

STATE OF COLORADO, COUNTY OF EL PASO FEB 17 1976
RECORDED AT 11 O'CLOCK A.M.
RECEPTION NO. 211504 HARRIET BEALS

BOOK 2809 PAGE 615

AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

This Amended Declaration of, Covenants, Conditions and Restrictions is made this 17th day of September, A. D., 1975, by the undersigned.

WITNESSETH:

WHEREAS, The Skiland Corporation, a Colorado corporation, as Declarant, did cause to be recorded a Declaration of Covenants, Conditions, and Restrictions in Book 2568 at Page 49 of the records of the County of El Paso, State of Colorado; and

WHEREAS, at the time of recordation, Declarant was the owner of certain property in the County of El Paso, State of Colorado, which is more particularly described as:

Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado; and

WHEREAS, Declarant was to convey said properties, except Tract A thereof, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as were set forth in the Declaration of Covenants, Conditions and Restrictions hereinabove described; and

WHEREAS, the undersigned desire to amend said Declaration of Covenants, Conditions and Restrictions in its entirety; and

WHEREAS, the undersigned are the Owners and Mortgagees of all the real property hereinabove described and are therefore entitled to amend said Declaration pursuant to the provisions of Article XII, Section 3 thereof.

NOW, THEREFORE, the undersigned declare that that certain Declaration of Covenants, Conditions and Restrictions recorded in Book 2568 at Page 49, El Paso County, Colorado records, is hereby amended in its entirety with respect to the real property described on Exhibit A attached hereto and incorporated by reference herein and that all of the real property described on Exhibit A attached hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants,

restrictions, and conditions shall run with the real property described on Exhibit A and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

Section 1. "Association" shall mean and refer to DONALA CLUB VILLAS HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Property or Properties" shall mean and refer to all that real property described on Exhibit A attached hereto and incorporated herein by reference and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described on Exhibit B.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to THE SKILAND CORPORATION, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 8. "Mortgage" shall mean any mortgage, deed of trust or other document pledging a lot as security for the payment of a debt or obligation.

Section 9. "Mortgagee" shall mean any person, corporation, partnership, trust, company, association or other entity which

taxes, holds, owns, or is secured by a Mortgage.

ARTICLE II

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE III

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article II with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lots shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant. The Class B member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article II, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 1976.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a 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, subject to the following provisions:

- (a) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder. Notwithstanding the above, that the Association shall not alienate, transfer, hypothecate, mortgage or otherwise encumber the Common Area and facilities without the proper written approval of all First Mortgagees of Lots within the properties;
- (b) the right of the Association to suspend the voting rights by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations;
- (c) 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. No such dedication or transfer shall be effective unless on instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership, two-thirds (2/3) of the votes of the Class B membership, if any, and all First Mortgagees of Lots within the properties, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member and First Mortgagee not less than 30 days nor more than 60 days in advance.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens prior to the termination of Class B membership to the Association. The Common Area shall remain undivided, and shall at all times be owned by the Association or its successors, who shall neither abandon, partition or subdivide the same, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the Common Area.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property,

hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the payment of delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Property, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Property. They shall include, but are not limited to, funds for the actual cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area and of the maintenance of the exteriors of the Lots or Townhouses as may from time to time be authorized by the Board of Directors; and other facilities and activities including, but not limited to, mowing grass, caring for the grounds, sprinkler systems, landscaping, equipment, roofs and exterior walls of the Townhouses, garbage pickup, and water service furnished to Townhouses by the Association, and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Board of Directors of the Association shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes, and other charges as specified herein.

Section 3. Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum annual assessment shall be Five Hundred Forty Dollars (\$540.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the 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 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and unless otherwise provided, the Association shall collect each month from the Owner of each Lot 1/12 of the annual assessment for such Lot.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 6 percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Donala Club Villas Homeowners Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by action brought in the name of the Association in a like manner as a mortgage or deed of trust lien

on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages and Installment Contract for Sale of Real Estate. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale, transfer, or taking possession by such mortgagee pursuant to provisions in its mortgage. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Colorado. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Professional Management. This Project may be managed by a Professional Real Estate Management Company and the Association's Board of Directors shall be allowed to retain the services of such a company, provided that the term of any such management agreement shall not be in excess of one (1) year and shall be terminable on thirty (30) days notice for cause. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A

copy of all such agreements shall be available to each Owner and first Mortgagee for inspection.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Townhouse upon the Property and placed on the dividing line between Lots shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who has used the wall may restore it, and if the other Owners thereafter make use of that wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators. Should any party refuse to appoint an arbitrator within ten days after written request, the Board of

Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VII
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot or the patio used in connection with any Lot after the purchase of any Lot from Declarant, its successors or assigns, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII
EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Townhouse or constructional Lot which is subject to assessment hereunder as follows: Paint, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces or patios, which shall be the sole responsibility of the Owner. Determination of whether such repair or maintenance is the obligation of the Association shall rest solely with the Association, which shall also have sole responsibility for determining the kind and type of materials used in such repair and maintenance.

If the need for maintenance or repair is caused through the willful or negligent act of any Owner, his agent, family, guests or invitees, the cost of such maintenance or repairs shall be added

to and become a part of the assessment to which such Owner's Lot is subject.

ARTICLE IX

USE RESTRICTIONS

Section 1. Except for land designated as Common Area and Tract A as shown on the recorded plat of Club Villa Townhouses, El Paso County, Colorado, all of the lands contained in Club Villa Townhouses, El Paso County, Colorado, shall be used for residential purposes only. All buildings or structures erected upon said Property shall be of new construction and no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures other than townhouse apartment buildings, shall be constructed. No structures of a temporary character, trailer, basements, tent, shack, garage, barn or other building shall be used on any portion of said property at any time as a residence either temporarily or permanently.

Section 2. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions thereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said Townhouses to maintain during the period of construction and sale of said Townhouses, upon such portion of the Properties as owned by Declarant, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses, including but without limitation, a business office, storage area, construction yards, signs, model units and sales office, provided, however, that such facilities, and the use thereof shall not interfere with access to nor use and occupancy by any homeowners of his home, his patio area, his garage nor his parking area, nor with any homeowners access to and use and enjoyment of any recreational facility located upon the Common Area.

Section 4. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any of said Lots, except that dogs, cats or other household pets may be kept provided that they are

not kept, bred or maintained for any commercial purpose and are maintained within an individual townhouse. All household pets shall be controlled by their Owner and shall not be allowed in or on the Common Area or any facility located thereon except when properly leashed. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet.

Section 5. No advertising signs (except one of not more than four square feet "for rent" or "for sale" sign per Parcel), billboards, unsightly objects, or nuisances, shall be erected, placed or permitted to remain on said property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof.

Section 6. All clotheslines, basketball backboards, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 7. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, and the patio areas except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots in Donala Club Villas, and is necessary for the protection of said Owners.

Section 8. Maintenance, upkeep and repairs of any patio shall be the sole responsibility of the individual owner of the Lot appurtenant hereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exteriors and roofs of the Townhouses, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative.

Section 9. All utilities fixtures and equipment installed within a Townhouse, commencing at a point where the utility lines, pipes, wires, conduits, or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master systems be utilized and require any such exterior antenna.

Section 11. Any Owner who leases his lot or the improvements constructed thereon shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Association's Articles of Incorporation and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing.

ARTICLE X

EASEMENTS

Section 1. Common Area. The easements over and across the Common Area shall be those shown, or provided for, upon the recorded Plat, and such other easements as may be established pursuant to the provisions of this Declaration of Covenants, Conditions and Restrictions.

Section 2. Encroachments. Each Lot and the Common Area shall be subject to an easement for minor encroachments of Townhouses onto adjoining Lots or the Common Area or encroachment of the Common Area onto any Lot; overhangs, as designated or construed, by the Declarant, and for any encroachment occurring thereafter as a result of settling or shifting of any structure. A valid easement shall exist for said encroachments and overhangs and for their maintenance, repair and replacement. If any structure is partially or totally destroyed, and then rebuilt, the Owners of Lots agree that minor encroachments of parts of construction onto adjacent Lots or the Common Area due to the reconstruction shall be permitted and that a valid easement for such overhangs and encroachments and the maintenance thereof shall exist.

Section 3. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Area for installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephones and electricity and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing utility companies to erect and maintain the necessary equipment on the Property and to affix, repair and maintain water and sewer pipes, electric telephone wires, conduits, circuits and meters. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties.

Section 4. Easement for Maintenance. Each Lot and the Common Area shall be subject to an easement in the Association (including its agents, employees and contractors) for providing maintenance described in Article VIII.

Section 5. Underground Electric Service.

(a) Underground single phase electric service shall be available to residential townhouses on the aforesaid lots, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have a two (2) foot wide easement along and centered on the underground electric power service conductors installed from the utility company's easements

to the designated point of service on the townhouse structure.

(b) For so long as such underground service is maintained, the electric service to each townhouse shall be uniform and exclusively of the type known as single phase, 120/240 volt, 3 wire, 60 cycle alternating current.

(c) Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements of the Owner located on the land covered by said easements.

ARTICLE XI

INSURANCE

Section 1. Insurance on Common Area. The Association shall maintain insurance covering all improvements located or constructed upon the Common Area. The Association shall maintain the following types of insurance on the improvements located on the Common Area:

A. A policy of property insurance in an amount equal to the full replacement value (i.e., 100% of current "replacement cost" exclusive of land, excavation and other items normally excluded from coverage) of the improvements located on common areas with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operating of Building Laws Endorsement" or the equivalent, such insurance to afford protection against at least the following:

(1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

B. A comprehensive policy of public liability insurance coverage, covering all of the common areas insuring the Association in an amount not less than \$1,000,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hire automobile, liability for property of others, and, if applicable, garagekeeper's liability, host liquor liability and such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

C. The Association shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of such Association and all others who handle or are responsible for handling funds of the Association. Such fidelity bonds shall meet the following requirements:

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

(2) such fidelity bonds shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the planned unit development project, including reserves; and

(3) such fidelity 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.

D. All policies of insurance on the Common Area shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a member of the Association and shall provide that said policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all other insureds, including the mortgagees of any Lot. Duplicate originals of all policies on the Common Area and renewals thereof, together with proof of payment of premiums, shall be delivered to any mortgagee of any Lot who request the same at least five (5) days prior to the expiration of the then current policies. The insurance on the Common Area shall be carried in blanket forms naming the Association as the insured.

Section 2. Reappraisal. The Association shall, at least every year obtain an appraisal for insurance purposes which shall be maintained as a permanent record, showing that the insurance in any year represents one hundred percent (100%) of the full replacement value of the improvements on the insurable Common Area.

Section 3. Notice of Damage. The Association shall notify each first mortgagee of a Lot of any damage to any improvement on a Lot which exceeds \$1,000.00 and any damage to the Common Areas and the improvements situated thereon which exceeds \$10,000.00, within twenty (20) days after the event causing the damage; provided, however, that any mortgagee shall have furnished to the Association notice of its encumbrance.

ARTICLE XII

DAMAGE OR DESTRUCTION

Section 1. Destruction of Improvements on Lot. In the event that any townhouse is damaged or destroyed and the Owner thereof determines not to cause the same to be repaired or reconstructed within a reasonable time, the Owner of such damaged or destroyed townhouse shall forthwith cause all debris, damage and rubble to be removed and to have his Lot regraded and landscaped.

Section 2. Damage to Common Area. In the event of damage or destruction of all or a portion of the Common Area due to fire or other disaster, the insurance proceeds if sufficient to reconstruct or repair the damaged elements, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Areas, the Association shall present to the members a notice of a special assessment for approval by the membership in accordance with Article V, Section 4. If such assessment is approved, the Association shall make such assessment and proceed to make such repairs and reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by majority vote, except that the proceeds shall not be

distributed to the members, unless made jointly payable to said member and the first mortgagee of his Lot, if any. The assessment as to each Owner and Lot shall be equal to the assessment against every other Owner and Lot. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than thirty (30) days after written notice thereof. The 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 by foreclosure proceedings in the courts.

ARTICLE XIII

CONDEMNATION

Section 1. Condemnation. If at any time or times during the continuance of ownership pursuant to this Declaration all or any part of the Common Areas shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

(a) Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award" shall be payable to the Association.

(b) Complete Taking.

(1) In the event that all of the Common Areas are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall be apportioned among the owners equally and payment of said apportioned amounts shall be made payable to the owner and the first mortgagee of his Lot jointly.

(2) On the basis of the principal set forth in the last preceding paragraph the Association shall as soon as practicable determine the share of the Condemnation Award to which each owner is entitled.

(c) Partial Taking. In the event that less than the entire Common Area is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first

be applied by the Association to the rebuilding and replacement of those improvements on the Common Area damaged or taken by the condemning public authority, unless the two-thirds (2/3) of the members and all of the first mortgagees of each Lot agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be used by the Association for the future maintenance of the Common Area and exterior maintenance of the improvements situated on each Lot.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Public Utility Tariffs. All Lots shall be subject to and bound by Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this Subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. Any and all Owners shall pay as billed a portion of the cost of public street lighting in the Properties in accordance with the rates, rules and regulations now in effect and as hereafter amended by Public Service Company; the same to be filed with and approved by the Public Utilities Commission of the State of Colorado.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any rights hereunder shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which

time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners and at all times by not less than seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage). Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration and the Veterans Administration: Annexation of additional properties; dedication of the Common Area; and amendment of this Declaration of Covenants, Conditions and Restrictions.

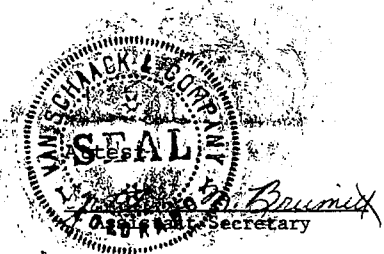
Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise effect any other provision which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 17th day of SEPTEMBER, A.D., 1975.

LOTS OWNED: Lots 1, 2, ^{4, 2nd} 5 and 6, Block 1, Lot 1, Block 3, and all of Blocks 2, 4, 5, 6 and 7, Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado

VAN SCHAACK & COMPANY

By: John P. Mizicko
John P. Mizicko, Senior Vice President



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

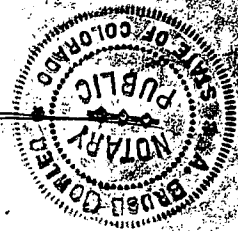
Sworn to and subscribed before me by JOHN P. MIZICKO SENIOR
VICE PRESIDENT of Van Schaack and Company, this 17th day of
SEPTEMBER, 1975.

Witness my hand and official seal.

My Commission expires Oct. 18, 1975

My Commission Expires: _____

A. Bruce Bowler
Notary Public



3 sub.

LOTS OWNED: Lot A, Block 1, Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado

George E. Brown

STATE OF COLORADO)
EL PASO COUNTY) ss.

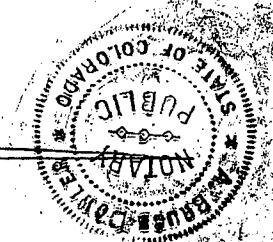
Sworn to and subscribed in my presence by GEORGE E. BROWN, this 17th day of SEPTEMBER, 1975.

Witness my hand and official seal.

My Commission expires Oct. 18, 1975

My Commission Expires: _____

A. Bruce Bowler
Notary Public



LOTS OWNED: Lot 2, Block 3, Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado

R. G. Ruegg

STATE OF COLORADO)
EL PASO COUNTY) ss.

Sworn to and subscribed in my presence by R. G. RUEGG, this 17th day of SEPTEMBER, 1975.

Witness my hand and official seal.

My Commission expires Oct. 18, 1975

My Commission Expires: _____

A. Bruce Bowler
Notary Public



LOTS OWNED: Lot 3, Block 3, Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado

T. R. Milton

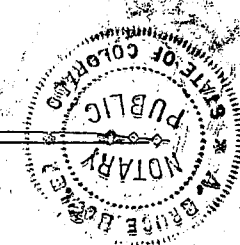
STATE OF COLORADO)
EL PASO COUNTY) ss.

Sworn to and subscribed in my presence by T. R. MILTON, this 17th day of SEPTEMBER, 1975.

Witness my hand and official seal.

My Commission Expires: My Commission expires Oct. 18, 1975

A. Bruce Bower
Notary Public



LOTS OWNED: Lot 4, Block 3, Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado

Mary E. Frazee

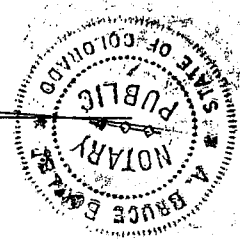
STATE OF COLORADO)
EL PASO COUNTY) ss.

Sworn to and subscribed in my presence by MARY E. FRAZEE, this 17th day of SEPTEMBER, 1975.

Witness my hand and official seal.

My Commission Expires: My Commission expires Oct. 18, 1975

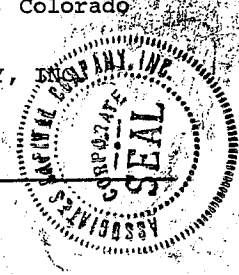
A. Bruce Bower
Notary Public



LOTS OWNED: Lots 1-6, Block 8;
Lots 1-6, Block 9; Lots 1-4, Block
10; Lots 1-6, Block 11; Lots 1-6,
Block 12; Lots 1-4, Block 13; Lots
1-4, Block 14; and Lots 1-6, Block
15, Club Villa Townhouses, El Paso
County, according to the plat recorded
in Plat Book X-2 at Page 74 of the
records of El Paso County, Colorado

ASSOCIATES CAPITAL COMPANY, INC.

By: Charles B Miller
Vice President

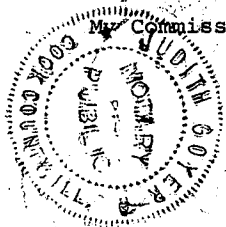


STATE OF ~~GEORGIA~~ ILLINOIS)
COUNTY OF COOK) ss.

Sworn to and subscribed in my presence by CHARLES B
MILLER, VICE PRESIDENT of ASSOCIATES CAPITAL COMPANY, INC.,
this 9th day of DECEMBER, 1975.

Witness my hand and official seal.

My Commission Expires: 10/17/79



Judith Boyer
Notary Public

EXHIBIT A

Club Villa Townhouses, El Paso County, according to the plat recorded in Plat Book X-2 at Page 74 of the records of El Paso County, Colorado.

EXHIBIT "B"

part of Lot 1, Block 18, DONALA SUBDIVISION FILING NO. 2, El Paso County, State of Colorado, more particularly described as follows:
 Beginning at the most Easterly corner of said Lot 1; thence along the boundary of said Lot 1 and along the right of way of Estabrook Road on the following courses:

S.51°43'04"W., 104.50 feet to a point of curve; thence along a curve to the right having a radius of 759.515 feet, a central angle of 66°18'00", an arc length of 83.51 feet to a point of tangent; thence S.58°01'05"W. and along said tangent, 101.55 feet to a point of curve; thence along a curve to the left having a radius of 656.041 feet, a central angle of 21°02'53", an arc length of 242.15 feet to a point of reverse curve; thence along a curve to the right having a radius of 318.194 feet, a central angle of 63°24'21", an arc length of 352.13 feet; thence leaving said boundary,

N.39°23'42"E., 118.64 feet; thence N.35°58'33"W., 352.27 feet; thence S.78°46'27"W., 119.78 feet; thence N.11°04'53"W., 169.72 feet; thence N.78°55'07"E., 278.98 feet; thence S.48°28'49"E., 164.36 feet; thence N.46°11'17"E., 261.58 feet to a point on the boundary of said Lot 1, said point also being on the right of way line of Donala Drive; thence S.69°18'43"E. along said boundary line and along said right of way line 312.38 feet to a point of curve; thence along said boundary line and along said right of way line and along a curve to the right having a radius of 360.326 feet, a central angle of 24°39'22", an arc length of 155.06 feet to the true point of beginning, containing 7.374 acres more or less, according to the plat thereof recorded in Plat Book W-2 at Page 42, in El Paso County, Colorado; AND

Excepting from the above-described Parcel, Lots 1, 2, 3, 4, 5 and 6, Block 1; Lots 1, 2, 3 and 4, Block 2; Lots 1, 2, 3 and 4, Block 3; Lots 1, 2, 3 and 4, Block 4; Lots 1, 2, 3, 4, 5 and 6, Block 5; Lots 1, 2, 3, 4, 5 and 6, Block 6; and Lots 1, 2, 3 and 4, Block 7, Club Villa Townhouses according to the recorded Plat thereof, El Paso County, Colorado.