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AMENDED  
DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
OF  
ARROWHEAD

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AMENDED  
DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
ARROWHEAD

THIS DECLARATION is made and entered into by Melody Homes, a Colorado joint venture, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property in the County of Jefferson, State of Colorado, which is described on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant desires to subject and place upon the above-described property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvement, sale and ownership of said property, to the end that a harmonious and attractive development of said property may be accomplished and the health, comfort, safety, convenience and general welfare of the Declarant, its successors and assigns in said property, or any portion thereof, may be promoted and safeguarded;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above 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, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

Section 1. Agencies. "Agencies" shall mean and collectively refer to the the Government National Mortgage Association (GNMA), 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.

Section 2. "Architectural Review Committee" shall mean and refer to 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.

Section 3. "Association" shall mean and refer to Arrowhead Filing #1 Homeowners Association, Inc., a Colorado non-profit corporation, its successors and assigns. The Association shall act by and through its Board of Directors and officers. 5

Section 4. "Common Area" shall mean and refer to all property (including any Improvements thereon) owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Declarant" shall mean and refer to Melody Homes, a Colorado joint venture, its successors and assigns, if such successors or assigns should be designated as "Declarant" for any or all purposes provided for in this Declaration, in a notice duly executed by said Melody Homes, a Colorado joint venture, and recorded in Jefferson County, Colorado.

Section 6. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

Section 7. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering a Lot, recorded in the records of the office of the Clerk and Recorder of Jefferson County, Colorado, having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgage," for purposes of Article IV, Section 10 and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2, hereof, 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 Jefferson County, Colorado, show the Administrator as having the record title to the Lot.

Section 8. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage (including, for purposes of Article IV, Section 10, and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Article VI, Section 2,

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 Jefferson County, Colorado, show the said Administrator as having the record title to the Lot), or any successor to the interest of any such person under such First Mortgage.

Section 9. "Improvements" shall mean and refer to all exterior improvements, structures, 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, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

Section 10. "Lot" shall mean and refer to any separate numbered lot or plot of land shown upon any recorded subdivision map of the Properties or any portion thereof, as the same may be amended from time to time, with the exception of the Common Area and any public streets, but together with all appurtenances and improvements now or hereafter thereon.

Section 11. "Member" shall mean and refer to each Owner of a Lot which is subject to assessment hereunder; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 13. "Properties" shall mean and refer to that certain real property described on Exhibit A hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

## ARTICLE II PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article II, every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 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, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan; and

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

(c) The right of the Association to promulgate and publish rules and regulations with which each Member shall strictly comply and the right of the Association to establish reasonable charges or admission fees for the use of any recreational facilities, if any, located on the Common Area; and

(d) The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights and the right to the use of recreation facilities, if any, within the Common Area, of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Area 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 in writing by the Members entitled to vote two-thirds (2/3) of the votes of each class of membership in the Association, 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 Properties 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 may deem to be useful, beneficial or otherwise appropriate, including, without limitation, for pedestrian and vehicular access.

ties, or any portion thereof, or any other real property, for vehicular parking, or for recreational use and enjoyment. Any such documents, as provided for in this subsection (f), shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors of the Association, which may include provisions by which the Association covenants and agrees that it shall pay part or all of the costs and expenses of maintaining and repairing such real property and Improvements, or shall pay such other amounts which the Board determines are reasonably necessary to secure any such contracts, leases, licenses, agreements, easements or rights-of-way, and any such costs shall be treated by the Association as common expenses pursuant to Article IV hereof; and

(g) The right of the Association to close or limit the use of the Common Area while maintaining, repairing and reconstructing the Common Area.

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

Section 4. Payment of Taxes or Insurance by First Mortgagees. First Mortgagees 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 Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and any First Mortgagees making any such payments shall be owed immediate reimbursement therefor from the Association.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment hereunder shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Membership. The Association shall have two classes of voting membership.

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



Class B. The Class B Member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned which is neither leased, rented, nor otherwise occupied as a residence. Leasing, renting, or allowing entry for residential occupancy shall, during the time(s) when such Lot is residentially occupied, terminate the Declarant's weighted voting advantage in relation to any such Lot, and will limit Declarant in relation to any such Lots to the same voting rights as a Class A Member. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided, however, that if within one hundred twenty (120) days after the occurrence of this event, additional real property shall be annexed to this Declaration pursuant to Article XI, Section 4 hereof, such that after such annexation there would again be more votes outstanding in the Class B membership than in the Class A membership, then the Class B membership shall be deemed not to have ceased and not to have been converted to Class A membership; or

(b) on that date which is seven (7) years after the date of recording of this Declaration in the office of the Clerk and Recorder of Jefferson County, Colorado; or

(c) in the event that there is neither any new unit construction initiated nor evidence of any continuing construction within the Properties for a continuous period of six (6) months; or

(d) upon written notice by the Declarant to the Secretary of the Association of the Declarant's intent to terminate the Class B membership; provided, however, that in the event there is then more than one Declarant owning Lots, such notice must be signed by all such Declarants.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, 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, and special assessments; such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such

assessment is made. The 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 Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees and charges attributable to their Lot. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees. The Board of Directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by a member of the Board of Directors or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the County of Jefferson, Colorado. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot 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 Lot 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.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties, 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, including, without limitation, the improvement and maintenance of the Common Area; provided, however, that such assessments levied during the existence of Class B membership may not be used for the purpose of constructing capital improvements .

Section 3. Maximum Annual Assessment.

(a) The maximum amount at which the annual assessment may be set by the Board of Directors of the Association without a vote of the Members time period commencing with the date hereof until commencement of the second fiscal year of the Association, shall be one hundred fifty + <sup>00</sup>/<sub>100</sub> Dollars (\$150.00) per Lot.

(b) Beginning with commencement of the second and each subsequent Association fiscal year, the maximum amount which the annual assessment against each Lot may be increased effective each fiscal year without a vote of the Members shall be the greater of: (i) the percentage increase, if any, in the Consumer Price Index published by the U. S. Department of Labor, Washington, D. C., for All Items and Major Group Figures for the Denver, Colorado, Metropolitan Area (1967 = 100), for the one (1) year period ending with the preceding month of July; or (ii) five percent (5%). The aforesaid annual increase in the maximum amount which the annual assessment may be increased by the Association without a vote of the Members shall occur automatically upon the commencement of each Association fiscal year without the necessity of any action being taken with respect thereto by the Association. In the event the aforesaid Consumer Price Index is not published, for whatever reason, then the increase in the maximum amount which an annual assessment may be increased by the Association without a vote of the Members shall be calculated by using a substantially comparable index designated by the Board of Directors of the Association. (As an example only and as a means of illustrating use of the aforesaid formula, in order to determine the increase in the maximum amount which the annual assessment for the 1991 Association fiscal year may be increased by the Association without a vote of the Members, the following calculations would need to be made: if the above-referenced Consumer Price Index for July, 1989, was 270 and the above-referenced Consumer Price Index for July, 1990, was 297, then the percentage increase in the referenced Consumer Price Index for the applicable one-year period would be ten percent (10%). Since ten percent (10%) is more than five percent (5%), the increase in the maximum amount which the annual assessment may be increased by the Association without a vote of the Members for the Association fiscal year commencing on January 1, 1991, would be ten percent (10%) over the maximum amount which the annual assessment in effect during the 1990 Association fiscal year could have been increased by the Association without a vote of the Members.)

(c) Beginning with commencement of the second and each subsequent Association fiscal year, the maximum amount by which the annual assessment may be increased as determined in accordance with Section 3(b) may be further increased by a vote of the Members, provided that any such further increase shall

have the assent of two-thirds (2/3) of a quorum of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. A meeting called for such purpose shall be held in conformance with Section 4 of this Article IV.

(d) Subject to the terms and provisions of Section 6 of this Article IV relating to the obligation of the Declarant to pay to the Association amounts sufficient to meet certain shortfalls in assessments, the Board of Directors of the Association may, at any time and from time to time, after consideration of the projected maintenance costs and other financial needs of the Association, fix the actual assessment against each Lot in an amount less than the maximum; provided, however, that written notice of any change in the amount of the actual assessment (whether to an amount less than or equal to the maximum) shall be sent to every Owner at least thirty (30) days in advance of the effective date of such change.

(e) The limitations contained in this Section 3 shall not apply to any change in the maximum, actual and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(f) The Association shall maintain an adequate reserve fund out of the annual assessments for the maintenance, repair and reconstruction of those items that must be maintained, repaired or reconstructed on a periodic basis, and for the payment of insurance deductibles.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3(c). Written notice of any meeting called for the purpose of taking any action authorized under Section 3(c) or Section 5 of this Article shall be sent to all Members not less than 30 days or 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 votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (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.

Section 5. Special Assessments. In addition to the annual assessments authorized in this Article IV, the Association, with the approval of two-thirds (2/3) of a quorum of each class of Members voting in person or by proxy at a meeting duly called for this purpose, may levy, in any fiscal year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction,

reconstruction and/or repair of a capital improvement(s) upon the Common Area or 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 and/or reconstruction of any damaged or destroyed Improvements on the Common Area or upon any portion of real property for which the Association has repair and/or reconstruction obligations, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set equally against each Lot, subject to the rate of assessment on Lots owned by Declarant as more fully provided in Section 6 of this Article IV. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 4 of this Article IV. Notwithstanding the foregoing, special assessments levied during the existence of Class B membership may not be used for the purpose of constructing capital improvements

Section 6. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association. Notwithstanding anything to the contrary contained in this Declaration, however, the rate of annual and special assessments set for the Lots owned by Declarant which are neither leased, rented, nor otherwise occupied as a residence shall be fixed at one-quarter (1/4) of the assessment rate for the other Lots; provided, however, that during the time any Lot owned by Declarant is leased, rented, or occupied as a residence, that Lot shall be assessed at the uniform rate of assessment for privately owned Lots. In the event that, prior to the termination of the Class B membership, assessments for annual common expenses, exclusive of those amounts held by the Association for an adequate reserve fund and for the working capital fund, fail to equal or exceed the actual expenses incurred by the Association during any particular Association fiscal year because of such partial Declarant assessment, exclusive of reserves or expenses for which the Association has budgeted or set aside reserves, then Declarant shall pay a sufficient amount, up to the amount of full parity with such assessments, to the Association to meet any such shortfall, which payment shall be made subsequent to the end of the fiscal year for which the Association seeks such payment, so long as: (a) written notice must be given by the Association to the Declarant within one hundred twenty (120) days following the termination of the fiscal year of the Association for which such payment is sought; and (b) Declarant shall have no obligation for any such shortfall caused by expenditures for capital improvements or by any decrease in assessments, including, without limitation, the levying of any assessment in an amount less than the maximum during any Association fiscal year, unless the same has previously been approved in writing by Declarant. If there is more than one "Declarant," then, subject to the conditions

hereinabove stated, each Declarant shall pay a pro rata share of the aforesaid shortfall, such pro rata share to be based on the total amount of assessments due from each Declarant at such reduced rate compared to the total amount of assessments due from all Declarants at such reduced rate during the applicable Association fiscal year.

Section 7. Date of Commencement of Annual Assessments. The initial annual assessment shall commence on such date as designated by the Board of Directors of the Association. The annual assessments shall be due and payable in semi-annual installments, in advance, or on such other dates, and with such frequency (which may be other than semi-annually), as the Board determines from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the the first annual assessment year. Any Owner purchasing a Lot between annual due dates shall pay a pro rata share of the last payment due.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of six percent (6%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors of the Association, and the Board may assess thereon a annual late charge in an amount of not less than three & 00/100 Dollars (\$ 3.00 ) per month. 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 Lot. IF a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include late charges, as above provided. No Owner may waive or otherwise escape liability for assessments by not using the Common Area or by abandoning his Lot.

Section 9. Working Capital Fund. The Association or Declarant shall require the first Owner of any Lot who purchases that Lot from Declarant to make a non-refundable contribution to the Association in the amount of One Hundred Dollars (\$100.00) (regardless of whether or not assessments have commenced as provided in Section 7 of this Article IV). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional 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 Lot, an Owner shall be

entitled to a credit from his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

Section 10. Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein, including, without limitation, any fees, costs, late charges or interest which may be levied by the Association in connection with unpaid assessments, shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the liens for said assessment charges except that sale or transfer of any Lot pursuant to foreclosure of any such First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessment charges which became due prior to any such sale or transfer, or foreclosure or any proceeding in lieu thereof; provided, however, that any such delinquent assessment charges, including interest, late charges, costs and reasonable attorney's fees, which are extinguished as provided herein, may be reallocated and assessed to all Lots as a common expense. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, shall relieve such Lot from liability for any assessment charges thereafter becoming due, nor from the lien thereof; provided, however, that in the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First Mortgagee shall not be liable for unpaid assessments or other charges which accrue prior to the acquisition of title to the Lot in question by such First Mortgagee.

ARTICLE V  
ARCHITECTURAL REVIEW COMMITTEE

Section 1. Composition of Committee. The Architectural Review Committee shall consist of three (3) or more persons appointed by the Board of Directors of the Association; provided, however, that until all Lots have been conveyed by Declarant to the first Owner thereof (other than Declarant), Declarant shall appoint the Architectural Review Committee. Two members of the Committee may jointly designate a representative to act for them. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural 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.

Section 2. Review by Committee. No Improvements shall be constructed, erected, placed, planted, applied or installed

upon the Properties, unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of drive-ways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of Lots or residences in, the Properties. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements within the Properties conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the common expense assessment against the Lot for which the request for Architectural 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. 16

Section 3. Procedures. The Architectural Review Committee shall approve or disapprove all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article V shall be deemed to have been fully complied with.

Section 4. Vote and Appeal. A majority vote of the Architectural 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 Architectural Review Committee approves or denies a request for architectural approval, any Owner shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such approval or denial by the Committee's representative. In the event an application for architectural approval is approved or denied by the Architectural Review Committee, whether pursuant to an



original request for approval or on appeal from a decision of a representative of the Committee, any Owner shall have the right to appeal such decision to the Board of Directors of the Association, if a written request for a hearing on an appeal of the same shall be submitted to the Board of Directors of the Association within thirty (30) days after such approval or denial by the Committee.

Section 5. Records. The Architectural Review Committee 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.

Section 6. Liability. The Architectural Review Committee and the members thereof, as well as any representative of the Committee appointed to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 7. Variance. The Architectural 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.

Section 8. Waivers. The approval or consent of the Architectural Review Committee, any representative thereof, or the Board of Directors of the Association, 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 Committee, any representative thereof, or said Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

## ARTICLE VI INSURANCE

Section 1. Insurance on Common Area. The Association shall maintain insurance covering all insurable Improvements located or constructed upon the Common Area and may maintain insurance in connection with other parcels of real property for which the Association has obligations to maintain, repair and/or

reconstruct. The Association shall maintain the following types of insurance, 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 a common expense. Notwithstanding any of the specific insurance requirements specified in this Article VI, 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 First Mortgages.

(a) A policy of property insurance covering all insurable Improvements located on the Common Area or located upon other parcels of real property for which the Association has the duty to repair and/or reconstruct, except for land, foundation, excavation and other matters normally excluded from coverage, in an amount not less than necessary to comply with any co-insurance percentage stipulated in the insurance policy. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and include an "Inflation Guard Endorsement" and an "Agreed Amount Endorsement." The Association may also purchase any or all of the following: a "Demolition Endorsement," an "Increased Cost of Construction Endorsement," a "Contingent Liability from Operation of Building Laws Endorsement," a "Vacancy Permit Endorsement" or the equivalent, and coverage on personal property owned by the Association including fixtures and building service equipment, furnishings and supplies. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:

(1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

(b) A comprehensive policy of public liability insurance covering all of the Common Area and covering other parcels of real property for which the Association has the obligation to maintain, repair and/or reconstruct insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the

operation, maintenance or use of the Common Area or other parcels of real property for which the Association has the obligation to maintain, repair and/or reconstruct, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles. Such coverage may also include, if applicable, comprehensive automobile liability insurance, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and such other risks as shall customarily be required by private institutional mortgage investors with respect to projects similar in construction, location and use.

(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 all others who handle or are responsible for handling 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 three (3) months aggregate assessments on all Lots, plus such reserve funds. Such fidelity coverage or bonds shall meet the following requirements:

(1) all such fidelity coverage or bonds shall name the Association as an obligee;

(2) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

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 the Common Area, or any portion thereof or any parcel of real property for which the Association has the duty to repair and/or reconstruct, or any portion thereof, is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on the Common Area has been made available under the National Flood Insurance Program, then such a policy of flood insurance on the Common Area in an amount at least equal to the lesser of:

(1) 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

(2) 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. 20

Section 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 First Mortgagee's clause in favor of each First Mortgagee 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 First Mortgagee, insurer or guarantor of a First Mortgage. 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 First Mortgagees, 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.

Section 3. Deductibles. No policy of insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of One Thousand Dollars (\$1,000.00) or one percent (1%) of the face amount of the policy. Any loss to any Lot or to the Common Area or to any parcel of real property for which the Association has the duty to maintain, repair and/or reconstruct falling within the deductible portion of such policy shall be borne by the person or entity who is responsible for the reconstruction, repair and/or maintenance of the property which is damaged or destroyed. In the event of a joint duty of reconstruction, repair and/or maintenance of the damaged or destroyed property, then the deductible may be apportioned among the parties sharing in such joint duty or may be partly or wholly

borne by the Association, at the election of the Board of Directors of the Association. 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 an Owner. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any annual assessment.

Section 4. Insurance Trustee. The Association may authorize a representative to act for it, including any trustee or successor thereto, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance. Such insurance trustee shall act as attorney-in-fact for the purpose of administering, purchasing and maintaining insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. Said party may also receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their First Mortgagees as their interests may appear.

Section 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 annual assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 6. Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/VI or better, or a financial rating of Class V provided it has a general policy holder's rating of at least A, and 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.

Section 7. Insurance to be Maintained by Owners. Insurance coverage on the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Lot, including those portions of any Lot to be maintained by the Association, shall be the responsibility of the Owner of such Lot. Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Lot other than the purchase by the initial Owner from the Declarant.

Section 8. Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors of the Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to obtaining any policy of fire insurance or renewal thereof, 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 other person knowledgeable as to replacement costs, which appraiser shall reasonably estimate the full replacement value of the improvements to the insured for the purpose of determining the amount of insurance required pursuant to the provisions of this Article. Any First Mortgagee shall be furnished with a copy of such appraisal upon request.

ARTICLE VII  
DAMAGE OR DESTRUCTION

Section 1. Damage to Common Area. In the event of damage or destruction to all or a portion of the Common Area or to other real property for which the Association has repair and/or reconstruction obligations due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct and/or repair the damage, shall be applied by the Association to such reconstruction and/or repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and/or reconstruct the damaged or destroyed area, the Association shall levy a special assessment in the aggregate amount of such insufficiency pursuant to Article IV, Section 5 hereof and shall proceed to make such repairs and/or reconstruction. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and any First Mortgagees of their respective Lots. The reconstruction assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon, and may be enforced and collected in the same manner as any assessment lien provided for in this Declaration.

ARTICLE VIII  
EXTERIOR MAINTENANCE

RECEPTION NO. 90105622

Section 1. General. The Association shall maintain, repair and/or reconstruct all Common Area and the Improvements thereto and thereon. The Association shall maintain all entry signage and adjacent landscaping wherever located so long as such signage is shown on an instrument entitled Entry Signage Easement for Arrowhead Subdivision and recorded in the office of the Clerk and Recorder of Jefferson County, Colorado. The Association shall also maintain, repair and/or replace such fences installed by Declarant and located on Lots or on the adjacent rights-of-way for Eaton Street and West 112th Avenue and the landscaping located between said fencing and the paved portion of any right-of-way, whether such landscaping is located on a Lot or within the adjacent right-of-way. The costs to be expended for such maintenance, repair and/or replacement shall, subject to Section 4 of this Article, be collected by the Association as common expenses pursuant to Article IV hereof. The maintenance, repair and/or reconstruction of each Lot, including, but not limited to, the interior and exterior of the residence and the other Improvements constructed thereon, shall be the responsibility of the Owner thereof. The Association and each Owner, and their agents and contractors, are hereby granted an easement for the purpose of maintenance, repair and/or reconstruction of the Owner's Lot on, over, across, under and through adjacent Lots upon reasonable notice to the Owner thereof. Any damage occurring to such adjacent Lots or the Improvements thereon in performing such repairs, maintenance and/or reconstruction shall be the responsibility of the party performing or authorizing such repairs, maintenance and/or reconstruction. No Owner shall, in whole or in part, change the landscaping grade or fencing located within such area.

Section 2. Association's Right to Repair, Maintain, Restore and Demolish. In the event any Owner shall fail to perform his maintenance, repair and/or reconstruction obligations in a manner satisfactory to the Board of Directors of the Association, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot within a reasonable time period subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair and/or reconstruction or, pursuant to Article IX, Section 21, hereof to demolish a residence. The cost of such maintenance, repair, reconstruction and/or demolition shall be the personal obligation of the Owner of the Lot 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, interest, late charges and lien rights.

Section 3. Access Easement for Association. Each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance repair and/or reconstruction as provided in this

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Article VIII during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that no such notice shall be required of the Association in connection with the fence and landscape maintenance, repair, replacement and/or reconstruction performed upon any Lot or within any street right-of-way pursuant to Section 1 of this Article VIII and except that in emergency situations entry upon a Lot may be made at any time, provided that the Owners or occupants of affected Lots shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to such easements as provided for in this Section 3.

Section 4. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair and/or reconstruction of or within any right-of-way for which the Association has an obligation to maintain, repair and/or reconstruct the Common Area, a Lot, 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 and/or reconstruction 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 and/or reconstruction shall be added to the assessment to which such Owner's Lot 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.

#### ARTICLE IX RESTRICTIONS

Section 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 Properties, all in order to enhance the value, desirability, and attractiveness of the Properties and subserve and promote the sale thereof.

Section 2. Restrictions Imposed. The Declarant hereby declares that all of the Properties shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon, and hypothecated, subject to the following pro-

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visions, conditions, limitations, restrictions, agreements, and covenants, as well as those contained elsewhere in this Declaration.

Section 3. Use of Common Area.

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

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

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

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

Section 4. Residential Use. Subject to Section 5 of this Article IX, Lots shall be used for residential purposes 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 Lot for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Properties is created thereby.

Section 5. 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 Properties such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots, and development and construction of Improvements on the Properties, specifically including, without limiting the generality of the foregoing, maintaining business offices, storage areas, construction yards and equipment, signs, model units, sales offices, parking areas and lighting facilities. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Properties in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members,

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guests or invitees of and to his Lot, the Common Area, and to a public right of way.

Section 6. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Properties; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Properties. 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 number or 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 6, and to take such action or actions as it deems 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.

Section 7. 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 Lot; 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 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 Lot as to be visible from a street, any other Lot, or from the Common Area.

Section 8. Miscellaneous Improvements.

(a) No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House" or "For Rent" sign of not more than five (5) square feet. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of Lots, or otherwise in connection with development of or construction on the Properties, shall be permissible, provided that such use shall not interfere

with the Owners' use and enjoyment of their Lot or the Common Area, or with their ingress or egress from a public way to the Common Area or their Lot.

(b) No clotheslines, chain-linked (or other) dog runs, drying yards, service yards, wood piles or storage areas shall be so located on any Lot as to be visible from a street, any other Lot, or from the Common Area. No wood piles nor any other materials or any Improvements other than a boundary fence approved by the Architectural Review Committee shall be located on any Lot so as to be adjacent to any fence maintained by the Association.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted, except when appropriately screened and approved by the Architectural Review Committee.

(d) Except as may otherwise be permitted by the Architectural 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 the Properties, 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 within the Properties.

(e) No wind generators of any kind shall be constructed, installed, erected or maintained on the Properties.

(f) No fences shall be constructed, installed, erected or maintained on Lots unless approved by the Architectural Review Committee and except such fences, in such locations, as were installed or permitted to be installed by the Declarant in its construction of Improvements on the Properties.

(g) Any exterior lighting installed or maintained on the Properties shall either be indirect or of such controlled focus and intensity as not to disturb the residents of adjacent or nearby property.

#### Section 9. 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 on the Properties unless such parking or storage is within the garage area of any Lot or suitably screened from view in accordance with the requirements of the Architectural Review Committee, 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 within the Properties which are necessary for construction or for the maintenance of the Common Area, Lots 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 on the Properties. 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 one (1) week or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

(c) In the event the Association shall determine that a vehicle is parked or stored on the Properties in violation of subsections (a) or (b) of this Section 9, 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 on the Properties, unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent 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.

Section 10. Nuisances. No nuisance shall be permitted on the Properties, nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs, any residents of the Properties, or which interferes with the peaceful enjoyment or possession and proper use of the Properties, or any portion thereof, by its residents. 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 on, the Properties; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, or with any Owner's ingress and egress to or from his Lot

and a public way. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of the Properties or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Properties, or any portion thereof, shall be observed.

Section 11. Lots Not to be Subdivided. No Lot shall be subdivided except for the purpose of combining portions with an adjoining Lot provided that no additional building site is created thereby. Not less than one entire Lot, as conveyed, shall be used as a building site.

Section 12. No Hazardous Activities. No activities shall be conducted on the Properties or within improvements constructed on the Properties 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 of the Properties and no open fires shall be lighted or permitted on the Properties except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace, or except such campfires or picnic fires on property which may be designated for such use by the Association.

Section 13. No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others.

Section 14. 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 on the Properties unless placed in a suitable container 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.

Section 15. Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of Lots immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section 15 shall prevent the prosecution of a suit for any other

violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation," for the purpose of this Section, is a violation of not more than four (4) feet beyond the required setback lines or Lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 16. Rules and Regulations. Rules and regulations concerning and governing the Properties, or any portion thereof, may be adopted, amended or repealed, from time to time by the Board of Directors of the Association, 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.

Section 17. Lots to be Maintained. Each Lot shall at all times be kept in a clean, sightly and wholesome condition by the Owner of the Lot. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Section 14 of this Article IX.

Section 18. Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, 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 Lot, or any portion thereof, under the following conditions:

(a) All leases shall be in writing, and a copy of the lease delivered to the Board of Directors of the Association or the Association's Managing Agent, if any; 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 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; and

(c) No lease shall be for less than thirty (30) days.

Section 19. Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party

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thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) 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 the termination of the Class B membership shall be subject to review and approval by HUD, if at the time such agreement is entered into VA has a guarantee(s) or HUD has insurance on one or more First Mortgages, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Class B membership. 31

Section 20. Maintenance of Grade and Drainage. As more fully provided in that certain Declaration of Covenants Concerning the Maintenance of Certain Improvements to Real Property as the same has been or will be recorded in the real property records of Jefferson County, Colorado, each Owner shall maintain the grading upon his Lot and the Association shall maintain the grading upon the Common Area and such other real property which the Association has a duty to maintain at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agrees, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any Common Area, Lot or other 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 Lot or Common Area or other real property which an Owner or the Association has a duty to maintain, then the party responsible for the maintenance of such real property will submit a plan to the Architectural Review Committee in accordance with the provisions of Article V of this Declaration. For purposes of this Section 20, "established drainage" is defined as the drainage which exists at the time final grading of a Lot is completed.

Section 21. Destruction of Residences on Lots. If, due to casualty or for any other reason, a residence located on a Lot shall be destroyed or so damaged that the residence is no longer habitable, then the Owner of such Lot shall within a reasonable time not to exceed one hundred and twenty (120) days after the event resulting in such damage or destruction either commence and diligently pursue repair or reconstruction of the residence or demolish the same. Demolition of a residence shall include removal of any foundation slab, basement walls and floors, regrading the Lot to a level condition and the installation of such landscaping as may be required by the Architectural Review Committee pursuant to a plan submitted to the committee by the Owner of said Lot. If the Owner of a Lot does not either commence repair, reconstruction or demolition within a reasonable

Committee, then the Association may, in its reasonable discretion, after providing the notice required in Article VIII, Section 2, hereof, enter upon the Lot for the purpose of demolishing the residence and landscape the Lot in conformance with approved plans. The cost related to such demolition and landscaping shall be the personal obligation of the Owner of the Lot on which work is performed and shall be subject to all of the terms and provisions applicable to "assessment" as provided in Article III hereof, including, without limitation, interest, late charges and lien rights. 30

ARTICLE X  
OTHER EASEMENTS

Section 1. Easement for Encroachments. If any portion of any Improvement located on a Lot encroaches upon any other Lot or the Common Area, or if any portion of any Improvement located on the Common Area encroaches upon any Lot, including any future encroachments arising or resulting from the repair and/or reconstruction of a structure subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such encroachment.

Section 2. Easements for Drainage and Utilities. Easements for the installation and maintenance of utilities, drainage facilities, public or private improvements and access thereto are reserved as shown on the recorded plats affecting the Properties and any amendments to such plats or as established by any other instrument of record. Declarant hereby reserves to itself and to the Association easements for drainage or drainage facilities across the five (5) rear and five (5) side feet of each Lot. As more fully provided in Article IX, Section 20, of this Declaration, no Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each five foot rear and side yard drainage easements and at any time to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association deem necessary or desirable in their sole discretion.

Section 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 Properties; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to interfere unreasonably with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot, or any recreational facility, if any, completed upon the Common Area; and further provided, however, that the rights and easements granted to the Declarant in this Section 3 shall cease and determine upon conveyance by Declarant of the last Lot to the first Owner thereof (other than Declarant).

Section 4. Easements Deemed Created. All conveyances of Lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article X, even though no specific reference to such easements or to this Article X appears in the instrument of such conveyance.

#### ARTICLE XI GENERAL PROVISIONS

Section 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 amended, may be by any proceeding at law or in equity against any person or persons (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.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Conflict of Provisions. In case of any conflict between this Declaration, 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.

Section 4. Annexation. Additional residential property may be annexed to this Declaration with the consent of two-thirds of each class of Members. Notwithstanding the foregoing, the Declarant may annex to this Declaration additional property within the lands described on Exhibit B attached hereto and incorporated herein by this reference, until that date which is seven (7) years after the date of recording of this Declaration in Jefferson County, Colorado, without consent of any other Owners or First Mortgagees, subject to a determination by HUD that the annexation is in accord with the general plan approved by it and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements (if the Declarant desires to attempt to obtain VA or HUD approval of the property being annexed). 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 the County of Jefferson, Colorado, which document shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land 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. Prior to transferring ownership of the first Lot conveyed in the Properties and in any property which is annexed by Declarant pursuant to this Section 4, the Declarant shall convey to the Association the Common Area, if any, included therein.

Section 5. Condemnation. In the event proceedings are initiated by any government or agency thereof seeking to take the Common Area or any part thereof or interest therein, or any Improvement thereon, or any interest therein, by power of eminent domain, the Association shall give prompt notice thereof to all Members, including a description of the part of or interest in the Common Area or Improvement thereon sought to be so condemned. The 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, any part thereof, or any interest therein, and each Owner hereby appoints the Association as his attorney-in-fact for such purposes. Any award or proceeds of settlement shall be payable to the Association for the use and benefit of the Members and their mortgagees as their interests may appear.

RECEPTION NO. 90105622

Section 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 provided in subsection (b) of this Section 6, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than seventy-five percent (75%) of the votes of each class of Membership.

(b) Notwithstanding anything to the contrary contained in this Declaration:

(1) Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, at any time prior to conveyance by Declarant of the last Lot to the first Owner thereof (other than Declarant), or seven (7) years from the date this Declaration is recorded in the County of Jefferson, Colorado, whichever occurs first, for the purpose of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provision of any of such documents; and

(2) Declarant hereby reserves and is granted the right and power to record amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, at any time prior to conveyance by Declarant of the last Lot to the first Owner thereof (other than Declarant), or seven (7) years from the date this Declaration is recorded in the County of Jefferson, Colorado, whichever occurs first, in order to comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure or guarantee First Mortgages; provided, however, that each such special amendment shall have the prior written consent of HUD if, at the time of execution of such amendment by Declarant, VA has a guarantee(s) or HUD has insurance on one or more First Mortgages.

(c) To be effective, all amendments to or revocation or termination of this Declaration must be recorded in the office of the Clerk and Recorder of the County of Jefferson, Colorado, and must contain evidence of the required approval thereof.

RECEPTION NO. 90105622

(d) One method of satisfying the requirements of Subsection (c) of this Section 6 shall be the recordation of a Certificate of the Secretary of the Association certifying that Owners representing the requisite percentage of the Lots have given notarized written consent to the Amendment. The Secretary must further certify that originals of such written consents by Owners, along with the recorded Amendment, are in the corporate records of the Association and available for inspection.

Section 7. Registration of Mailing Address. Each Owner and each First Mortgagee, insurer or guarantor of a First Mortgage, 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 an Owner, or upon a First Mortgagee, insurer or guarantor of a First Mortgage, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such person or entity 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 Lot. All notices, demands, or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by registered or certified mail, postage prepaid, c/o Melody Homes, 11031 Sheridan Boulevard, Westminster, Colorado 80020, until such address is changed by the Association.

Section 8. HUD Approval. As long as there is a Class B membership, the following actions shall require the prior approval of HUD if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more First Mortgages: annexation of additional properties and dedication of Common Area.

Section 9. Dedication of Common Area. Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Area intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Area is not dedicated hereby for use by the general public but is dedicated to the common use and enjoyment of the Owners, as more fully provided in this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 13th day of December, 1990.

RECEPTION NO. 90105622

DECLARANT:

MELODY HOMES, A Colorado General Partnership

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By: [Signature]  
Its: Pres.

STATE OF COLORADO )  
COUNTY OF Jefferson ) ss.

The foregoing instrument was acknowledged before me this 13th day of December, 1990, by Noel West Lane III as President of Melody Homes, a Colorado general partnership, Declarant.

Witness my hand and official seal.

My commission expires: June 1, 1994

[Signature]  
Notary Public

MY BUSINESS ADDRESS IS:  
11031 SHERIDAN BLVD.  
WESTMINSTER, CO 80020



RECEPTION NO. 90105622

EXHIBIT A  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
ARROWHEAD

31

**The Property**

Lots 1 through 53, Block 1  
Lots 1 through 34, Block 2  
Lots 1 through 53, Block 3  
Lots 1 through 9, Block 4

Arrowhead Subdivision Filing No. 1 as shown on the Final Plat recorded on July 9, 1990, at Reception No. 90057807 in the office of the Clerk and Recorder of Jefferson County, Colorado.

RECEPTION NO. 90105622

**EXHIBIT B**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF**  
**ARROWHEAD**

**Legal Description:**

A parcel of land located in the southeast one-quarter (SE1/4) of Section 1, Township 2 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, being more particularly described as follows: Beginning at the Southeast corner of said Section 1; thence N89 38 41"W along the South line of said SE1/2, 725.00 feet to the True Point of Beginning; thence continuing along said South line, N89 38 41"W, 1774.30 feet to the Southeast corner of a parcel of land granted in fee simple to the City of Westminster by an instrument recorded at Reception No. 82028781 of the Jefferson County records; thence the following courses and distances along the boundary of said parcel of land: NOO 03 52"W, 90.89 feet; N47 19 45"W, 125.26 feet; NOO 03 52"W, 180.00 feet; S89 56 08"W, 5.00 feet; NOO 03 52"W, 315.00 feet; N21 51 08"W, 80.81 feet to the Northerly corner of said parcel of land which is a point on the West line of said SE1/4; thence departing the boundary of said parcel of land, NOO 03 52"W along the West line of said SE1/4 which is also the Easterly line of SHERIDAN GREEN SUBDIVISION as recorded at Book 43, Page 56, Reception No. 618464 of the Jefferson County records, 1629.86 feet; thence S89 52 08"E, 1918.71 feet; thence SOO 21 19"W, 2382.30 feet to the True Point of Beginning.

EXCEPT that certain parcel of real property described as follows:

**The Property**

Lots 1 through 53, Block 1  
Lots 1 through 34, Block 2  
Lots 1 through 53, Block 3  
Lots 1 through 9, Block 4

Arrowhead Subdivision Filing No. 1 as shown on the Final Plat recorded on July 9, 1990, at Reception No. 90057807 in the office of the Clerk and Recorder of Jefferson County, Colorado.