles.** The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment.

(a) To the extent the Association settles claims for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

(b) Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association, may be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, may be apportioned among the parties sharing in a joint duty of repair and maintenance, if applicable, or may be partly or wholly borne by the Association, all at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question and the Association may collect the amount from said Owner(s) in the same manner as any assessment.

4. **Payment of Insurance Proceeds.** Any loss covered by an insurance policy described in Sections 1 or 2 of this Article must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 1 of Article VII of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Property is terminated.

5. **Association Insurance as Primary Coverage.** If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

6. **Acceptable Insurance Companies.** Each insurance policy purchased by the Association must be written by an insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

7. **Insurance to be Maintained by Owners.** An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on the Improvements on a Unit and on personal property belonging to the Owner of such Unit, and public liability insurance coverage on each Unit, shall be the responsibility of the Owner of such Unit.

8. **Annual Review of Insurance Policies.** All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies adequately covers those risks intended to be insured by the Association. In making the aforesaid determination, the Board of Directors or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

9. **Notice of Cancellation.** If the insurance described in Sections 1 or 2 of this Article is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners.

**ARTICLE VII.  
DAMAGE OR DESTRUCTION**

1. **Damage or Destruction.**

(a) Any portion of the Property for which casualty insurance is required to be carried by the Association under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(i) The Property is terminated;

(ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

(iii) Eighty percent (80%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild; or

(iv) Prior to conveyance of any Unit to a Person other than the Declarant, a Security Interest Holder on the damaged portion of the Property rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is a Common Expense. If the entire Property is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Property and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability of all the Units. If the Owners vote not to rebuild any Unit, that Unit's General Common Allocation are automatically reallocated upon the vote as if the Unit had been condemned as provided in Article XIV, Section 13 hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

2. **Units.** Any damage to or destruction of any structure located on a Unit shall be promptly repaired and reconstructed by the Owner thereof using insurance proceeds. "Repaired and reconstructed," as used in this Section 2, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. However, if a residence located on a Unit shall be destroyed or so damaged that the residence is no longer

habitable, then the Owner of such Unit shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, commence and diligently pursue repair or reconstruction of the residence. If the Owner of a Unit does not commence repair or reconstruction within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Design Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Article VIII, Section 2 hereof, enter upon the Unit and complete such repair or reconstruction.

## ARTICLE VIII. EXTERIOR MAINTENANCE

### 1. General.

(a) Maintenance, repair and replacement of all Common Areas, Improvements located thereon, and of any drainage structure or facilities, or other public Improvements required by the local governmental entity as a condition of development of the Property or any part thereof, except for those Improvements maintained by the Lowry Community Master Association, which are subject to change from time to time, shall be the responsibility of the Association unless such Improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair and replacement or unless such maintenance, repair and replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Further, the Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated property and Improvements located thereon (such as snow removal from public streets). Without limiting the generality of the foregoing, the Association shall provide maintenance, repair and upkeep of the landscaped median located on Archer Place between S. Syracuse Street and Trenton Street. The costs, expenses, fees and other amounts to be expended for the maintenance and repair provided for in this subsection (a) shall, subject to Section 4 of this Article, be collected by the Association as assessments and paid as Common Expenses.

(b) The Association shall, as and when it deems necessary from time to time, also provide maintenance, repair and replacement of fences installed by Declarant on Units, outside landscaping on each Unit that is not within a fenced area, including without limitation mowing and watering of grass, pulling of weeds from mulch or rock areas, pruning of shrubs and trees, maintenance of sprinkler valves, lines and heads that provide water to such Association-maintained landscaped areas; provided, however, that the Association shall have no responsibility for maintenance of any landscaping or any Improvements to the landscaping on a Unit which were not installed by the Declarant. In addition, the Association shall provide for snow removal from all sidewalks located within Blocks 5, 6, 7, 8 and 9, and sidewalks on Units to the front door of the residence located on

such Unit, as and when the Board of Directors determines that such snow removal is appropriate, and the Association shall also remove snow from alleys if the snow level is sufficient, in the sole, discretionary judgment of the Board of Directors, to require plowing of streets and other ways.

(c) Except as provided above, the maintenance, repair and replacement of each Unit, and the Improvements thereon, shall be the responsibility of the Owner of such Unit. The Association and each Owner, and their agents and contractors, are hereby granted an easement for the purpose of maintenance and repair of the Owner's Unit on, over, across, under and through any adjacent Unit upon reasonable notice to the Owner thereof. Any damage occurring to such adjacent Unit or the Improvements thereon in performing such repairs or maintenance shall be the responsibility of the party performing or authorizing such repairs or maintenance.

2. Association's Right to Repair, Maintain, and Restore. In the event any Owner shall fail to perform his/her maintenance, repair and/or replacement obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owner by the Board, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair, and/or replacement shall be the personal obligation of the Owner of the Unit on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article IV hereof, including, without limitation, Compliance Expenditures and lien rights.

3. Access Easement. Each Owner hereby grants to the Association, and to their agents and employees, access through such Owner's Unit reasonably necessary for maintenance, repair and replacement of any Common Areas and any other property or Improvements maintained, repaired or replaced by the Association, including without limitation landscaping on each Unit (as provided above). If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Areas, any other property, or any Unit, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Unit shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or replacement as provided in this Article. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owners or occupants of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive maintenance; and except that in emergency situations entry upon a Unit may be made at any time provided that the Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible.

4. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or replacement of or



within any property for which the Association has an obligation to maintain, repair or replace, any Unit, or any Improvements located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance, replacement or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or replacement shall be added to the assessment to which such Owner's Unit is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

**5. Landscaping Warranties; Turnover of Landscaping on Common Areas.**

(a) As part of completion of the Property, the Declarant is having initial landscaping installed on the front yard of each Unit that is not within a fenced area, the right-of-ways, the area on the rear of each lot located between the fence and the alley and on the Common Areas. Such landscaping will be installed by a landscaping installer who will, incidental to such installation, issue separate written warranties to the Declarant on the landscaping that such installer installs on each Unit and on the Common Areas ("Landscape Warranty"). The Declarant is not providing a separate warranty on landscaping. However, the Declarant hereby assigns to the Association each such Landscape Warranty, as to each Unit and as to the Common Areas, and will execute any documents in the future that may be required in order to effectuate each such assignment. Except as provided in subsection (b) below, any claim under any Landscape Warranty will be handled by the Association to the landscape installer, rather than by the Declarant, and any questions or concerns regarding the landscaping materials, installation, or any other matters related to landscaping will be raised by an Owner or other Person with the Association, and the Association will take up such issue(s) with the landscape installer who issued the applicable Landscape Warranty.

(b) Upon or immediately following installation of landscaping on any property which is or is to become Common Areas, a walk-through shall be conducted of such landscaping by the Declarant, the Board of Directors (or by a committee, such as a landscape committee, designated by the Board), the managing agent of the Association, and perhaps the landscape installer. The purpose of the walk-through will be to determine the acceptability of such landscaping to the Association, to note any deficiencies or concerns that must be remedied by the landscape installer under the applicable Landscape Warranty, and to confirm the ending date of the one (1) year Landscape Warranty provided by the landscape

installer on such landscaping. A punch list of matters or concerns to be remedied by the landscape installer will be prepared at such walk-through for delivery to the landscape installer. Except as provided in such punch list, the inspected landscaping will be deemed to have been accepted by the Association subject to the Landscape Warranty on such landscaping.

## ARTICLE IX. RESTRICTIONS

1. **General Plan.** It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Units.

2. **Restrictions Imposed.** In addition to the covenants, restrictions and other provisions of the Master Declaration, this Property is subject to the recorded easements, licenses and other matters listed on Exhibit F attached hereto and incorporated herein by this reference. The Declarant declares that all of the Units shall also be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

3. **Residential Use.** Subject to Section 4 of this Article, Units shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Unit for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, the amount of traffic or the number of persons in the Property is not increased as a result of such usage, and no unreasonable inconvenience to other residents of the Units is created thereby.

4. **Declarant's Use.** Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Units such facilities as Declarant deems reasonably necessary or incidental to the development, construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant determines in its reasonable discretion from time to time. Any real estate used as a sales office, management office or a model, shall be a Unit.

5. **Household Pets.** No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Owners of each Unit may keep up to a total of two (2) bona fide household pets (including dogs, cats or other domestic animals), so long as such pets are not kept for any commercial purpose and are not kept in such manner as to create a nuisance to any resident of the Units. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are

being kept for commercial purposes or are being kept in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action(s) as it may deem appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article IV hereof.

6. Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Unit; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the Declarant or a Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Unit as to be visible from a street or from any other Unit.

7. Miscellaneous Improvements.

(a) No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House" or "For Rent" sign(s) of not more than a total of five (5) square feet or no more than two (2) security signs which are ground mounted and not more than a total of two (2) square feet. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Units, or otherwise in connection with development of or construction on the Units, shall be permissible.

(b) No wood piles or storage areas shall be so located on any Unit as to be visible from a street or from the ground level of any other Unit.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Unit, except when appropriately screened and approved by the Design Review Committee.

(d) Except as may otherwise be permitted by the Design Review Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction in the Property; and provided further, however, that the requirements of this subsection (d) shall not apply to those

**“antenna” (including some satellite dishes) which are specifically promulgated by the Telecommunications Act of 1996, as amended from time to time. As to “antenna” (including some satellite dishes) which are specifically covered by the Telecommunications Act of 1996, as amended, the Association shall be empowered to adopt rules and regulations governing the types of “antenna” (including some satellite dishes) that are permissible in the Property and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.**

**(e) No fences shall be constructed, installed, erected or maintained on any Unit unless approved by the Design Review Committee; except such fences as may be constructed, installed or located by the Declarant in its development of, or construction of Improvements in, the Property, including without limitation perimeter fencing around part of the Property.**

**(f) No wind generators, clotheslines, chain-linked (or other) dog runs, drying yards, or service yards, shall be constructed, installed, erected or maintained on any Unit.**

**8. Vehicular Parking, Storage and Repairs.**

**(a) No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored in the Property unless such parking or storage is entirely within the garage area of any Unit, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property or any Improvements located thereon.**

**(b) Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Property. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of forty-eight (48) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently licensed and registered.**

**(c) In the event the Association shall determine that a vehicle is parked or stored in violation of subsections (a) or (b) of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association**

in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

(d) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Property unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the private drives, street and from adjoining property. The foregoing restriction shall not be deemed to prevent, on a Unit, washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

9. Nuisances. No nuisance shall be permitted in the Property or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of the Property or any portion thereof. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Property; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Unit, or with any Owner's ingress and egress to or from his Unit and a public way. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no unlawful use shall be permitted or made of the Property or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Property, or any portion thereof, shall be observed.

10. No Hazardous Activities. No activities shall be conducted on any Unit or within Improvements constructed on any Unit which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Unit and no open fires shall be lighted or permitted on any Unit except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace.

11. No Annoying Light, Sounds or Odors. No light shall be emitted from any Unit which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or offensive to others.

12. Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Unit nor shall any such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and

sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

13. **Rules and Regulations.** Rules and regulations concerning and governing the Units, Common Areas, and/or this Property may be adopted, amended or repealed from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations.

14. **Units to be Maintained.** Each Unit shall at all times be kept in a clean and sightly condition. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Unit except as necessary during the period of construction or as provided in Section 12 of this Article.

15. **Leases.** The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, or any portion thereof, under the following conditions:

(a) All leases shall be in writing; and

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of the Master Declaration, this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

16. **Management Agreements and Other Contracts.** Any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of two (2) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than sixty (60) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the Period of Declarant Control shall be subject to review and approval by HUD or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.

17. **Use of Common Areas.** An easement is hereby granted to the Declarant through the Common Areas as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights. Subject to the immediately preceding sentence:

(a) No use shall be made of the Common Areas which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Common Areas.

(b) No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Areas to all Members, nor shall any Owner place any structure whatsoever upon the Common Areas.

(c) The use of the Common Areas shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors.

(d) No use shall ever be made of the Common Areas which will deny ingress and egress to those Owners having access to their Units only over Common Areas, and the right of ingress and egress to said Units is hereby expressly granted.

18. Subdivision and Lot Line Adjustments. Declarant may segregate, divide, and subdivide the Property into one or more Unit(s) as permitted by this Declaration. Declarant may develop or to permit, through others, the development of some or all of the Property and, at Declarant's option, to designate areas as Common Areas, Limited Common Elements, Recreation Areas, or for other purposes. Without limiting the generality of the foregoing, the Declarant hereby reserves the right to move any Unit line(s) with the consent of the Owner(s) of each Unit whose Unit line is being moved. Such Unit line adjustments may be done by the Declarant, if at all, for the purpose of accommodating Improvements which are constructed or are to be constructed, and shall not change the number of Units in the Property at the time such Unit line adjustment is approved by the applicable governmental entity. It is contemplated that the Property, or parcels or subareas within the Property, will be developed as a unified planned development in which the development of, and restrictions upon each portion thereof, will benefit each other and the whole thereof and conform to and comply with the Master Declaration. The rights which are reserved to the Declarant as provided in this Section shall terminate automatically as provided in Article I, Section 42 of this Declaration.

19. Easement for Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, a valid easement for the encroachment exists.

20. Utilities Easement. There is hereby created a blanket easement upon, across, over and under the Common Areas for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Areas and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is

hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Areas without conflicting with the terms hereof; provided, however, that such right and authority shall cease and determine upon the earlier of seven (7) years after recordation of this Declaration in the County of Jefferson, Colorado, or conveyance by Declarant of the last Unit to the first Owner thereof (other than Declarant), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Areas.

21. Easement for Unannexed Property. The Declarant hereby reserves, for the use and benefit of the property described on Exhibit C attached hereto and incorporated herein by this reference (said area, plus the 10% referred to in Article XIV, Section 5(a) hereof, is herein referred to as the "Annexable Area"), a non-exclusive, perpetual easement and right-of-way for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, and similar Common Areas, now or hereafter constructed, erected, installed or located in or on the Property, and on, over, across and under the Common Areas for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services, to those portion(s) of the Annexable Area which have not been included, from time to time, in the Property pursuant to Article XIV, Section 5 hereof. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred: annexation of such portion of the Annexable Area to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

22. Maintenance of Drainage and Grade. Each Owner shall maintain the grading upon his Unit, and the Association shall maintain the grading on the Common Elements, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Unit or the Common Elements, then the party responsible for the maintenance of such real property shall submit a plan to the Design Review Committee for its review and approval, in accordance with the provisions of Article V of this Declaration, and any such change shall also be made in accordance with all laws, regulations and resolutions of the City of Denver. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Unit is completed.



23. **Easements Deemed Created.** All conveyances of portions of the Property (including Units) hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article IX, even though no specific reference to such easements or to this Article IX appears in the instrument of such conveyance.

**ARTICLE X.  
PROPERTY RIGHTS IN THE COMMON AREAS**

1. **Owners' Easements of Enjoyment.** Subject to Section 2 of this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Units and for use for all other purposes, in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Unit.

2. **Extent of Owners' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to borrow money for the purpose of improving the Common Areas and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Areas to a Security Interest unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant; or

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure; and

(c) The right of the Association to promulgate and publish rules and regulations with which each Member shall strictly comply, including, but not limited to, the right of the Association to regulate and/or restrict vehicular parking and Improvements; and

(d) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Unit remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Association Bylaws or the rules and regulations of the Association; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Units not owned by the Declarant, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the foregoing, the granting of

permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Property shall not be deemed a transfer within the meaning of this subsection (e); and

(f) The right of the Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other persons, their family members, guests and invitees, for any purpose(s) the Board of Directors may deem to be useful, beneficial or otherwise appropriate; and

(g) The right of the Association to close or limit the use of the Common Areas while maintaining, repairing and making replacements in the Common Areas.

3. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on his Unit.

4. Payment of Taxes or Insurance by Security Interest Holders. Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Areas, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

#### ARTICLE XI. MASTER ASSOCIATION

1. Subject to Master Declaration. On or before conveyance of each Unit by the Declarant, such Unit shall be subject to both this Declaration and the Master Declaration. In the event of conflict, the Master Declaration shall control over this Declaration.

2. Master Association Assessments. Each Owner of a Unit shall be obligated to pay and shall pay to the Master Association, Assessments as set forth in the Master Declaration.

3. Voting Rights in the Master Association. Every Owner shall be a Member of the Master Association. Voting rights in the Master Association shall be as provided in the Master Declaration.

4. Appointment of Association Representative. The Association shall appoint a representative and/or contact person for the purpose of providing information and assisting in the coordination of Association management and operations with the Master Association's management and operations.

**ARTICLE XII.  
USE EASEMENTS ON UNITS**

1. **General Description of Use Easements.** Each Unit may have an Active Area and a Passive Area. The Passive Areas will be subject to a use easement as provided in this Article XII. That is, the Declarant intends to expand the general area for use and enjoyment of a Unit by providing an Easement Premises for such Unit so that the useable area of such Unit will essentially be expanded to include the useable area which is the Passive Area of the Unit next door. As a result, those Units which benefit from an Easement Premises will have an expanded use area for their general use, enjoyment, and improvement, all as provided in this Article.

2. **Reservation of Use Easement.** Declarant hereby reserves a perpetual, exclusive easement in accordance with this Article, on, over and across each Easement Premises for the benefit of the Unit adjacent to such Easement Premises. Not all Units will be granted the benefit of an Easement Premises as provided herein, nor will all Units be burdened by having an Easement Premises located thereon. The listing provided on the attached Exhibit D, and the planned Easement Premises as designated on the attached Exhibit E, constitute the plans for the Units which are part of the Annexed Property, but the Declarant may change any of the designations as to Units, owned by the Declarant, which are listed on the attached Exhibit D, and/or shown on the attached Exhibit E. At the time of conveyance of each Unit with a Passive Area that is part of an Easement Premises, or prior thereto, or thereafter, the Declarant shall, without the consent or approval of any other Person (including without limitation the Owner of such Unit), record in the City and County of Denver, Colorado, a document which will show and/or describe and/or designate the location of the Easement Premises located on such Unit. Without limiting or restricting the authority granted to Declarant in the preceding sentence: the Declarant may attach to each deed whereby Declarant conveys a Unit, a drawing or survey which shows the Unit which is being conveyed thereby and the Easement Premises located thereon, if any; or the Declarant may record a separate plot plan or survey of one (1) or more Units which shows one (1) or more Easement Premises thereon. Further, at any time, from time to time, as to any Units owned by Declarant, Declarant may add, remove, or otherwise change the Easement Premises or the designations of "Active Area" or "Passive Area" applicable to such Unit or Easement Premises, including without limitation those listed on the attached Exhibit D and/or shown on the attached Exhibit E.

3. **Purpose of Easement Premises.** The Owner of the Unit that is immediately adjacent to an Easement Premises, and also the family members, tenants, guests and invitees of such Owner, shall have the right to use the adjacent Easement Premises in a manner that is consistent with this Declaration, to the exclusion of the Owner of the Unit on which such Easement Premises is located, except as otherwise provided in this Article. Subject to compliance with all terms and provisions of this Declaration and the Master Declaration, including without limitation obtaining the prior written approval of the Design Review Committee as required, such permitted uses of the Easement Premises include those uses permitted by applicable zoning and also include, without limitation, grass, shrubs, plants,

flowers, vegetables and trees, construction, location, and use of hot tubs, patios, dog houses, trellises, chairs and tables, and similar improvements (as long as such improvements are not enclosed and do not have a solid cover). The Easement Premises may be used as a general recreational, picnic, social and garden area, as though such Easement Premises were owned by the Owner of the Unit with a right to use such Easement Premises; provided that such Easement Premises shall not be used in any manner, at any time, to unreasonably disturb the Owner of the Unit on which the Easement Premises is located or the Owner's family members, tenants, guests and invitees, and nothing shall be attached to the exterior wall of the Dwelling Unit on such Unit on which the Easement Premises is located.

4. Side Yard Fencing. Side yard fencing is not allowed on the side lot line between structures due to the use easements provided for in this Article and in the easements provided for in Article XIII hereof.

5. Right of Entry. The Owner of a Unit on which an Easement Premises is located shall have the right at all reasonable times to enter upon the Easement Premises, including the right to reasonably cross over the Active Area that borders on the Easement Premises, for the purpose of performing work related to maintenance of the Dwelling Unit located on the Unit on which the Passive Area is located.

6. Right of Drainage. The Passive Area shall have the right of drainage over, across and upon the Easement Premises for normal precipitation upon and irrigation of the Unit on which the Passive Area is located, and the Owner of the Unit adjacent to such Easement Premises shall not do or permit to be done any act which interferes with such drainage.

7. Right of Support. The Unit on which the Passive Area is located shall have the right of lateral and subjacent support for the Dwelling Unit and all improvements now or hereafter constructed upon such Unit, and no use of the Easement Premises shall adversely affect such right of support.

8. Indemnity of Owner of Active Area. The Owner of the Passive Area shall indemnify and hold the Owner of the Active Area harmless from damage to any Improvements, shrubs, plants, flowers, vegetables, trees and other landscaping, including without limitation the permitted Improvements and items listed in Section 3 of this Article, to the extent the damages result from the right of access reserved to the Owner of the Passive Area onto the Easement Premises.

9. Indemnity of Owner of Passive Area. The Owner of the Active Area shall indemnify and hold the Owner of the Passive Area harmless from damage to any improvements now or hereafter constructed, located or erected on the Unit on which such Passive Area is located, and from any personal injury (including death), to the extent that any such damage or injury is caused by use of the Easement Premises by the Owner of the adjacent Active Area or by such Owner's family members, tenants, guests and invitees. The Owner of the Active Area shall acquire and keep in force adequate hazard and liability insurance covering the Easement Premises.

10. Maintenance of Easement Premises. The Owner of the Unit which has the right to use an Easement Premises, as provided in this Article, shall be responsible for maintenance, repair and replacement of the Easement Premises, and of all improvements that are located thereon by or for the benefit of such Unit, to the same extent as if the Easement Premises were a portion of such Unit and owned by the Owner of such Unit. The foregoing shall include, without limitation, watering of landscaping on the Easement Premises and maintenance, repair and replacement of any fence that lies on, or borders, the Easement Premises.

**ARTICLE XIII.  
EASEMENT FOR CERTAIN MAINTENANCE**

1. Reservation of Easement for Certain Maintenance. Declarant hereby reserves a perpetual, non-exclusive easement in accordance with this Article, on, over and across each Active Area for the benefit of the Unit which is adjacent to such Active Area ("Easement for Maintenance"). The purpose of the Easement for Maintenance is to permit the Owner of each Unit to use the adjacent Active Area, if any, for purposes of maintenance, repair and replacement of Improvements on the Unit which is adjacent to such Active Area and the Dwelling Unit now or hereafter thereon; provided, however, that such Easement for Maintenance shall not be used in any manner, at any time, to unreasonably disturb the Owner of the Active Area on which such Easement for Maintenance is located or such Owner's family members, tenants, guests and invitees.

2. Right of Entry. The Owner of the Unit which is the beneficiary of an Easement for Maintenance shall have the right, upon forty-eight (48) hours notice to the Owner of the Active Area, to enter upon or cross over the referenced Active Area, at all reasonable times, for the purpose of performing work related to maintenance, repair and replacement of Improvements now or hereafter located on the Unit which is benefited by the Easement for Maintenance. In emergency situations entry upon a Unit may be made at any time, without prior notice, provided that the Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible.

3. Indemnity of Owner of Active Area. The Owner of the Unit which is the beneficiary of an Easement for Maintenance shall indemnify and hold the Owner of the Active Area harmless from damage to any Improvement, shrubs, plants, flowers, vegetables, trees and other landscaping now or hereafter located on such Active Area or on the Unit on which such Active Area is located.

**ARTICLE XIV.  
GENERAL PROVISIONS**

1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as supplemented and amended, may be by any proceeding at law or in equity against any Person(s) (including, without limitation, the Association) violating or

attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the aforesaid documents. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

2. Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

3. Conflict of Provisions. This Declaration is intended to be a Subsidiary Declaration referred to by the Master Declaration and supplements the Master Declaration with such additional covenants, conditions and restrictions as Declarant deems appropriate. All lands, Improvements, and uses in each area so developed shall be or become subject to both the Master Declaration and this Declaration. In case of any conflict between the Master Declaration and this Declaration, the Master Declaration shall control, so long as said Master Declaration provisions are legal and not in conflict with the Colorado Common Interest Ownership Act (CCIOA). In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

4. Conflict with Act. In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act, the terms or provisions of the Act shall control and govern. In case of any such conflict or inconsistency, the applicable terms and provisions contained in this Declaration shall, to the extent possible, be construed in accordance with the Act, and any conflict with or violation of the Act by any terms or provisions of this Declaration shall not affect, void, or render unenforceable any other term or provision of this Declaration (which shall be in full force and effect in accordance with their terms).

5. Annexation.

(a) Additional property may be annexed to this Declaration with the consent of two-thirds of the Members. Notwithstanding the foregoing, the Declarant may annex to this Declaration additional property within the lands described on the attached Exhibit C, until that date which is seven (7) years after the date of recording of this Declaration in Denver County, Colorado, without consent of any other Owners, Security Interest Holders, or any other Person; however, such Annexation is subject to a determination by HUD or VA (if the Declarant desires to

attempt to obtain HUD or VA approval of the property being annexed) that the annexation is in accord with the general plan approved by them and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Each such annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the Clerk and Recorder of Denver County, Colorado, which document shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land, shall state that the Declarant is the owner of the Units thereby created, shall assign an identifying number to each new Unit, shall describe any Common Areas within the property being annexed, shall reallocate the General Common Allocation among all Units, and may include such other provisions as Declarant deems appropriate. All provisions of this Declaration, including, but not limited to, those provisions regarding obligations to pay assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon recording an Annexation of Additional Land with respect thereto, as aforesaid. In addition to the foregoing, the Declarant may amend this Declaration at any time during the seven (7) year period noted hereinabove, in order to add additional real estate to the Property from such locations as the Declarant may elect in its sole discretion, so long as the total additional real estate so annexed to the Property pursuant to this sentence, and not described in the attached Exhibit C, does not exceed ten percent (10%) of the total area described in the attached Exhibits A and C. Notwithstanding anything contained in this Declaration to the contrary, no property shall be annexed into this Declaration unless such annexed property is within the property described in Exhibit A or Exhibit B of the Master Declaration.

(b) Each portion of the Property which is annexed to this Declaration, as provided in the preceding subsection (a), shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with the Act. However, the Declarant's right to withdraw each such portion of the Property shall expire and terminate, as to each portion of the Property which has been annexed to this Declaration, upon the first conveyance of any Unit in such portion of the Property to any Person other than the Declarant.

(c) The Declarant may exercise its Development Rights in all or any portion of the property described in the attached Exhibits A and C over which such rights have not already been exercised, and no assurances are made as to the boundaries or order of exercise of any such development rights.

#### 6. Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided in this

**Declaration, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by a vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.**

**(b) No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.**

**(c) Every amendment to the Declaration must be recorded in every county in which any portion of the Property is located, and is effective only upon recordation.**

**(d) Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create or increase Special Declarant Rights, increase the number of Units, or change the boundaries of any Unit or the General Common Allocation of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners.**

**(e) Amendments to the Declaration that are required by this Declaration to be recorded by the Association may be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.**

**7. Notice to Master Association and LRA. The Association shall provide written notice to the Master Association and to the Lowry Redevelopment Authority (LRA) of any proposed amendment or change to this Declaration, the Articles, Bylaws, Restrictions, or any architectural design standards or guidelines. Such notice shall be delivered to the Master Association and the LRA, at their last known address, not less than thirty (30) days prior to any proposed action on such amendment by the Master Association, the Owners, or the Members. Such notice shall identify the name, telephone number, and address of an Association representative possessing knowledge and information concerning the proposed amendment.**

**8. Registration of Mailing Address. Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon a Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the Period of Declarant Control shall be sent by registered or certified mail, postage prepaid, c/o Village Homes of Colorado, Inc., 6 West Dry Creek Circle, Littleton, Colorado 80120, unless such address is**



changed by the Association during the Period of Declarant Control; subsequent to termination of the Period of Declarant Control, the Association shall notify the Owners of a different address for notices.

9. HUD or VA Approval. During the Period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more Security Interests: annexation of additional real property (as provided in Article XIV, Section 5(a), above); amendment of this Declaration; termination of this Property; or merger or consolidation of the Association.

10. Description of Units. It shall not be necessary to use the term "lot" as a part of a legally sufficient description of a Unit.

11. Termination of Property. The Property may be terminated only in accordance with the Act.

12. Transfer of Special Declarant Rights. A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Property is located, and in accordance with the Act.

13. Eminent Domain. The taking by eminent domain of a Unit(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation the Act.

14. Association as Trustee. With respect to a third Person dealing with the Association in the Association's capacity as a trustee, the existence of trust powers and their proper exercise by the Association may be assumed without inquiry. A third Person is not bound to inquire whether the Association has the power to act as trustee or is properly exercising trust powers. A third Person, without actual knowledge that the Association is exceeding or improperly exercising its powers, is fully protected in dealing with the Association as if it possessed and properly exercised the powers it purports to exercise. A third Person is not bound to assure the proper application of trust assets paid or delivered to the Association in its capacity as trustee.

15. Dedication of Common Areas. Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Areas intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Declaration. The Common Areas owned by the Association are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Owners as more fully provided in this Declaration.

16. Conveyance and Acceptance of Common Areas. Declarant expressly reserves the right in the course of development of the Property and the development of any Additional Lands to convey to the Association or the Master Association, and the

Association and Master Association shall accept the conveyance of, certain areas such as, but not limited to, open spaces, ridges and drainage ways which for any reason are not intended to be developed and/or other property or facilities which are deemed by Declarant to be most suitable as Common Areas of the Association or the Master Association. Prior to transferring ownership from the Declarant to a Developer or Owner, the Declarant shall either convey or provide for the later conveyance of all such property to the Association or the Master Association. Subject to C.R.S. § 38-33.3-312, the Association reserves the right to convey all or any portion of the Common Area to the Master Association or any governmental or quasi-governmental entity including any metropolitan or special district.

17. Consent to Planned Building Group (PBG) Amendments. By this Declaration, the Owners, Members, Association, and the Board of Directors for the Association, and its/their successors, purchasers, and assigns, hereby irrevocably grant its/their consent to, and hereby authorizes and empowers the Lowry Economic Redevelopment Authority ("LRA"), in LRA's capacity as the Declarant of the Lowry Community pursuant to the Master Declaration, to apply for, process, seek approval of, and obtain any modification, alteration, revision or amendment of any Planned Building Group ("PBG") approved by the City and County of Denver which includes all or any portion of lands within the Property. Such consent, authority, and power shall include the authority to execute any documentation, maps, and plats necessary or convenient to exercise the power granted by this paragraph. Such power and authority may be assigned by the LRA to any incorporated homeowners' association for the Lowry Community or any association or sub-association within the Lowry Community which maintains authority for the administration of recorded covenants, conditions, and restrictions applicable to all or any portion of the lands included within any PBG. Notwithstanding the foregoing provisions, no modification, alteration, revisions or amendment of any PBG shall be permitted without the prior, discretionary consent of the Declarant ("Village Homes of Colorado, Inc.").

18. Governing Law. This Declaration shall be governed by, and construed under, the laws of the State of Colorado in existence as of the date of Recording of this Declaration in the Records.

19. Exhibits. All exhibits and riders attached hereto shall be deemed incorporated herein by this reference unless stated otherwise.

20. Run with Land; Binding upon Successors. The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Property and all real property and Improvements which are now or hereafter a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to the their respective heirs, personal representatives, successors and assigns.

21. **Limitation on Liability.** The Association, the Board of Directors, the Design Review Committee, the Declarant, and any member, agent or employee of any of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice.

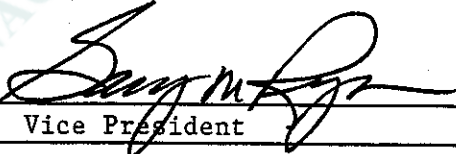
22. **No Representations or Warranties.** No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees, in connection with any portion of the Property, or any Improvement, its or their physical condition, zoning,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

23. **Disclaimer Regarding Safety.** DECLARANT AND THE ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT AND THE ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 8th day of April, 1998.

DECLARANT:

VILLAGE HOMES OF COLORADO, INC., a  
Colorado corporation

By:   
Its: Vice President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Arapahoe )

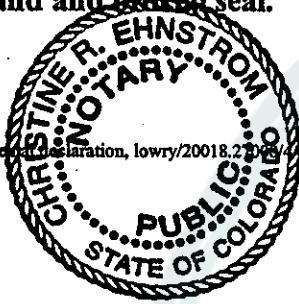
The foregoing instrument was acknowledged before me this 8th day of April, 1998, by Gary M. Ryan as Vice President of VILLAGE HOMES OF COLORADO, INC., a Colorado corporation.

Witness my hand and official seal.

Christine R. Ehnstrom

Notary Public

My commission expires: 7/7/98



ajr/village/lowry/supplemental declaration, lowry/20018.2.2008/3/98 9:22 am



Master Declarant has executed this Declaration merely to comply with Section 2.1 of the Master Declaration and, accordingly, Master Declarant shall have no duties, obligations, responsibilities or liabilities pursuant to this Declaration.

**LOWRY ECONOMIC REDEVELOPMENT  
AUTHORITY**

By: Montgomery C. Force  
Montgomery C. Force  
Deputy Director/Assistant Secretary

Date: April 8, 1998

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 8th day of April, 1998, by Montgomery C. Force, as Deputy Director of the LOWRY REDEVELOPMENT AUTHORITY.

Witness my hand and official seal.

Orena J. Lundholm  
Notary Public  
My Commission expires: 10/15/2001

**EXHIBIT A  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**LEGAL DESCRIPTION OF THE PROPERTY**

**Lots 1 through 15, inclusive, Block 9, Lowry Filing No. 1, as shown on the plat thereof recorded in the office of the Clerk and Recorder of Denver County, Colorado, on July 11, 1997, in Book 31, Pages 68-74, at Reception No. 9700089555.**

**EXHIBIT B  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**COMMON AREAS**

**Tracts F, G, H, J, K, AC, AD, AE, AF, AG, AH, AJ, AK, AL, AM, AN, AP, AR, AS, AT, AU, AV, AW, AX, AY, BA, BB, BC, BD and BE, Lowry Filing No. 1 as shown on the plat thereof recorded in the office of the Clerk and Recorder of Denver County, Colorado, on July 11, 1997, in Book 31, Pages 68-74, at Reception No. 9700089555.**

**EXHIBIT C  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**ADDITIONAL LANDS**

**Lots 1 through 7, inclusive, Block 5, Lots 1 through 20, inclusive, Block 6, Lots 1 through 18, inclusive, Block 7, Lots 1 through 18, inclusive, Block 8 and Lots 16 through 20, Block 9 all in Lowry Filing No. 1 as shown on the plat thereof recorded in the office of the Clerk and Recorder of Denver County, Colorado, on July 11, 1997, in Book 31, Pages 68-74, at Reception No. 9700089555.**



**EXHIBIT D**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS, AND RESTRICTIONS OF**  
**LOWRY VILLAGE I ASSOCIATION, INC.,**  
**A NEIGHBORHOOD AND SUBASSOCIATION OF**  
**THE LOWRY COMMUNITY**

**EASEMENT PREMISES**

**LOTS WHICH BENEFIT FROM THE**  
**EASEMENT PREMISES**

**LOTS ON WHICH AN EASEMENT**  
**PREMISE IS LOCATED**

**Block 5**

Lot 1  
Lot 2  
Lot 5  
Lot 6  
Lot 7

**Block 5**

Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 6

**Block 6**

Lot 1  
Lot 2  
Lot 3  
Lot 4  
Lot 6  
Lot 7  
Lot 8  
Lot 9  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 17  
Lot 18  
Lot 19  
Lot 20

**Block 6**

Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 7  
Lot 8  
Lot 9  
Lot 10  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 16  
Lot 17  
Lot 18  
Lot 19

**Block 7**

Lot 1  
Lot 2  
Lot 3  
Lot 4  
Lot 5

**Block 7**

Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 6

**EXHIBIT D**  
**TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS, AND RESTRICTIONS OF**  
**LOWRY VILLAGE I ASSOCIATION, INC.,**  
**A NEIGHBORHOOD AND SUBASSOCIATION OF**  
**THE LOWRY COMMUNITY**

**EASEMENT PREMISES**

**LOTS WHICH BENEFIT FROM THE**  
**EASEMENT PREMISES**

**LOTS ON WHICH AN EASEMENT**  
**PREMISE IS LOCATED**

**Block 7**

Lot 6  
Lot 7  
Lot 8  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 16  
Lot 17  
Lot 18

**Block 7**

Lot 7  
Lot 8  
Lot 9  
Lot 10  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 16  
Lot 17

**Block 8**

Lot 1  
Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 6  
Lot 7  
Lot 8  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 16  
Lot 17  
Lot 18

**Block 8**

Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 6  
Lot 7  
Lot 8  
Lot 9  
Lot 10  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 16  
Lot 17

**EXHIBIT D  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**EASEMENT PREMISES**

**LOTS WHICH BENEFIT FROM THE  
EASEMENT PREMISES**

**LOTS ON WHICH AN EASEMENT  
PREMISE IS LOCATED**

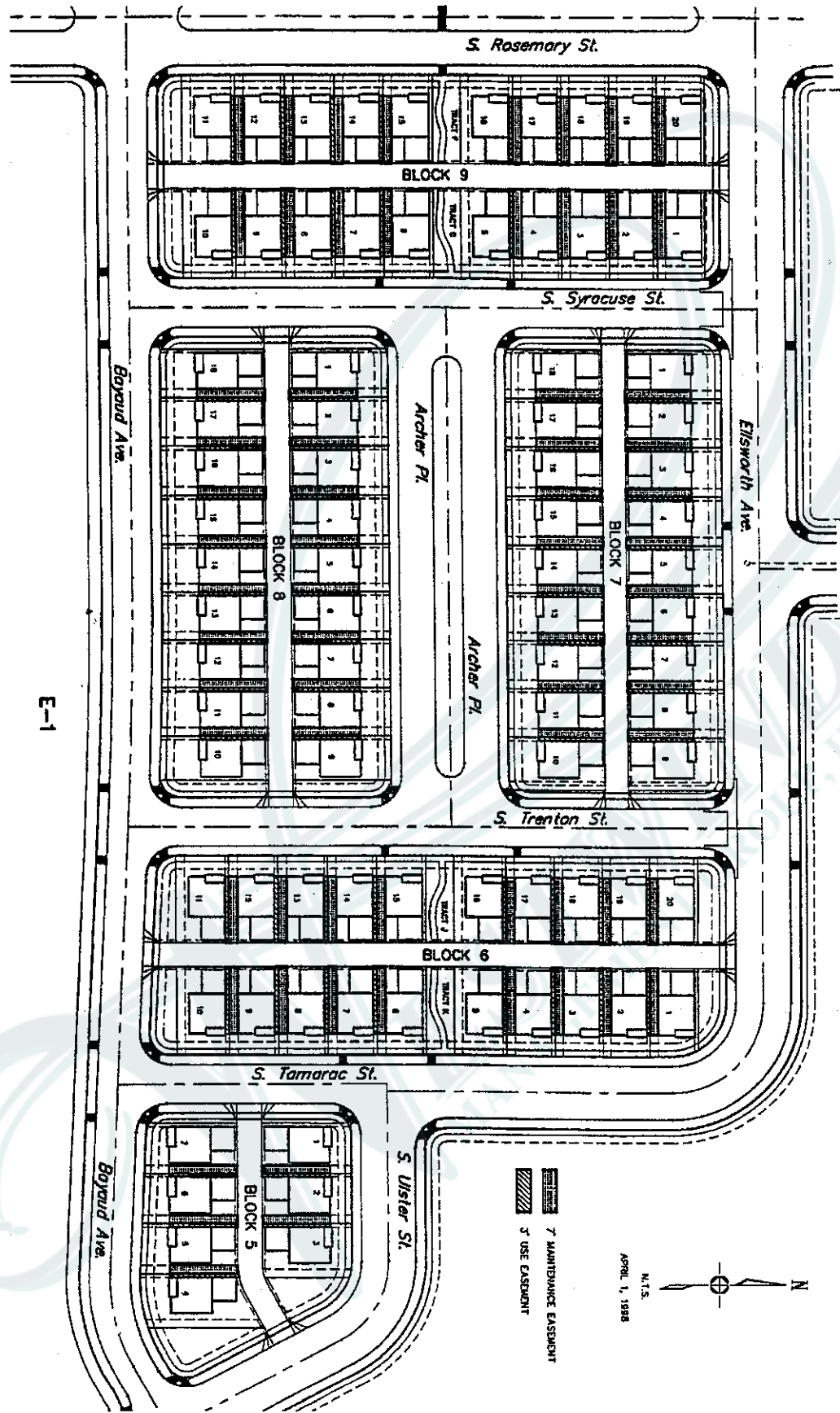
**Block 9**

**Lot 1  
Lot 2  
Lot 3  
Lot 4  
Lot 6  
Lot 7  
Lot 8  
Lot 9  
Lot 12  
Lot 13  
Lot 14  
Lot 15  
Lot 17  
Lot 18  
Lot 19  
Lot 20**

**Block 9**

**Lot 2  
Lot 3  
Lot 4  
Lot 5  
Lot 7  
Lot 8  
Lot 9  
Lot 10  
Lot 11  
Lot 12  
Lot 13  
Lot 14  
Lot 16  
Lot 17  
Lot 18  
Lot 19**

EXHIBIT E  
 TO  
 DECLARATION OF COVENANTS,  
 CONDITIONS, AND RESTRICTIONS OF  
 LOWRY VILLAGE I ASSOCIATION, INC.



E-1

**EXHIBIT F  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF  
LOWRY VILLAGE I ASSOCIATION, INC.,  
A NEIGHBORHOOD AND SUBASSOCIATION OF  
THE LOWRY COMMUNITY**

**TITLE EXCEPTIONS**

The following items which are recorded in the office of the Clerk and Recorder of Denver County, Colorado:

1. **Taxes and assessments not yet due or payable and special assessments not yet certified to the Treasurer's office.**
2. **Any unpaid taxes or assessments against said land.**
3. **Liens for unpaid water and sewer charges, if any.**
4. **Notes, Restrictions and Easements as set forth on the recorded Plat of Lowry Filing No. 1.**
5. **Terms, Conditions and Provisions of Master Declaration of Covenants, Conditions and Restrictions recorded June 23, 1997 at Reception No. 9700080387.**
6. **Reservations as contained in Deed from the United States of America recorded June 23, 1997 under Reception No. 9700080389.**
7. **Terms, Conditions and Provisions of Easement and Indemnity Agreement between the City and County of Denver and Lowry Redevelopment Authority as evidenced by instrument recorded September 25, 1997 under Reception No. 9700128471.**
8. **Terms, Conditions and Provisions of Lowry Filing No. 1 - Phase 1 P.B.G. recorded September 25, 1997 under Reception No. 9700128472.**

①

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

GORSUCH KIRGIS L.L.C.  
1401 17th Street, Suite 1100  
Denver, Colorado 80202  
Attention: Randy D. Funk, Esq.

9700080387 1997/06/23 14:56:11 1/ 206 DEL  
DENVER COUNTY CLERK AND RECORDER 031.00 .00 SMD

MASTER DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE LOWRY COMMUNITY

WESTWIND  
MANAGEMENT GROUP, INC.

MASTER DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE LOWRY COMMUNITY

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**MASTER DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE LOWRY COMMUNITY**

This Master Declaration is made as of the date of execution as indicated below by the United States of America, acting by and through the Secretary of the Air Force ("Declarant").

Declarant is the owner of certain parcels of land in the City and County of Denver and the County of Arapahoe, Colorado, containing approximately 1775 acres, historically known as the Lowry Air Force Base which, with other parcels, is defined in this Master Declaration as the "Project Area." Declarant intends to convey or transfer, or has contracted for the conveyance or transfer, all or portions of the Project Area to the Lowry Economic Redevelopment Authority, a separate legal entity established pursuant to an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado, for the purpose of developing the Project Area as a balanced, planned community accommodating a mix of residential, commercial, industrial and other land uses, including recreational areas and open space. The Declarant desires to establish certain easements, covenants, conditions and restrictions to provide for the cooperative development, improvement, use, operation, maintenance, repair and enjoyment of the Property located within such planned community. Further, Declarant now desires to create a planned community and to establish certain mutually beneficial easements, covenants, restrictions and equitable servitudes for the cooperative development, improvement, use, operation, maintenance, repair and enjoyment of such planned community under a general plan for the purpose of enhancing and perfecting the value, desirability and attractiveness of such planned community.

**DECLARATION**

NOW, THEREFORE, Declarant hereby declares that the Property is a planned community within the meaning of the Act and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following covenants, conditions, restrictions, and equitable servitudes in furtherance of, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Property and to enhance the value, desirability and attractiveness of the Property. This Master Declaration touches and concerns the Property and shall (i) run with the land and all parts thereof at law and as an equitable servitude; (ii) bind all Persons having or acquiring any interest in the Property or any part thereof; (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein; and (iv) inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest; each Owner, their grantees, heirs and assigns and successors in interest; and the Master Association and its successors in interest.

ARTICLE 1  
DEFINITIONS

1.1 Definitions. Unless the context otherwise specifies or requires, the following words and phrases when used in this Master Declaration shall have the meanings specified below.

1.1.1 "Act" means the Colorado Common Interest Ownership Act codified at Colorado Revised Statutes ("C.R.S.") §§ 38-33.3-101 et seq., as amended.

1.1.2 "Additional Lands" means the real property described on Exhibit B attached hereto and incorporated herein by this reference together with undescribed additional real property not to exceed 10% of the total area of the Property; provided, however, that in no event may the Declarant increase the number of Units beyond the number stated in section 1.1.43 below.

1.1.3 "Articles" means the articles of incorporation of the Lowry Community Master Association, Inc., a Colorado nonprofit corporation, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may from time to time be amended.

1.1.4 "Assessments" means the Regular Assessments and the Special Assessments.

1.1.5 "Beneficiary" means a mortgagee under a mortgage or a beneficiary under a deed of trust.

1.1.6 "Board" means the Board of Directors of the Master Association.

1.1.7 "Bylaws" means the Bylaws of the Master Association which may be adopted by the Board, as such Bylaws may be amended from time to time.

1.1.8 "Common Area" means any portion of the Property together with all improvements thereon (other than Limited Common Elements and Units) owned by the Master Association for the primary benefit of all Members and the Property as a whole including, without limitation, landscaped areas adjacent to public rights-of-ways, landscaped areas within island and/or median areas associated with public rights-of-ways, entrance areas, postal facilities, parking areas, trails, parks, gardens, Recreation Areas and other personal and real property now or hereafter owned or controlled by the Master Association. Common Areas are subject to the terms, limitations, rules and regulations provided in this Master Declaration and those Rules established by Board from time to time.

1.1.9 "Compliance Expenditures" shall have the meaning provided in section 4.6.

1.1.10 "Declarant" means the United States of America, acting by and through the Secretary of the Air Force. The term "Declarant" shall also include one or more successors in interest which have been designated in writing (which writing shall be recorded in the Records) by the then-existing Declarant and who is acting in concert with the then-existing Declarant under a plan for the ownership and development of the Property. By this document, the Declarant hereby irrevocably designates the Lowry Economic Redevelopment Authority ("LRA"), a separate legal entity established pursuant to C.R.S. § 29-1-203 and an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado, dated August 1, 1994, and recorded at Filing No. 94-496A (also known as Auditor's No. XC4X040) in the office of the Clerk and Recorder for the City and County of Denver, as the Declarant in accordance with this section 1.1.10.

1.1.11 "Developer" means a Person, other than the Declarant, that purchases or owns a portion of the Property for purposes of subdivision, development, and/or resale.

1.1.12 "Development Rights" means the rights or combination of rights hereby reserved by the Declarant to (i) add real estate to the Property and make subject to this Master Declaration any Additional Lands; (ii) create Units and/or Common Areas and Limited Common Elements within the Property; (iii) further subdivide Units or convert Units into Common Areas or Limited Common Elements; and (iv) withdraw real estate from the common interest community.

1.1.13 "Dwelling unit" means one or more rooms of a lawfully habitable residential structure physically arranged so as to create an independent housekeeping establishment for occupancy by one single family with separate toilets and facilities for cooking and sleeping.

1.1.14 "First Mortgage" means any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering a Unit or a portion thereof recorded in the Records having priority of record over all other recorded liens except those liens made superior by statute (such as, for example, general ad valorem tax liens and special assessments, mechanic's liens and the Master Association's lien for Assessments). The phrase "First Mortgage" shall also include a leasehold mortgage or deed of trust; provided that the leasehold estate encumbered by the leasehold mortgage or deed of trust is for a term of not less than twenty (20) years and the leasehold mortgage or deed of trust encumbers an entire Unit.

1.1.15 "First Mortgagee" means any Person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such Person under such First Mortgage.

1.1.16 "General Common Allocation" means with respect to each Unit, the percentage number obtained by dividing the vote or votes allocated to a Unit by the total number of votes allocated to all Units within the Property existing from time to time as specified by section 4.2.1. The General Common Allocation is intended to provide for and allocate among all Unit Owners 100% of the voting rights existing within the Lowry Community from time to time and provide a means of allocating among all Unit Owners 100% of the costs and expenses of the Lowry Master Community Association. Addition or withdrawal of Units from the Property shall require recalculation and adjustment of the General Common Allocation as provided in this Declaration.

1.1.17 "Improvement" means every structure and all appurtenances thereto of every type and kind including, but not limited to, buildings, outbuildings, fixtures, utilities, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, water softener fixtures or equipment, poles, pumps, wells, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electricity, solar energy, telephone, regular or cable television, or other utilities.

1.1.18 "Limited Common Elements" means any portion of real property within the Property designated in accordance with the Act, this Master Declaration and any Subsidiary Declaration, as a common area for the primary benefit of the Owners and occupants of a particular area of the Property. A Limited Common Element may be owned by any Owner, a Subassociation, a nonprofit corporation or an unincorporated association in which all such Owners shall be entitled to membership.

1.1.19 "Lowry Design Review Committee" (sometimes referred to as the "LDRC") means the Lowry Community Master Association Design Review Committee described in Article 5 of this Master Declaration.

1.1.20 "Map" means the Land Survey Plat of the Lowry Community, prepared by BRW, Inc. dated January 21, 1997, attached to or recorded with this Declaration as Exhibit A, as it may be properly amended by the addition of Additional Lands or as otherwise provided in this Declaration.

1.1.21 "Master Association" means the Lowry Community Master Association, Inc., a Colorado non-profit corporation, as described in Article 4 of this Master Declaration, and its successors.

1.1.22 "Master Association Property" means all real and personal property now or hereafter owned by, or leased to, the Master Association.

1.1.23 "Master Declaration" (sometimes referred to herein as the "Declaration" or "this Declaration") means this instrument as it may be amended from time to time.

1.1.24 "Member" means any Person who is a member of the Master Association pursuant to section 4.2.

1.1.25 "Owner" means a Person or Persons (including Declarant or any Developer) owning a fee simple interest in a Unit from time to time. Such term shall include a contract vendee under an installment land sales contract, but shall not include (i) the vendor under such a contract; or (ii) a Person holding an interest in a Unit merely as security for the performance of an obligation (unless and until such a security holder becomes an owner in fee simple of a Unit).

1.1.26 "Parcel" means (i) those certain discrete areas depicted on the Map (which areas are referred to therein as Parcel 1, Parcel 2, etc.) and (ii) those certain discrete areas established from time to time by Declarant in its sole discretion.

1.1.27 "Period of Declarant Control" means that period commencing upon recordation of this Master Declaration and terminating at the later of: (i) 60 days after conveyance of 75% of the Units that may be created to Owners other than the Declarant as provided by section 1.1.43; (ii) two years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or (iii) two years after any right to add new Units was last exercised. Notwithstanding the foregoing, the Declarant may voluntarily: (i) terminate the Period of Declarant Control in a Recorded writing, which election shall be in the sole discretion of the Declarant; and/or (ii) surrender the right to appoint and remove any officer(s) and member(s) of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Master Association or the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

1.1.28 "Person" means a natural individual or any other entity with the legal right to hold title to real property.

1.1.29 "Plans and Specifications" means any and all documents designed to guide or control the construction of an Improvement including, but not limited to, those indicating size, shape, configuration or materials, all site plans; excavation and grading plans; foundation plans, drainage plans; landscaping and fencing plans; elevation drawings, floor plans, specifications on all building products and construction techniques; samples of exterior colors; plans for utility services and all other documentation or information relevant to the particular Improvement.

1.1.30 "Property" means initially all of the real property described on the Map along with any and all Improvements now in place or hereafter constructed thereon. The Property also includes Additional Lands as defined in section 1.1.2 which later become annexed and subjected to this Master Declaration by Declarant or by others pursuant to section 2.2.

1.1.31 "Property Maintenance Fund" means the fund created for the receipts and disbursements of the Master Association.

1.1.32 "Records" means the official real property records of the City and County of Denver and/or Arapahoe County, Colorado; "to Record" means to file for recording in the Records; and "of Record" and "Recorded" means having been recorded in the Records.

1.1.33 "Recreation Areas" means all Common Areas designated by Declarant as such to be held for recreational purposes for the benefit of all Members and the benefit of the Property as a whole; provided, however, that subject to all applicable laws, ordinances, resolutions and regulations, access to any Recreation Area or facility may be limited to dues-paying members, subject to fees and other charges, or otherwise conditioned or restricted, and made available to non-members, all on such terms and conditions as the Board may determine.

1.1.34 "Regular Assessments" means those Assessments levied by the Master Association pursuant to section 4.10.

1.1.35 "Restrictions" means all terms and provisions contained in (i) this Master Declaration as amended from time to time; (ii) any and all applicable Subsidiary Declaration(s) which may be recorded pursuant to section 2.1. hereof, as amended from time to time; (iii) the Rules in effect from time to time; (iv) the Articles and Bylaws of the Master Association in effect from time to time; and (v) any architectural standards or design guidelines as amended from time to time and as adopted pursuant to this Master Declaration.

1.1.36 "Rules" or "Rules and Regulations" means the rules and regulations adopted by the Board pursuant to section 4.15.8, as they may be amended from time to time, including rules or regulations, however denominated, which are adopted for the regulation and management of the property, including but not limited to architectural standards and design guidelines.

1.1.37 "Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge or an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

1.1.38 "Special Declarant Rights" means the rights hereby reserved for the benefit of Declarant to perform the acts specified in parts 2 and 3 of the Act and section 8.7 of this Master Declaration and to exercise specifically the following rights: to complete improvements indicated on the Map; to exercise any Development Right; to maintain sales offices, management, offices, signs advertising and marketing the Property; to use easements throughout the Common Areas and Limited Common Elements for the purposes of making improvements within the Property; to merge or consolidate a common interest community of the same form of ownership; and to appoint or remove any officer of the Master Association, any member of the Board, and any member of the LDRC during the Period of Declarant Control.

1.1.39 "Special Assessments" means those Assessments levied by the Master Association pursuant to section 4.11.

1.1.40 "Subarea" means those certain discrete areas of the Property which may be referred to in any Map as a "Subarea."

1.1.41 "Subassociation" means any nonprofit Colorado corporation and its successors, organized and established by Declarant or pursuant to, or in connection with, a Subsidiary Declaration recorded by Declarant as provided in section 2.1.

1.1.42 "Subsidiary Declaration" means any declaration of covenants, conditions, and restrictions affecting any portion or subarea of the Property, which may be hereafter recorded by Declarant or recorded by others with the Declarant's approval and consent. The term "Subsidiary Declaration" does not include this Master Declaration and, further, any Subsidiary Declaration shall be interpreted in a manner consistent with the terms and provisions of this Master Declaration.

1.1.43 "Unit" means and refers to any physical portion of the Property which is legally designated and intended for separate and individual ownership by an Owner and the boundaries of which are described in or determined from this Declaration and its exhibits, as it may be amended, with the exception of the Common Area(s), Limited Common Element(s), and public streets, but including all appurtenances and improvements now or hereafter located within the Unit. The term "Unit" is intended to be synonymous with the term "unit" as defined in the Act. The total number of Units which the Declarant reserves the right to create upon the Property shall not exceed 6,000 Units unless such number is amended as provided in this Declaration.

ARTICLE 2  
DEVELOPMENT OF THE PROPERTY/ANNEXATION

2.1 Subdivision and Development by Declarant. Declarant intends to segregate and divide the Property into several Subareas and/or Parcels and to further subdivide the created Unit into one or more Unit(s) as permitted by this Declaration. Declarant intends to develop or to permit, through others, the development of some or all of the Property and, at Declarant's option, to designate areas as Common Areas, Limited Common Elements, Recreation Areas, or for other purposes for the benefit of the developed areas and Units of the Property. It is contemplated that the Property, or Parcels or Subareas within the Property, will be developed as a unified planned development in which the development of, and restrictions upon each portion thereof, will benefit each other and the whole thereof. As each Subarea or Parcel is developed, Declarant may record one or more Subsidiary Declarations with respect to such Subareas or Parcels which shall refer to this Master Declaration and which may supplement this Master Declaration with such additional covenants, conditions and restrictions as Declarant may deem appropriate for that Subarea or Parcel. Each Subsidiary Declaration may provide for the establishment of a Subassociation to be comprised of Owners within the area subject to such Subsidiary Declaration. All lands, Improvements, and uses in each area so developed shall be subject to both this Master Declaration and the Subsidiary Declaration for that area. In the event of conflict, this Master Declaration shall control over any Subsidiary Declarations.

2.2 Annexation. Additional property may be annexed to the Property and subjected to the Master Declaration from time to time with the consent of 67% of the votes in the Master Association and, during the Period of Declarant Control, with the consent of the Declarant. Notwithstanding and the foregoing, up to and including 20 years from the date of recording of this Master Declaration, the Declarant may annex into the Property any portion of, or all of, the Additional Lands without the consent of the individual Owners (or any percentage thereof) and without the



consent of any First Mortgagees, Insurers or Guarantors; provided, however, that in no event may property not described in Exhibit B as Additional Lands be annexed to the Property if the total area of such undescribed property exceeds 10% of the total area of the real estate included within the Property and the Additional Lands. Each such annexation shall be effected by Recording an amendment to this Master Declaration entitled "Declaration of Annexation" in the Records in compliance with C.R.S. § 38-33.3-217, which document shall provide for annexation to the Master Declaration of the property described in such document. Any purchaser of all or a portion of the annexed property is deemed to irrevocably consent to annexation under the purview of this Master Declaration and to permit development in accordance with the general plan established hereunder.

2.2.1 Upon the Recording of a Declaration of Annexation, the Restrictions shall apply to the added land in the same manner as if it had been originally subject to this Master Declaration; and thereafter, the rights, privileges, duties and liabilities of the Persons subject to this Master Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Master Declaration. The Declaration of Annexation must comply with applicable provisions of C.R.S. §§ 38-33.3-209 and 38-33.3-210 and must contain (i) a reference to this Master Declaration, which reference shall state the date of Recordation and the recording information related to this Master Declaration; (ii) a statement that the provisions of this Master Declaration shall apply to the added land as set forth herein; (iii) an adequate legal description of the added land; (iv) an amendment to the Map or, if such an amendment is not necessary, a new certification of the Map in accordance with C.R.S. § 38-33.3-209; and (v) during the Period of Declarant Control, Declarant's written consent. The Declaration of Annexation may be contained as a part of or within any Subsidiary Declaration affecting the added land.

2.2.2 All provisions of this Master Declaration including, but not limited to, those provisions regarding obligations to pay Assessments to the Master Association and any right to cast votes as Members of the Master Association, shall apply to annexed property (including, but not limited to, all Units contained therein) immediately upon Recording a Declaration of Annexation with respect thereto in accordance with this section. Prior to transferring ownership of the first subdivided lot or any other discrete portion of any property annexed to the Property, Declarant shall convey any Common Area contained in such annexed property to the Master Association. Portions of the annexed property are not to be deemed Recreation Areas unless specifically so designated.

2.2.3 If Declarant fails to exercise its right to annex into the Property any Additional Lands within the time period

set forth in this section 2.2, or if Declarant Records an instrument surrendering its annexation right, that annexation right shall lapse unless the Master Association, upon the request of Declarant or the Owner of the real estate subject to such annexation right, agrees to an extension of the time period for exercise of the annexation right or to a reinstatement of the annexation right subject to whatever terms, conditions, and limitations the Master Association may impose on the subsequent exercise of the annexation right. The extension or renewal of the annexation right and any terms, conditions and limitations shall be included in an amendment executed by the Declarant or the Owner of the real estate subject to the annexation right and the Master Association, in compliance with C.R.S. § 38-33.3-217.

2.2.4 If the Declarant exercises its right to annex into the Property any Additional Lands within the time period set forth in this section, the Declarant alone is liable for all expenses in connection with such annexed property for so long as Declarant owns such property. Any income or proceeds from the annexed property inures to Declarant for so long as Declarant owns the annexed property. If Declarant fails to pay all expenses in connection with such real estate during this time, the Master Association may pay such expenses, and such expenses shall be assessed as a common expense against the annexed property, and the Master Association may enforce the assessment pursuant to C.R.S. § 38-33.3-316 by treating such real estate as if it were a Unit.

2.3 Conveyance and Acceptance of Common Areas. Declarant expressly reserves the right in the course of development of the Property and the development of any Additional Lands to convey to the Master Association, and the Master Association shall accept the conveyance of, certain areas such as, but not limited to, open spaces, ridges and drainage ways which for any reason are not intended to be developed and/or other property or facilities which are deemed by Declarant to be most suitable as Common Areas of the Master Association. Prior to transferring ownership from the Declarant to a Developer or Owner, the Declarant shall either convey or provide for the later conveyance of all such property to the Master Association. Subject to C.R.S. § 38-33.3-312, the Association reserves the right to convey all or any portion of the Common Area to any governmental or quasi-governmental entity including any metropolitan or special district.

2.4 Initial Unit and Further Subdivision of Units. At the time of execution of this Declaration, the Declarant has created one initial Unit comprised of the entire Property depicted on Exhibit A. The Declarant intends to further subdivide this initially created Unit into one or more Units as permitted by this Declaration with the total Units created not exceeding that number stated in section 1.1.43. By this Declaration, the Declarant expressly reserves the right to subdivide any existing Unit(s) owned and controlled by the Declarant into two or more Units as

permitted by C.R.S. § 38-33.3-213. Such subdivision of any Unit(s) by the Declarant may be effected by an amendment to this Declaration which is executed by the Board of Directors of the Master Association without the approval of any Unit Owners as permitted by C.R.S. §§ 38-33.3-217(1) and 38-33.3-213. Nothing herein shall be construed to prevent or preclude any other subdivision of a Unit as may be permitted by C.R.S. § 38-33.3-213.

ARTICLE 3  
GENERAL RESTRICTIONS/PERMITTED USES

3.1 General Restrictions. All of the Property shall be owned, held, conveyed, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

3.1.1 Insurance Rates. Nothing shall be done or kept on or at the Property which will increase the rate of insurance on any Master Association Property without the approval of the Board, nor shall anything be done or kept on or at the Property which would result in the cancellation of insurance on any Master Association Property or which would be in violation of any law.

3.1.2 Violation of Restrictions. If any Owner or Developer or their respective family, guests, licensees, lessees, invitees, agents or employees violates the Restrictions, the Board may invoke any one or more of the following remedies: (i) impose a fine upon such Developer or Owner for each violation; (ii) cause the violation to be cured and charge the cost thereof to such Developer or Owner; and (iii) obtain injunctive relief against the continuance of such violation and/or other judicially available remedy, including damages and attorney's fees. Before invoking any such remedy, the Board shall give such Developer or Owner notice (as provided in the Bylaws, or if not so provided, as provided in section 8.2 of this Master Declaration) except that the Board may immediately suspend the right to use any Recreation Area and/or facility owned by the Master Association by any Developer or Owner and their respective family, guests, licensees, lessees, invitees, agents, and employees, without notice for any period during which any Assessment owned by such Developer or Owner is past due and unpaid.

3.2 Exemption of Declarant. Notwithstanding anything in this Master Declaration to the contrary, during the Period of Declarant Control neither Declarant nor any of Declarant's activities shall in any way be subject to the control of, or under the jurisdiction of, the Lowry Design Review Committee. Without in any way limiting the generality of the preceding sentence, this Master Declaration shall not prevent or limit the right of Declarant to (i) excavate and grade; (ii) construct and alter drainage patterns and facilities; (iii) construct any and all types

of Improvements; (iv) maintain model homes and construction, sales, management and leasing offices and similar facilities of a reasonable size, and in locations well suited for such uses as determined by the Declarant from time to time; and (v) post signs incidental to construction, sales, leasing, or other Declarant activities on the Common Area, Limited Common Elements, Recreation Areas, and/or Units owned by Declarant. Notwithstanding anything to the contrary contained in the foregoing, no such activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or the Owner's family of the Owner's Unit; and once the Declarant ceases to be an Owner, the Declarant will cease to have any rights with regard to any real estate used as a sales office, management office, or model.

3.3 Assignment by Declarant/Transfer of Special Declarant Rights. Notwithstanding any other provision of this Master Declaration to the contrary, Declarant may delegate, transfer or assign in whole or in part any of its privileges, exemptions, Development Rights and duties under this Master Declaration or under the Act (including the Special Declarant Rights) to any other Person and may permit the participation in whole or in part by any other Person in any of its privileges, exemptions rights and duties hereunder. Without in any way limiting the generality of the preceding sentence, Declarant may in its sole discretion exempt from the control and jurisdiction of the Lowry Design Review Committee any Developer, or any assignee and successor in interest of all or substantially all of Declarant's interests, rights, and responsibilities in and to the Property. Such exemption shall be made in writing. Any such delegation, transfer or assignment of any Special Declarant Right must be made in accordance with C.R.S. § 38-33.3-304.

#### ARTICLE 4 MASTER ASSOCIATION

4.1 Organization. The Master Association may exercise all powers identified in part 3 of Article 33.3, Title 38, C.R.S., subject to the provisions of this Article. The Master Association shall be organized no later than the date that the first Unit is conveyed to a purchaser other than Declarant. The Master Association shall be a non-profit Colorado corporation created for the purpose, charged with the duties, and invested with the powers prescribed by law, the Act, and set forth in the Articles, Bylaws, Rules, and in this Master Declaration. Neither the Articles, Bylaws nor any Rules promulgated by the Board shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration. In case of conflict between the Master Declaration and the Articles, Bylaws and/or Rules, this Master Declaration shall control.

## 4.2 Membership and Voting.

4.2.1 Generally. Every Owner (including Declarant) shall be a Member of the Master Association and shall remain a Member for so long as that Person continues to be an Owner of a Unit. The Master Association shall have only one class of Members. As Members of the Master Association, the Owner(s) of a Unit shall be entitled to cast the total vote for the Owner(s) Unit in accordance with a General Common Allocation specified in this section. The vote attributable to each Unit is a percentage of the outstanding votes held by all Owners of all Units within the Property from time to time. The total of all votes outstanding at any given time shall equal 100% with the exception of minor variations due to the rounding of fractions or percentages. The General Common Allocation for each Unit shall be determined by the following formula:

Where a Unit is used for single family, duplex, townhouse, or other multifamily residential dwelling unit(s) not exceeding a density of nine (9) units per acre: The vote attributable to such Unit shall be one (1) vote for each dwelling unit divided by the total number of votes allocated to all Owners of all Units within the Property; or

Where a Unit is used for a residential building or buildings devoted to apartment, townhouse, or multifamily use at a density equal to or greater than nine (9) units per acre: The vote attributable to such Unit shall be one (1) vote for every five (5) dwelling units divided by the total number of votes allocated to all Owners of all Units within the Property; or

Where a Unit is used for commercial, industrial, office, or for public or private recreational use regardless of the size of the Unit: The vote attributable to such Unit shall be one (1) vote for each 1,500 square foot increment of floor area within the building(s) divided by the total number of votes allocated to all Owners of all Units within the Property. The calculation of floor area of a building shall be the gross floor area of all floor(s) of the building(s) measured from the exterior of the structure, including any basement area, but excluding floor areas within any structure devoted to parking use. Floor areas not comprising a full 1,500 square feet increment shall not receive a proration or fractional vote. The Board of Directors may promulgate written standards for fairly and uniformly calculating the floor area of a building for purposes of this section; or

For all other Units including any Unit comprised entirely of vacant land regardless of zoning classification or

anticipated use: The vote attributable to such Unit shall be one (1) vote per Unit divided by the total number of votes allocated to all Owners of all Units within the Property.

For purposes of allocation of voting rights under this section to residential uses, the determination of the density of dwelling units per acre shall be made by the Board and shall be based on criteria substantially similar to that criteria employed by the Department of Planning and Community Development for the City and County of Denver in Denver's determination of density of residential development for purposes of zoning administration.

Each Owner's membership in the Master Association shall be appurtenant to and may not be separated from ownership of the Unit to which the membership is attributable. Vote(s) allocated to any Unit must be cast as a block and without dividing or fractionalizing such vote or votes. Except as expressly provided in this Article, no other voting rights are created by this Master Declaration.

4.2.2 Proxies. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by an Owner. If a Unit is owned by more than one Person, each such co-Owner of the Unit may vote or register a protest to the casting of votes by the other co-Owners of the Unit through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Master Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven (11) months after its date, unless it provides otherwise. Owners within Subareas or Parcels may, and are encouraged to, appoint a single delegate to hold and exercise proxies for all such Owners.

4.3 Board of Directors. The affairs of the Master Association shall be governed by a "Board of Directors" (sometimes referred to as the "Board") which may, by resolution, delegate any portion of its authority to an executive committee, an officer, executive manager, managing agent, Person, or director for the Master Association or to a Subassociation or the board of directors thereof. The qualifications and number of directors, the term of office of directors, the manner in which directors shall be elected and the manner in which directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws; provided, however, that the Bylaws shall contain the following provisions:

4.3.1 Subject to this section 4.3, during the Period of Declarant Control, Declarant may appoint and remove the officers and members of the Board.

4.3.2 Not later than 60 days after conveyance to Owners other than Declarant of 25% of the total number of Units

that Declarant reserves the right to create upon the Property (as stated in section 1.1.43), at least one member and not less than 25% of the members of the Board must be elected by Owners other than the Declarant. Not later than 60 days after conveyance to Owners other than Declarant of 50% of the total number of Units that Declarant reserves the right to create upon the Property, not less than 33.3% of the members of the Board must be elected by Owners other than Declarant.

4.3.3 Except as otherwise provided in C.R.S. § 38-33.3-220(5), upon the termination of the Period of Declarant Control, the Owners shall elect a Board of at least three members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect officers for the Master Association. The Board members and officers shall take office upon election.

4.3.4 In all elections of the members of the Board in which Owners other than Declarant are eligible to vote, all Owners other than Declarant shall be authorized to cast votes pursuant to section 4.2.1 hereof, for each Board position being voted upon.

4.3.5 Notwithstanding any provision of the Master Declaration or Bylaws to the contrary, the Owners, by a vote of sixty-seven percent (67%) of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the Declarant.

4.3.6 Within 60 days after the Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Master Association all property of the Owners and of the Master Association held by or controlled by the Declarant including, without limitation, the following items:

4.3.6.1 The original or a certified copy of the recorded Master Declaration as amended, the Master Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules and regulations which may have been promulgated;

4.3.6.2 An accounting for Master Association funds and financial statements, from the date the Master Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statement presents fairly the financial position of the Master Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the

financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for, or charged to, the Master Association.

4.3.6.3 The Master Association funds or control thereof;

4.3.6.4 All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Master Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas, and inventories of these properties;

4.3.6.5 A copy, for the nonexclusive use by the Master Association, of any Plans and Specifications used in the construction of the Improvements in the Common Area;

4.3.6.6 All insurance policies then in force, in which the Owners, the Master Association, or its directors and officers are named as insured persons;

4.3.6.7 Copies of any certificates of occupancy that may have been issued with respect to any Improvements located on any portion of the Common Area;

4.3.6.8 Any other permits issued by governmental bodies applicable to Master Association Property and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Master Association;

4.3.6.9 Written warranties of any contractors, subcontractors, suppliers, and manufactures that are still effective and which relate to Master Association Property;

4.3.6.10 A roster of Owners and First Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

4.3.6.11 Employment contracts in which the Master Association is a contracting party;

4.3.6.12 Any service contract in which the Master Association is a contracting party or in which the Master Association or the Owners have any obligation to pay a fee to the persons performing the services; and

4.3.6.13 Originals or certified copies of any documentation assigning rights held by the Declarant which are necessary or appropriate, in the sole opinion of the Declarant, to be held and exercised by the Master Association, including but not



limited to the assignment of rights created by or arising from deed or contract.

4.4 Officers. The Board will select the officers of the Master Association, which officers may also serve as members of the Board.

4.5 Articles and Bylaws. The purposes and powers of the Master Association and the rights and obligations with respect to Memberships may be amplified by provisions of the Articles and Bylaws of the Master Association. Such Articles and Bylaws may include any reasonable provisions with respect to corporate matters including provisions with respect to notices, record dates and quorums for meetings of directors and Members, but no such provisions may be inconsistent with any provision of this Master Declaration.

4.6 Assessments, Fines and Compliance Expenditures. Each Owner of a Unit shall be obligated to pay and shall pay to the Master Association, at least annually or when otherwise due and payable, (i) Assessments; (ii) reasonable and uniformly applied fines imposed by the Master Association for violation of the Restrictions and any Rules adopted by the Master Association; and (iii) any "Compliance Expenditures" (as defined below). Each Assessment, fine, and Compliance Expenditure shall be a separate, distinct and personal debt and obligation of the Owner against whose Unit the same is assessed. All Assessments, fines, and Compliance Expenditure shall be payable in full without offset for any reason whatsoever. The obligation of each Owner to pay Assessments, fines, or Compliance Expenditure shall be entirely independent of any obligation of the Master Association to such Owner or of Declarant or any other Owner to such Owner. No Owner may be exempt from liability for payment of any Assessment, fine, or Compliance Expenditure by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Unit against which the Assessment, fine, or Compliance Expenditure is made. Any Assessment or fine that is not paid within fifteen (15) days after the same becomes due shall be deemed delinquent. If an Assessment or fine is delinquent, the Master Association may recover all of the following (collectively, the "Compliance Expenditures") in addition to the delinquent Assessment or fine:

4.6.1 Reasonable costs incurred in collecting the delinquent Assessment or fine including, without limitation, reasonable attorneys' fees and court costs; and

4.6.2 Interest on the delinquent Assessment or fine and the cost of collection described in section 4.6.1 at an annual percentage rate equal to 18% per annum commencing 15 days after the Assessment became due.

4.7 Meetings. The meetings of the Master Association shall be held at least once each year. Special meetings of the Master Association may be called by the President, by a majority of the Board, or by Owners having twenty percent (20%) of the total number of votes in the Master Association. Not less than ten (10) nor more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by United States first class mail to the mailing address of each Unit or to any other mailing address designated in writing by the Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Master Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board.

4.8 Determination of Budgets. The total amount required to be raised by Assessments shall be determined by the Board of Directors of the Master Association at least once a year and shall be based upon an annual budget to be approved by the Board and adopted by the Master Association annually showing, in reasonable detail, the various matters proposed to be covered by the budget, the estimated costs and expenses of the Master Association, an amount deemed necessary or desirable as a contingency reserve and the total amount required to be raised by Assessments to cover such estimated costs and expenses and contingency reserve. The budget shall cover all costs and expenses expected to be incurred by the Master Association in performing its functions, or in providing services required or permitted under this Master Declaration. The budget may be revised as necessary from time to time. Assessments may be raised or lowered by the Board as required to meet such revised budget. Without limiting the generality of the foregoing, it is expressly understood that the budget (and, accordingly, the Assessments) shall be subject to modification due to the annexation of property to the Property in accordance with this Master Declaration. Within thirty days after adoption of any proposed budget for the Master Association, the Board shall mail, by ordinary prepaid first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) or more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the Owners vote to reject the budget, the budget is ratified, whether or not a quorum is present; provided that such vote of the owners to reject the budget shall require: (1) a vote of seventy-five percent (75%) of all Owners during any Period of Declarant Control; or (2) following the period of Declarant Control, a vote of fifty percent (50%) of all Owners. In the event that the proposed budget is rejected by such vote of the Owners, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board in the same manner as provided by this section.

4.9 Purpose of Assessments. The Assessments levied by the Master Association shall be used exclusively for (i) promoting the recreation, comfort, health, safety, and welfare of the Members, Owners and/or residents of the Property; (ii) managing any portion of the Master Association Property (except for any Units so owned); (iii) enhancing the quality of life in the Property and the value of the Property; (iv) improving and maintaining the Common Area, the Property, services, Improvements and facilities devoted to or directly related to the use and enjoyment of the Common Area, including, but not limited to, the payment of taxes on the Common Area and insurance in connection therewith and the repair, replacement and additions thereto; (v) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Area; (vi) carrying out the powers and duties of the Board as set forth in this Master Declaration and the Bylaws; (vii) carrying out the purpose of the Master Association as stated in the Articles; and (viii) carrying out the powers and duties relating to the Lowry Design Review Committee, after Declarant has delegated or assigned such powers and duties to the Master Association. Notwithstanding anything contained in this section to the contrary, the Master Association shall not levy Assessments in connection with the management, improvement, or maintenance of property owned by any Subassociation unless the Board of Directors of such Subassociation consents in writing to such Assessment.

4.10 Amount of Regular Assessments. A Regular Assessment is defined for purposes of this section as that sum which must be levied in the manner and against each individual Unit in order to raise the total amount for which the levy in question is being made. Subject to the provisions of this section, each individual Regular Assessment and, accordingly, each Unit shall be assessed in accordance with the General Common Allocation (as such allocation is determined by the Board from time to time in accordance with the formula described in section 4.2.1 and 1.1.16). The Master Association may levy a Regular Assessment against each Unit effective upon creation of such Unit as provided by this Declaration. Until the Master Association levies a Regular Assessment, the Declarant shall pay all expenses of the Master Association. Declarant may, at its election and discretion, subsidize or assist in the payment of costs and expenses of the Master Association; provided that the Declarant shall not have any obligation whatsoever to subsidize or otherwise contribute to a maintenance fund or other contingency reserve to be used to cover future costs and expenses. After any Regular Assessment has been made by the Master Association, Regular Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Master Association. Where the obligation to pay a Regular Assessment first arises after the commencement of the year or other period for which the Regular Assessment was levied, the Regular Assessment shall be prorated, as

of the date when said obligation first arose, in proportion to the amount of the assessment year or other period remaining after said date.

4.11 Special Assessments. The Master Association may levy, from time to time, one or more Special Assessments for the purpose of defraying in whole or in part the cost of any construction, restoration, unexpected repair or replacement of a capital improvement or for carrying out the other responsibilities of the Master Association in accordance with this Master Declaration. Each Special Assessment shall be allocated among the Owners of Units in accordance with the provisions of this Master Declaration. Each Owner shall pay all Special Assessments assessed against such Owner's Unit. The due date for payment of any Special Assessment shall be fixed by the Board.

4.12 Other Matters Relating to Assessments. Subject to the foregoing provisions, the Board shall have the power and authority to determine all matters in connection with Assessments including the power and authority to determine where, when, and how Assessments shall be paid to the Master Association. If any common expense is caused by the misconduct of any Owner, the Master Association may assess that expense exclusively against such Owner's Unit and any such assessment shall be deemed a Regular Assessment for purposes of this Declaration.

4.13 Lien for Assessments, Fines and Compliance Expenditures. Subject to and in accordance with C.R.S. § 38-33.3-316, the Master Association shall have a lien against each Unit to secure payment of any Assessment, fine, Compliance Expenditure or other amount due and owing to the Master Association with respect to the Owner of that Unit. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado. Upon written request, the Master Association shall send to an Owner or its designee (including any prospective mortgagees, purchasers, tenants, or lessees), or to a First Mortgagee or its designee, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. Such statement shall be delivered personally or by certified mail, first-class postage pre-paid, return receipt to the Master Association's registered agent. The statement shall be sent within fourteen (14) calendar days after receipt of the request and shall be binding on the Master Association, the Board and every Owner. If such statement is not sent to the inquiring party, delivered personally or by certified mail, first-class postage pre-paid, return receipt requested, then the Master Association shall have no right to assert a lien upon the Unit for unpaid Assessments or fines which were due as of the date of the request. The Master Association shall have the right, but not the obligation, to prepare and record in the Records a "Notice of Lien" which shall set forth: (i) the amount of any Assessment, fine, Compliance Expenditure or other amount due and owing to the Master Association; (ii) the date such

amount was due and payable and from which interest accrues; (iii) all costs and expenses including reasonable attorney fees incurred in collecting the unpaid amount to the date of recording of such Notice of Lien; (iv) the Unit affected by the lien; and (v) the name or names, last known to the Master Association, of the Owner or Owners of the Unit. Notwithstanding anything to the contrary contained herein, all properties dedicated to, and accepted by, a local public agency, public authority, municipal corporation, governmental or quasi-governmental entity, and the Common Area(s) and Limited Common Element(s) shall be exempt from the lien for Assessment, fine, Compliance Expenditure, or other amount owing to the Master Association.

4.14 Lien Priority. A lien recorded in accordance with this Declaration shall be prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien on a First Mortgage which was recorded before the date on which the Assessment, fine, Compliance Expenditure or other amount due and owing to the Master Association sought to be enforced became delinquent; (iii) and liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, the lien for Assessment, fine, Compliance Expenditure or other amount due and owing to the Master Association is also prior to the lien of a First Mortgage to the extent of an amount equal to the Assessments based on a periodic budget adopted by the Master Association pursuant to section 4.8 which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Master Association or any party holding a lien senior to any part of the Association lien created under this Declaration or an action or a nonjudicial foreclosure either to enforce or extinguish such lien.

4.15 Duties and Powers of the Master Association. Subject to and in accordance with this Master Declaration, the Master Association shall have all of the rights and powers conferred upon it by law, the Act, this Master Declaration, any Subsidiary Declaration, the Articles and the Bylaws or the articles and bylaws of any Subassociation. Without limiting the generality of the foregoing, the Master Association shall have the following powers and shall perform each of the following duties for the benefit of the Members of the Master Association:

4.15.1 Assessments. To determine, levy and collect Assessments, fines, Compliance Expenditures, and any other charge permitted by this Declaration or the Act.

4.15.2 Master Association Property. Subject to the provisions of C.R.S. § 38-33.3-312, to accept, own, convey, lease, encumber, operate and maintain all Master Association Property (real and personal) which may be conveyed to it by Declarant (or otherwise acquired by the Master Association),

together with all Improvements of whatever kind and for whatever purpose which may be located in said areas.

4.15.3 Title to Property Upon Dissolution. Subject to C.R.S. § 38-33.3-218, in the event of dissolution of the Master Association, the Common Area shall, to the extent permitted by law and where reasonably possible, be conveyed or transferred to an appropriate governmental or quasi-governmental agency or agencies, or to a nonprofit corporation, association, trust or other organization, to be used for the common benefit of the Owners for similar purposes for which the Common Area was held by the Master Association. To the extent the foregoing is not possible, the Common Area shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed first for the payment of debts and obligations incurred by the Master Association and then to the Unit Owners in an equitable manner determined by the Board (which determination will be conclusive) based upon the General Common Allocation for each Unit.

4.15.4 Repair and Maintenance of Master Association Property. To maintain in good repair and condition all lands, Improvements, and other Master Association Property owned, controlled or maintained by the Master Association. To include, as part of the annual budget, reserve funds in an amount determined by the Board for repairs and replacement of Improvements and other Master Association Property owned, controlled, or maintained by the Master Association.

4.15.5 Maintenance of Common Areas. To maintain Common Areas, Limited Common Elements, and Improvements thereon which shall be installed, or otherwise accepted for maintenance by Declarant and/or the Master Association and, in addition, to maintain certain designated landscaped areas located along and within certain designated primary public rights-of-way and drainage and other easements located on or benefitting the Property where such maintenance obligation has been accepted by the Master Association or Declarant.

4.15.6 Payment of Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any Master Association Property, to the extent that such taxes and assessments are not levied directly upon the Members. The Master Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

4.15.7 Insurance. To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount, and to comply with C.R.S. § 38-33.3-313.

4.15.8 Rules. To make, establish and promulgate, and in its discretion to amend or repeal and reenact, such rules as

it deems proper covering any and all aspects of its functions or the function of any committee appointed by the Master Association, including the use and occupancy of Master Association Property ("Rules"). Without limiting the generality of the foregoing, such Rules may set dues and fees and establish the regulations governing the operation of Master Association Property and/or Common Areas and may include architectural standards and design guidelines. Each Member shall be entitled to examine such Rules at any time during normal working hours at the principal office of the Master Association.

4.15.9 Lowry Design Review Committee. To appoint and remove members of the Lowry Design Review Committee as provided in Article 5 hereof, and to insure that at all reasonable times there is available a duly constituted and appointed design review committee.

4.15.10 Enforcement. To enforce, on its own behalf and on behalf of all Owners, all of the covenants, conditions and restrictions set forth in this Master Declaration and the Restrictions, which includes any architectural standards and/or design guidelines, under an irrevocable power of attorney (hereby granted) coupled with an interest as beneficiary of said covenants, conditions, and restrictions, and as assignee of Declarant, and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of the Restrictions.

4.15.11 Management Company. The Master Association may, but shall not be obligated to, retain the services of a professional management company to manage some or all of the affairs of the Master Association provided that: (i) such company shall be licensed to do business in the State of Colorado, to the extent required by law; (ii) the term of any contract for such services shall not exceed one (1) year and shall be terminable on thirty (30) days written notice, with our without cause and without the payment of a termination fee; and (iii) each and every management contract made between the Master Association and a manager or managing agent during the Period of Declarant Control shall terminate absolutely and, in any event, no later than thirty (30) days after the expiration of the Period of Declarant Control.

4.15.12 Borrowing. Subject to the provisions of C.R.S. § 38-33.3-312, to borrow money and to incur indebtedness for the purposes of the Master Association, and to cause to be executed and delivered therefor, in the Master Association's name, promissory notes, bonds, debentures, mortgages, pledges, hypothecation or other evidences of debt and securities therefore encumbering the Common Area, or portions thereof and/or other Master Association Property.

4.15.13 Assignment. To assign its right to future income, including the right to receive Assessments.

4.15.14 Acceptance of Assignments. To accept, hold, and exercise any right to enforce restrictions upon property, including but not limited to rights assigned by the Declarant to the Master Association which were created by or which arise from deed or contract.

4.15.15 Rosters. To create and maintain a current roster of all known Unit Owners and First Mortgagees, together with their mailing addresses and telephone numbers as reported to or known by the Master Association.

4.15.16 Other. To carry out all duties of the Master Association set forth in the Restrictions.

4.16 Non-Liability of Officials. To the fullest extent permitted by law, neither Declarant, the Board of Directors, the Lowry Design Review Committee, any other committee of the Master Association nor any member thereof, nor any officers, directors, partners, or employees of the Declarant or of the Master Association or any other Person shall be liable, except for wanton and willful act or omissions, for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of Plans or Specifications (whether or not defective), course of action, act, inaction, omission, error, negligence, or the like made in good faith and which Declarant, the Board, or such committees or officers reasonably believed to be within the scope of their respective duties, subject to C.R.S. § 38-33.3-303(2).

4.17 Indemnification. To the fullest extent permitted by law, Declarant, and every director, officer, committee member, partner and shareholder of the Master Association, the Lowry Design Review Committee, and of the Declarant (to the extent a claim may be brought by reason of Declarant's appointment, removal, or control over members of the Board or its control over the Master Association or any committee thereof) shall be and is hereby indemnified by the Master Association. Every other person serving as an employee or direct agent of the Master Association, or otherwise acting on behalf of, or at the request of, the Master Association may, in the discretion of the Board, be indemnified by the Master Association. Any such indemnification shall be limited to all expenses and liabilities (including, without limitation, all attorneys' fees and court costs) reasonably incurred by or imposed upon such person in connection with any proceeding to which he may be a party or in which he may become involved, by reason of having appointed, removed, controlled, or failed to control members of the Board, or controlled, or failed to control the Master Association, or incurred in any settlement thereof, whether or not he is a director, officer or member of a committee or serving in such other specified capacity at the time such expenses are incurred.



4.18 Non-Liability for Certain Changes and Amendments. Neither the Declarant, the Master Association, nor their successors or assigns shall be liable to, or subject to injunction by, any Member or Owner or to one another in the event that any change in zoning of the Property is sought or obtained, or in the event that any subdivision map amendment or change in density shall be sought and obtained.

4.19 Audit. The Master Association shall provide a financial statement (which may or may not be audited) for the immediately preceding fiscal year, free of charge to the party so requesting, to any first Mortgagee of a Unit, or any insurer or guarantor of such a First Mortgage, within a reasonable time after written request therefor by any such party.

4.20 Master Association Books and Records. The Master Association shall make available to Owners, First Mortgagees, and insurers or guarantors of any such First Mortgage, current copies of this Master Declaration, the Articles, Bylaws, Rules and regulations, books, records, and financial statements of the Master Association. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances. The Master Association may set a reasonable charge for reproduction of any document requested by any Person.

4.21 Termination of Contracts and Leases of Declarant. The following contracts and leases, if entered into before the Board elected by the Owners pursuant to section 4.3.3 takes office, may be terminated without penalty by the Board of the Master Association, at any time after the Board elected by the Owners pursuant to section 4.3.3 takes office, upon not less than ninety (90) days' notice to the other party:

4.21.1 Any management contract, employment contract, or lease of recreational or parking areas or facilities;

4.21.2 Any other contract or lease between the Master Association and Declarant or an affiliate of Declarant; or

4.21.3 Any contract or lease that is not bona fide or was unconscionable to the Owners at the time entered into under the circumstances then prevailing.

This section does not apply to any lease the termination of which would terminate the planned community created by this Master Declaration or reduce its size, unless the real estate subject to that lease was included in the planned community for the purpose of avoiding the right of the Master Association to terminate a lease under this section or a proprietary lease.

4.22 Surplus Funds. Any surplus funds of the Master Association remaining after payment of, or provision for, common expenses, costs, obligations and any prepayment of or provision for reserves shall not be credited to the owners but shall, instead, be added to any reserve accounts maintained by the Master Association.

ARTICLE 5  
LOWRY DESIGN REVIEW COMMITTEE

5.1 LDRC Membership. The Lowry Design Review Committee ("LDRC") shall consist of at least three (3) voting members or any odd number of voting members not to exceed eleven (11) voting members, which members need not be Owners or Members of the Master Association. The Board may reduce the number of members of the LDRC to three and increase it to an odd number of members not to exceed eleven as often as the Board wishes. Each member of the LDRC shall hold office until such time as he or she has resigned and his or her successor has been appointed or until such time that the member is removed, as provided in this article. A member of the LDRC may be removed at any time without cause or reason.

5.2 Appointment and Removal. The Board shall have the right to appoint and remove all members of the LDRC, except that during the Period of Declarant Control, Declarant may appoint and remove all members of the LDRC.

5.3 Architectural Standards and Design Guidelines. Subject to Board approval, the Lowry Design Review Committee may, from time to time, publish, amend, and promulgate architectural standards and/or design guidelines which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intent of this Master Declaration and to encourage and achieve efficient, coordinated, and high quality use of the Property. Such standards and guidelines shall be rules and regulations of the Master Association and shall be in the initial form and substance of the "Design Guidelines for the Lowry Community" ("Design Guidelines") attached hereto as an appendix; provided that the Design Guidelines may be amended from time to time by the Master Association as provided by the Design Guidelines and this Declaration. Attachment of such Design Guidelines to this Master Declaration is for informational purposes only and such attachment shall not result in the incorporation of such Design Guidelines into this Master Declaration. PRIOR TO ACQUIRING ANY UNIT OR UNDERTAKING ANY IMPROVEMENT OF A UNIT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE AND/OR OWNER MUST CONTACT THE DECLARANT OR THE LOWRY DESIGN REVIEW COMMITTEE TO OBTAIN AND REVIEW THE MOST CURRENT ARCHITECTURAL STANDARDS AND DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION, LANDSCAPE AND USE OF THE UNIT AND THE STRUCTURES TO BE CONSTRUCTED OR RENOVATED THEREON. THE ARCHITECTURAL STANDARDS AND DESIGN GUIDELINES MAY CONTAIN STANDARDS, REQUIREMENTS, RECOMMENDATIONS, OR LIMITATIONS IN

ADDITION TO THOSE EXPRESSLY SET FORTH OR REFERRED TO IN THE RESTRICTIONS AND MORE STRINGENT STANDARDS, REQUIREMENTS OR LIMITATIONS THAN THE SPECIFIC STANDARDS, REQUIREMENTS OR LIMITATIONS SET FORTH OR REFERRED TO IN THE RESTRICTIONS.

5.4 Review of Proposed Construction. Whenever in this Master Declaration or in any Subsidiary Declaration the approval of the Lowry Design Review Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which in its sole discretion are relevant. Prior to commencement of any construction of any Improvement on the Property, the Plans and Specifications therefor shall be submitted to the Lowry Design Review Committee, and construction thereof may not commence unless and until the LDRC has approved such Plans and Specifications in writing. The LDRC shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Master Declaration, and perform such other duties assigned to it by this Master Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specification approved by the LDRC. The LDRC shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated are in compliance with the Restrictions, will not be detrimental to a residential area and/or the Property as a whole, and that the appearance of any structure affected thereby will be in aesthetic harmony with the surrounding structures. The LDRC may condition its approval of Plans and Specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. The LDRC may require a reasonable fee to accompany each application for approval. The LDRC may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the LDRC of all required Plans and Specifications and other information, the LDRC may postpone review of any material submitted for approval. Upon certified receipt and acceptance by the LDRC of all required Plans and Specifications and other information, the LDRC shall have thirty days in which to approve or disapprove such Plans and Specifications in writing. At such time as the Plans and Specifications meet the approval of the LDRC, one complete set of Plans and Specifications will be retained by the LDRC, one complete set shall be delivered to the Declarant, and a complete set of Plans will be marked "Approved" and returned to the Owner. If found not to be in compliance with the Restrictions, one set of such Plans and Specifications shall be returned to the Owner or the Owner's designee marked "Disapproved", accompanied by a reasonable statement of items found not to so comply. Any material modification or change to an approved set of Plans and Specifications must again be submitted to the LDRC for its

inspection and approval. If the LDRC fails to approve or disapprove properly submitted Plans and Specifications within such thirty-day period, the submitted Plans and Specifications shall be deemed to have been approved. The LDRC is authorized and empowered to consider and review any and all aspects of dwelling construction, construction of other Improvements and locations, quality and quantity of landscaping on the Units, and may disapprove aspects thereof which may, in the reasonable opinion of the LDRC, adversely affect the living enjoyment of one or more Owner(s) or of the general value of the Property. The LDRC is also permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted in accordance with the reasonable opinion of the LDRC.

5.5 Meetings of the LDRC. The LDRC shall meet from time to time as necessary to perform its duties hereunder. The LDRC may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the LDRC, except the granting of waiver or variances pursuant to section 5.11. In the absence of such designation, the vote of the majority of all of the members of the LDRC, or the written consent of a majority of all of the members of the LDRC taken without a meeting, shall constitute an act of the LDRC.

5.6 No Waiver of Future Approvals. The approval or consent of the LDRC to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the LDRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter subsequently or additionally submitted for approval or consent by the same or a different Person.

5.7 Compensation of Members. The members of the LDRC may, at the sole discretion of the Declarant or the Board, as appropriate, be entitled to reasonable compensation from the Master Association for services rendered, together with reimbursement for expenses incurred by them in performance of their duties hereunder. Any decision to provide such compensation shall be determined and memorialized in writing by Declarant during the Period of Declarant Control and thereafter by the Board.

5.8 Inspection of Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:

Upon the completion of any Improvement for which approved Plans and Specifications are required under this Master Declaration or any architectural standards or design guidelines, the Owner or applicant for approval shall give a written notice of completion to

the LDRC. Within such reasonable time as the LDRC may designate, but not to exceed fifteen (15) days after LDRC's receipt of a written notice of completion, the LDRC or its duly authorized representative may inspect such Improvement. If the LDRC finds that the improvement complies with all applicable requirements and the approved Plans and Specifications, the LDRC shall provide to the owner or applicant written certification of such finding. If the LDRC finds that such work was not performed in strict compliance with all applicable requirements and the approved Plans or Specifications submitted or required to be submitted for approval of the Improvement, the LDRC shall issue a notice of noncompliance and shall provide written demand that such noncompliance be remedied within fifteen (15) days. If for any reason after receipt of written notice of completion from the Owner, the LDRC fails to send notice of noncompliance to the Owner within forty-five (45) days of LDRC's receipt of the notice of completion, the Improvement shall be deemed to be in conformance with the approved Plans or Specifications. The Owner may demand, and the LDRC shall provide, written certification of such conformance where the LDRC is unable to verify that notice of nonconformance was timely sent as required by this section.

5.9 Inspection of Work in Progress. In addition to the inspection of completed work as provided by this Master Declaration, the LDRC may investigate or inspect any Property within the Lowry Community for conformance or compliance with the mandatory requirements of this Master Declaration or any architectural standards or design guidelines promulgated hereunder. Where such investigation or inspection reveals that the Property is not in compliance with such requirements, the LDRC may send notice of noncompliance to the Owners of such Property. Such notice shall be sent via certified mail/return receipt requested and shall identify the particular circumstances or conditions of the Property that fail to conform to specified sections of such requirements. Such notice shall also contain the date, time, and place of a hearing held by the LDRC for the purpose of evaluating the Property's conformance with such requirements and to consider the issuance of a finding of noncompliance. Notice of noncompliance shall also be sent via first class U.S. Mail addressed to "Occupant" at the addresses of properties adjacent to the Property for which the notice of noncompliance is issued. All notices of hearing shall be sent no less than fifteen (15) days prior to the date of the hearing. On the date and time of the hearing noticed as required by this section, the LDRC shall hear and consider information and evidence presented by interested parties regarding the conformance of the Property with such requirements. The hearing shall be conducted in accordance with bylaws, rules and procedures promulgated by the LDRC. At the conclusion of the hearing, the LDRC shall either: (1) make a finding that the Property is in conformance with the requirements; (2) make a finding that the Property is not in conformance; or (3) continue the hearing to a date certain for the purpose of obtaining

additional information regarding conformance. Where the Property is determined to be not in conformance with the requirements, the LDRC shall issue a written finding of noncompliance. Such finding of noncompliance shall be sent to the Board of Directors. If the LDRC issues a finding of noncompliance, the Owner may appeal to the Board of Directors by giving written notice of such appeal to the Board and the LDRC within thirty (30) days after receipt of the finding of noncompliance by the Owner. The Board of Directors shall provide notice and shall hear the matter in accordance with the provisions of its Bylaws. At the conclusion of the hearing, the Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. Where the Owner does not timely appeal the LDRC's finding of noncompliance, the Board shall ratify the finding of noncompliance and the Board may correct, remedy, or remove such noncompliance in accordance with this Master Declaration or the Restrictions. If the Board of Directors determines that noncompliance exists or ratifies a finding of noncompliance, the Owner shall correct, remedy, or remove the same within a period of not more than twenty (20) days from the date of receipt by the Owner of the ruling of the Board of Directors. The Board may provide additional time, not to exceed a total of sixty (60) days, in which the Owner must bring the Property into compliance. If the Owner does not comply with the Board ruling within such period, the Board may, at its option, record a notice of noncompliance against the real property on which the noncompliance exists, may remove the noncomplying Improvement, or may otherwise remedy the noncompliance, and the Owner shall reimburse the Master Association, upon demand, for all expenses incurred therewith. If such expenses are not promptly repaid by the Owner to the Master Association, the Board may levy such assessments and penalties as permitted by the Master Declaration against the Owner of the property for such costs and expenses. The right of the Master Association to correct, remedy, or remove any noncompliance shall be in addition to all other rights and remedies which the Master Association may have at law, in equity, or under this Master Declaration or other Restriction. If at any time prior to the Board of Director's final determination of noncompliance or ratification of a finding of noncompliance, the Owner may notify the LDRC in writing that the noncompliance has been corrected, remedied, or removed. Following LDRC inspection of the Property and confirmation that the Property is in compliance, the LDRC may suspend all actions to enforce compliance.

Any inspection by the LDRC or the Master Association shall not be a representation by the LDRC or the Master Association that there has been or will be compliance with the Plans and Specifications, the provisions of this Master Declaration, and any design guidelines, rules, or regulations promulgated under this Declaration or that the Unit, improvements, thereon are free from defective materials or workmanship.

5.10 Non-Liability of LDRC Members. Neither the LDRC nor any member thereof nor the Board nor any member thereof shall be liable to the Master Association or to any Owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the LDRC's or the Board's respective duties under this Master Declaration unless due to the wanton and willful misconduct of the LDRC or its member or the Board or its member, as the case may be. Except insofar as its duties may be extended with respect to a particular area by a Subsidiary Declaration, the LDRC shall review and approve or disapprove all Plans and Specifications submitted to it for any proposed improvement, including the construction, alteration or addition thereof or thereto, solely on the basis of conformance with the Restrictions, aesthetic considerations and the overall benefit or detriment which would result to the surrounding residential area and the Property generally. The LDRC shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building, zoning or other codes.

5.11 Waivers and Variances. Subject to Federal, State and local laws, ordinances, rules and regulations, the LDRC may authorize waivers or variances from compliance with any of the architectural or design provisions included in the Restrictions (but not this Master Declaration), including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, setbacks, building envelopes, colors, materials, or similar restrictions. Such waivers or variances must be evidenced in writing and must bear the signature of an authorized member of the LDRC which confirms that the waiver or variance was approved by at least a majority of all of the members of the LDRC. If such a waiver or variance is granted, no violation of the Restrictions or any architectural standards or design guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of this variance shall not operate to waive or vary any of the terms and provisions of the Restrictions or any architectural standards or design guidelines for any purpose except as to the property and particular provision and in the particular instance covered by the waiver or variance. It is expressly understood that any waiver or variance of the type described in this section relates only to the architectural provisions of the Restrictions and/or any architectural standards or design guidelines as applicable, and does not relate to any federal, state and/or local laws, ordinances, rules and/or regulations.

A waiver or variance may be granted where all of the following factors are found by the LDRC to be present or exist:

- A. An applicant has requested in writing the granting of a waiver or variance to a specific requirement imposed by the Restriction; and
- B. Strict application of the Restriction would be impossible, unduly harsh, or unnecessary in light of either:
  - (1) physical conditions or physical restraints such as topography, natural obstructions, aesthetic, or environmental considerations present on the applicant's property; or
  - (2) the presence of an extreme and unjustified economic hardship to the applicant under the circumstances particular to the proposed Improvement; or
  - (3) the applicant's proposal, although not meeting the requirements of the Restrictions, directly and substantially advances the stated intent of the Restriction; and
- C. The waiver or variance would not unreasonably burden other property within the Lowry Community or an adjacent property; and
- D. The waiver or variance granted is the minimum possible to alleviate the physical condition or relieve the hardship; and
- E. The waiver or variance requested is not the result of or made necessary by actions or activities of the applicant.

An applicant for a waiver or variance shall bear the burden of establishing the standards justifying the waiver or variance and shall present sufficient and competent information and evidence justifying the granting of any requested waiver or variance. The LDRC may impose reasonable conditions on such waiver or variance as are necessary or desirable to advance the intent or goals of the Restrictions. Evidence that the proposed Improvement will exceed other standards or requirements or where the proposed Improvement significantly advances the goals and policies of the Lowry Development Plan and/or the architectural standards or design guidelines, may be favorably considered by the LDRC in the determination of the granting or denial of a waiver or variance.

The LDRC shall hold at least one hearing to consider the request for any variance or waiver. No less than fifteen (15) days before such hearing, notice of the time, date, place, description of the requested waiver or variance, and the street address or other identifying description of the property shall be sent or delivered



by the applicant to the mailing address for each property which is adjacent to the property for which the waiver or variance is requested. The applicant shall provide an affidavit to the LDRC at the time of the hearing evidencing that the required mailing was performed in accordance with this section. The LDRC may require by rule or regulation additional notice requirements for hearings of requests for waivers or variances. Where the LDRC determines that the standards for granting a waiver or variance are satisfied, a written recommendation that the waiver or variance be granted shall be signed by the Chairman of the LDRC. Such recommendation shall be delivered by the LDRC to the Board of Directors or the Board's designee within five (5) days of the date of such recommendation. Upon receipt of a recommendation for granting of a waiver or variance, the Board may either ratify the recommendation or remand the recommendation to the LDRC for further consideration. If the Board ratifies a recommendation of approval or denial, such ratification shall become effective immediately upon issuance of a written ratification of the LDRC's recommendation by the Board of Directors. Any remand to the LDRC shall be accompanied by a statement of reasons for such remand and such remand shall be reconsidered by the LDRC. Following such remand, the LDRC shall reconsider the requested waiver or variance and resubmit its recommendation to the Board within seven (7) days following receipt of the remand and the statement of reasons. No hearing or notice of the Board's action shall be required prior to remand or ratification of any recommendation. In the event that the Board of Directors fails for any reason to remand or ratify a recommendation of the LDRC within seven (7) days of receipt of the recommendation, the recommendation of the LDRC shall be deemed ratified and effective. Any applicant aggrieved by the denial of a request for a waiver or variance or aggrieved by a condition imposed upon an approved waiver or variance may appeal to the Board of Directors by giving written notice of such appeal to the Board of Directors and to the LDRC within twenty (20) days of the date of the Board's ratification of such denial or refusal. Within ten (10) days following receipt of the notice of appeal, the Board of Directors shall hear the appeal in accordance with the provisions of the Bylaws for notice and hearing, and the Board shall decide whether or not the requested waiver or variance or the conditions imposed by the LDRC shall be approved, disapproved, or modified. The Board of Director's decision on appeal shall be final.

The granting of a waiver or variance shall not operate to waive or vary in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, the subdivision regulations and zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

5.12 Subsidiary Design Review Committees. The Lowry Design Review Committee may, from time to time, establish and delegate authority to subsidiary architectural or design review

boards or committees to govern and regulate the construction and development upon specified portions of the Property and to enforce the terms of this Master Declaration, design guidelines, and any applicable subsidiary declaration. The Board shall appoint and remove the members of any such subsidiary architectural or design review board or committee in a manner consistent with its appointment of members to the Lowry Design Review Committee and shall be responsible for promulgating all rules and procedures under which such subsidiary architectural or design review boards or committees shall operate; provided such rules and procedures shall substantially conform with the rules and procedures set forth in this article. If the Lowry Design Review Committee and the Board adopt any additional architectural standards or design guidelines with respect to any such specified portion of the Property, the Lowry Design Review Committee or any subsidiary architectural review committee shall be required to enforce such standards and/or design guidelines.

5.13 Prior Existing Development Approvals. The LDRC shall ratify and accept any Plans and Specifications approved by the Declarant provided that such approval was made prior to the date of recordation of this Master Declaration by written agreement, contract, or other document executed by the Declarant. Where an improvement depicted or described within Declarant-approved Plans and Specifications does not conform or comply with an applicable requirement contained in any adopted architectural standards or design guidelines, a waiver or variance shall be deemed to have been properly granted for such non-conforming improvement. It is the intent of this section that such Declarant-approved Plans and Specifications shall be integrated and incorporated into the LDRC's review processes and procedures to the greatest extent possible and that concepts, locations, designs, details, and other specifications which are depicted in the Declarant-approved Plans and Specifications are not subject to further review and approval of the LDRC. Nothing in this section is intended to limit, prevent, or preclude the LDRC from requiring the submission of additional Plans and Specifications necessary to integrate such Declarant-approved development plans into any LDRC review processes and procedures. Any modification, revision, change, or amendment to a Declarant-approved Plan and Specification which is proposed or requested after recordation of this Master Declaration shall be subject to LDRC review and approval in accordance with this Master Declaration and any architectural standards or design guidelines.

## ARTICLE 6 EASEMENTS

6.1 Maintenance Easement. An easement is hereby granted to the Declarant and the Master Association, its officers, agents, employees and assigns upon, across, over, in, and under the

Common Area and a right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated to and permitted to perform pursuant to this Master Declaration.

6.2 Utilities Easement. A blanket easement is hereby created upon, across, over, and under the Common Area for public utilities and the installation, replacement, repair, and maintenance of utilities including, but not limited to, public water, sewer, gas, telephones, electricity and cable television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary public facilities, equipment and appurtenances on the Property and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, and television wires, circuits, conduits and meters. In the event any public utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area without restricting or nullifying the terms hereof; provided, however, that such right and authority shall cease and terminate upon conveyance by Declarant of the last Unit within the Property to the first Owner thereof (other than Declarant). The easement provided for in this section shall in no way affect, avoid, extinguish, or modify any other recorded easement(s) on the Property.

6.3 Rights of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant, its successors and assigns, for access, ingress, and egress over, in, upon, under, and across the Common Area including, but not limited to, the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's construction on the Property.

6.4 Declarant's Easements. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements for access, utilities, drainage, water and any other purposes incident, associated, or related to development, maintenance, lease, improvement, and/or sale of the Units and for the exercise of its Special Declarant Rights located in, on, under, over and across the Common Area and any Master Association Property during the Period of Declarant Control, provided that such easements do not create a permanent, unreasonable interference with the rights of the Owners. Upon termination of the Period of Declarant Control, an easement is hereby granted to the Master Association for purposes permitted by this Master Declaration.

6.5 Easements Deemed Created. All conveyances of portions of the Property (including Units) hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve

the easements contained in this Article 6, even though no specific reference to such easements or to this Article 6 appears in the instrument of such conveyance.

ARTICLE 7  
AMENDMENT

7.1 Amendment. Subject to the provisions of section 7.2 and C.R.S. § 38-33.3-217, any amendment to this Master Declaration that would terminate the Master Declaration shall require the affirmative vote or written consent of the Members to whom at least sixty-seven percent (67%) of the votes in the Master Association are allocated and, during the Period of Declarant Control, the written approval of Declarant. Further, any termination of this Master Declaration and the planned community created hereby, must be in accordance with C.R.S. § 38-33.3-218. Except as provided in the foregoing, and subject to section 7.2 hereof and C.R.S. §§ 38-33.3-217 and 218, this Master Declaration may be amended by the affirmative vote or written consent of the Members to whom at least sixty-seven percent (67%) of the votes in the Master Association are allocated and, during the Period of Declarant Control, with the written approval of Declarant.

7.1.1 An amendment to this Master Declaration shall be effective only upon the occurrence of all of the following events:

7.1.1.1 The amendment shall have been reduced to a writing, which writing shall have been approved (by an affirmative vote or written consent) by the applicable required percentage of Members and, if applicable, Declarant and the First Mortgagees;

7.1.1.2 A written certificate, executed and acknowledged by the president or any vice president of the Master Association, shall be attached to the written amendment which shall state that such amendment was approved by the applicable required percentage of Members, Declarant and by First Mortgagees, if any, who are required to approve such amendment pursuant to sections 7.1 or 7.2; and

7.1.1.3 The approved written amendment described in section 7.1.1.1, and including the certificate described in section 7.1.1.2, shall be Recorded in the Records.

7.1.2 It will be a presumption subsequent to the Recording of an amendment to this Master Declaration pursuant to section 7.1.1.3 that all votes and consents required to pass the same pursuant to this Master Declaration were duly obtained (at a duly-called meeting of the Master Association, in the case of votes). Such presumption may be rebutted by an action commenced

within one year from the date the amendment is Recorded; in the absence of any such action, such presumption shall thereafter become conclusive.

7.1.3 Except to the extent expressly permitted or required by the Act and/or this Declaration, no amendment made to this Master Declaration may create or increase Special Declarant Rights, increase the total number of Units stated by section 1.1.43, or change the boundaries of any Unit or the allocation interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

7.2 First Mortgagee Approval. Except to the extent otherwise provided herein, the prior written consent of at least a majority (i.e. more than 50%) of the total number of votes entitled to be cast by First Mortgagees identified in the roster of the Master Association required by section 4.15.14 must be obtained to add or amend any provisions of this Master Declaration, the Articles, or Bylaws of the Master Association, which establish, provide for, govern, or regulate voting allocation. Except to the extent otherwise provided herein, the prior written consent of at least sixty-seven percent (67%) of the total number of First Mortgagees identified in the roster of the Master Association required by section 4.15.14 must be obtained to add or amend any provisions of this Master Declaration, the Articles, or Bylaws of the Master Association, which establish, provide for, govern, or regulate: (i) any provisions which are for the express benefit of First Mortgagees; or (ii) any action to terminate this Master Declaration. Nothing contained in this section may operate to (a) deny or delegate control over the general administrative affairs of the Master Association by the Owners or the Board; or (b) prevent the Master Association or the Board from commencing, intervening in, or settling any solicitation or proceeding; or (c) prevent any insurance trustee or the Master Association from receiving and distributing any insurance proceeds pursuant to C.R.S. § 38-33.3-313. The vote attributed to and to be cast by a First Mortgagee shall be based upon the percentage number obtained by dividing the vote or votes allocated to the Unit encumbered by the First Mortgage held by the First Mortgagee by the total number of votes allocated to all First Mortgagees. Where a First Mortgagee fails to respond to a request for mortgagee consent within the time specified in the request for consent, the First Mortgagee's failure to respond shall be deemed consent to such amendment.

7.3 Notice of Action. Upon written request to the Master Association, identifying the name and address of the First Mortgagee or insurer or guarantor of the First Mortgage and the residence address of the Unit which is subject to such First Mortgage, each such First Mortgagee of a Unit, or insurer or guarantor of such a First Mortgage, shall be entitled to timely written notice of:

7.3.1 Any condemnation or casualty loss which affects a material portion of the Property or any Unit subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or guarantor of a First Mortgage;

7.3.2 Any delinquency in the payment of Assessments or charges owed to the Master Association by the Owner of the Unit subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or guarantor, or any default by such Owner in any obligation under the Master Declaration, Articles or Bylaws of which the Board has actual knowledge, when such delinquency and/or default remains uncured for a period of sixty (60) days;

7.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Master Association; and

7.3.4 Any proposed action which would require the consent of a specified percentage of First Mortgagees as provided in this Article 7.

7.4 Expenses. Subject to C.R.S. § 38-33.3-217, all expenses associated with preparing and recording an amendment to this Master Declaration shall be the sole responsibility of the Master Association; provided, however, that if the particular amendment is required as a result of the Declarant's exercise of its Special Declarant Rights, then all such expenses shall be the sole responsibility of Declarant and if the particular amendment is required as a result of a certain Owner's request to relocate boundaries between Units or to subdivide Units or to reallocate limited common elements (as that term is defined in the Act), then all such expenses shall be the sole responsibility of the requesting Owner.

## ARTICLE 8 MISCELLANEOUS

8.1 Term. This Master Declaration, including all of the covenants, conditions and restrictions contained herein, shall run with and bind the Property up to and including the 25th anniversary of the date of Recording of this Master Declaration, as amended as herein provided. After such 25th anniversary, this Master Declaration, including all covenants, conditions and restrictions contained herein shall be automatically extended for successive periods of ten years each, unless amended and extinguished by a written instrument approved by the Members to whom at least 90% of the votes in the Master Association are allocated and recorded in the Records.

8.2 Notices. Any notice permitted or required to be given by the Restrictions shall be in writing and may be delivered personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or a legal holiday) after a copy of such notice has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Master Association for the purposes of service of notices, or to the residence of such Person if no address has been given to the Master Association. Such address may be changed from time to time by notice given by such Person to the Master Association.

8.3 Severability. In the event that any word, phrase, sentence, section, or portion of this Master Declaration shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Master Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

8.4 Condemnation.

8.4.1 In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain the Common Area, any part thereof or any interest therein, with a value (including loss of value to the balance of the Common Area and Improvements thereon), as reasonably determined by the Master Association in excess of Ten Thousand Dollars (\$10,000), the Master Association shall give prompt notice thereof, including a description of the part of or interest in the Common Area or improvement thereon sought to be so condemned, to all First Mortgagees, all Members, and to the Declarant. The Master Association shall have full power and authority to defend in said proceedings, and to represent the Owners in any negotiations, settlements, and agreements with a condemning authority for acquisition of the Common Area or part thereof, but the Master Association shall not enter into any such proceedings, settlement, or agreements, pursuant to which the Common Area or any part thereof or any interest therein, or any improvement thereon or any part thereof or interest therein, is relinquished, without giving all First Mortgagees, all Members and Declarant at least 15 days' prior written notice thereof.

8.4.2 In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of a part of all of the Common Area, the award made for such taking, if such award is sufficient to repair and restore the Common Area, shall be applied by the Master Association to such repair and restoration. If such award is insufficient to repair and restore the Common Area, or if the full amount of such award is not expended to repair or restore the Common Area, the Master

Association shall disburse the net proceeds of such award to the Owners, the Owner of each Unit receiving an amount based upon the General Common Allocation, provided that the Master Association shall first pay out of the share of each Owner the amount of any unpaid liens or encumbrances on his or her Unit in the order of the priority of such liens or encumbrances. No provision of this Master Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee pursuant to a First Mortgage in the case of a distribution to an owner of insurance proceeds or condemnation award for losses to or taking of Units, Common Area, or any combination thereof.

8.4.3 If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Declaration, the award must include compensation to the Owner for that Unit and its allocated interests whether or not any Common Areas are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken under this section is thereafter a Common Area.

8.4.4 Except as provided in section 8.4.3, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit and its interest in the Common Areas, whether or not any Common Areas are acquired.

8.4.5 If part of the Common Area is acquired by eminent domain, that portion of any award attributable to the Common Area taken must be paid to the Master Association. Any portion of the award attributable to the acquisition of a limited common element, as that term is defined in the Act, must be equally divided among the Owners of the Units to which that limited common element was allocated at the time of acquisition. For the purposes of acquisition of a part of the Common Area other than the limited common elements, service of process on the Master Association shall constitute sufficient notice to all Owners, and service of process on each individual Owner shall not be necessary.

8.4.6 The court decree shall be recorded in every county in which any portion of the Property is located.

8.4.7 The reallocations of allocated interests pursuant to this section 8.4 shall be confirmed by an amendment to the Master Declaration prepared, executed, and recorded by the Master Association, in accordance with Article 7 hereof.



8.5 Governing Law. This Master Declaration shall be governed by, and construed under, the laws of the State of Colorado in existence as of the date of Recording of this Master Declaration in the Records.

8.6 Exhibits. All exhibits and riders attached hereto shall be deemed incorporated herein by this reference unless stated otherwise.

8.7 Development Rights and Special Declarant Rights. The Declarant expressly reserves the right to exercise and enforce the Development Rights and the other Special Declarant Rights for twenty (20) years or the maximum time limit allowed by law, whichever period is shorter, unless sooner terminated by a Recorded instrument signed by the Declarant. The Declarant shall exercise such Development Rights and Special Declarant Rights in accordance with the provisions of the Act including, without limitation, C.R.S. § 38-33.3-210. Declarant may exercise any Development Right or Special Declarant Right with respect to all or any portion of the Property or the Additional Lands at any time. No assurances are provided as to the order in which Declarant may subject any portion of the Property or the Additional Lands to the exercise of any Development Right. If any Development Right is exercised with respect to any portion of the Property or the Additional Lands, such Development Right may, but is not required to, be exercised in all or in any other portion of the remainder of the Property or Additional Lands.

8.8 Colorado Common Interest Ownership Act. This Master Declaration shall be subject to all mandatory requirements of the Colorado Common Interest Ownership Act as codified at C.R.S. § 38-33.3-101 et seq., as amended ("CCIOA"). In the event of any conflict between any term or provision of this Master Declaration and any mandatory provision of CCIOA, the mandatory provisions of CCIOA shall control in all instances. In the event of any conflict between any term or provision of this Master Declaration and any permissive or non-mandatory provision of CCIOA, the provisions of this Master Declaration shall control in all instances.

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IN WITNESS WHEREOF, Declarant has executed this Master Declaration as of this 13<sup>th</sup> day of May, 1997.

DECLARANT:

UNITED STATES OF AMERICA, BY AND THROUGH THE SECRETARY OF THE AIR FORCE

By: Albert F. Lowas, Jr

Title: ACTING DIRECTOR, AFBLA

Date: May 13, 1997

COMMONWEALTH OF VIRGINIA )  
 ) ss:  
COUNTY OF ARLINGTON )

On the 13<sup>th</sup> day of May, 1997, before me BEVERLY A. ROBERTSON, the undersigned Notary Public, personally appeared ALBERT F. LOWAS, JR, personally known to me to be the person whose name is subscribed to the foregoing Master Declaration, and personally known to me to be the ACTING Director, Air Force Base Conversion Agency, and acknowledged that the same was the act and deed of the Secretary of the Air Force and that he executed the same as the act of the Secretary of the Air Force.

Beverly A. Robertson  
Notary Public  
Commonwealth of Virginia

My commission expires:  
January 31, 1998



ACCEPTANCE OF DESIGNATION AS DECLARANT:

LOWRY ECONOMIC REDEVELOPMENT  
AUTHORITY

By: *James E. Meadows*  
James E. Meadows  
Executive Director

Date: June 4, 1997

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER ) ss.

The foregoing instrument was acknowledged before me this 4<sup>TH</sup> day of June, 1997, by James E. Meadows, as Executive Director of the LOWRY ECONOMIC REDEVELOPMENT AUTHORITY.

Witness my hand and official seal.

My commission expires: JUNE 20, 1998



*Colleen Conner*  
Notary Public

EXHIBIT A

Legal Description of the Property and Plat or Map Entitled

"LAND SURVEY PLAT LOWRY COMMUNITY"

Recorded contemporaneously with this Master Declaration

**NESTWIND**  
MANAGEMENT GROUP, INC.

EXHIBIT B

Legal Description of Additional Lands

The following shall constitute Additional Lands:

1. All or any portion(s) of the following eleven (11) parcels described in Exhibit A of this Master Declaration:

Parcels SLL, II, L1, T, E, F-1, F-2, FFF-1, FFF-2, FF-2, and FF-1; and

2. All or any portion(s) of the following described property contained within the illustrated outermost boundaries of the Land Survey Plat of the Lowry Community (Exhibit A, page 2 of 2) which are not otherwise described in the legal description of property contained in Exhibit A, Land Survey Plat of the Lowry Community at page 1 of 2:

SE 1/4 of Section 4;  
SW 1/4 of Section 3;  
SE 1/4 of Section 8;  
NE 1/4 of Section 9;  
SE 1/4 of Section 9;  
NE 1/4 of Section 9;  
NW 1/4 of Section 10;  
SW 1/4 of Section 10;  
SE 1/4 of Section 10;  
NW 1/4 of Section 15;  
NE 1/4 of Section 15; and  
NE 1/4 of Section 16;

all within Township 4 South, Range 67 West of the 6th Principal Meridian, in either the City and County of Denver or Arapahoe County, Colorado; and

3. Undescribed additional real property not to exceed ten percent (10%) of the total area of the Property described in Exhibit A and paragraphs 1 and 2 of Exhibit B of this Master Declaration.