

AMENDED AND RESTATED DECLARATION

for
PROVENCE

Setting Forth
Conditions, Covenants, Restrictions, Easements and Charges

THIS AMENDED AND RESTATED DECLARATION is effective upon recording.

RECITALS

A. On July 10, 1984, Oxford Homes, Inc., submitted the real property described in that certain Declaration for Provence Setting Forth Conditions, Covenants, Restrictions, Easements and Charges recorded in the real property records of Denver County, Colorado at Book 3143, Page 598 as supplemented by the following:

1. Supplemental Declaration for Provence, Phase 2, recorded June 8, 1987, in the real property records of Denver County, Colorado;
2. Supplemental Declaration for Provence, Phase 2, Amended, recorded August 4, 1989 in the real property records of Denver County, Colorado; and
3. Denver District Court Order from case No. 04CV4556 issued August 12, 2004, amending Section 710 of the Declaration;

B. The Owners within Provence Townhouse Community desire to amend and restate the Original Declaration by virtue of the Amended and Restated Declaration for Provence Setting Forth Conditions, Covenants, Restrictions, Easements and Charges ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superceded and replaced by this Declaration.

C. The Original Declaration provides for and allows for this Declaration to be amended by "an instrument signed and acknowledged by at least two-thirds (2/3) of the Lots in Provence." (See Section 710 of the Original Declaration).

D. All Owners are aware of the provisions of the Original Declaration allowing for amendment.

E. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome.

F. Pursuant to the requirements set forth in Section 710 of the Original Declaration, at least 2/3 of all Owners in the Association have signed an instrument approving this Declaration, or alternatively, a court order entered by the District Court for Denver County, Colorado pursuant to C.R.S 38-33.3-217(7), has been entered approving this Declaration.

NOW THEREFORE, the Original Declaration is replaced and superceded by the covenants, servitudes, easements and restrictions set forth below.

Article I. Definitions

Section 101. The following words and expressions as used in this Declaration have the meanings indicated below unless the context clearly requires another meaning.

Association. Provence Townhouse Association, a Colorado nonprofit corporation, and any owners association into which it merges.

Common Property. All of Provence except the Lots on which the Townhouses are situated.

Cost of Collection. All expenses and charges incurred, including attorneys fees.

Declaration. This Instrument and supplements and amendments thereto.

Driveway. The areas designated as such on the Map, which provide access for each Townhouse to the Private Road and over which the respective Owners are given appurtenant easements of enjoyment.

First Mortgage and First Mortgagee. A Mortgage which is the only Mortgage or has priority over any other Mortgage, and the holder or beneficiary of a First Mortgage.

Lot. A site for a Townhouse, numbered and designated on the map as a Lot on the Map (numbered 1 to 32, 34 to 43, and 45 to 60). A Lot includes the Townhouse situated thereon.

Map. The recorded map for Provence and any amendments or supplements thereto.

Mortgage. Mortgage includes a deed of trust.

Mortgagee. Mortgagee includes the beneficiary of a deed of trust.

Owner. When applied to a Lot or Townhouse, Owner means the holder of record of a freehold estate, fee simple or life estate, carrying the right of possession and enjoyment. Owner does not include a purchaser in possession under a contract for sale.

Private Road. That portion of the land described in Exhibit 1 and 2 designated on the Map as "Private Road".

Provence. That part of the land described in Exhibit 1 and 2, attached to and a part of this Declaration.

Townhouse. A dwelling situated on a Lot.

Article II. Property Rights and Incidents

Common Property Belongs to the Association

Section 201. The Association has and retains title to the Common Property.

Driveways.

Section 202. Each Lot includes an appurtenant permanent easement in the Common Property over, along, and across the Driveway between the Lot and the Private Road, as indicated on the Map, for access, ingress, and egress, to and from the Lot and Townhouse. The Townhouses on Lots 1, 2 and 3 share an exclusive easement to the common Driveway serving Lots 1 and 3; the easements for the other Driveways are exclusive to the respective Lots served.

Private Roads.

Section 203. Each Lot in common with the other Lots in Provence shall have as an appurtenance a permanent nonexclusive easement for ingress, egress and travel by foot or vehicle over that portion of the Common Property designated "Private Road".

Projections Into Adjoining Lot.

Section 204. Each Owner of a Townhouse to the extent that the Townhouse or any supporting column, exterior wall, entryway, walkway, utility meter, eaves, gutters or downspouts for that Townhouse as originally constructed may encroach on the Common Property or on an adjoining Lot shall have as an appurtenance to his Townhouse an exclusive easement in the Common Property or adjoining Lot for such encroachment and for the maintenance, repair and restoration of such encroachment.

Reciprocal Easements for Adjoining Roofs and Walls

Section 205. The Owners of adjoining Townhouses shall have mutual reciprocal exclusive easements for the use, repair, maintenance, and restoration of the roof, roof structure, and eaves which are common to such Townhouses and they shall have mutual reciprocal exclusive easements of support in the foundation on which adjacent walls of such Townhouses rest.

Boundary Fences

Section 206. The Owner of a Lot shall maintain in good condition, repair and paint, the side of the fence facing his Lot according to the rules set forth by the Architectural Committee. Fences facing the common areas and boundaries, including iron wrought fences, shall be maintained, repaired, and painted by the Association following the same rules.

Underground Lines.

Section 207. Each Lot and Townhouse is subject to easements for underground water, gas, electric and other utility lines serving another Townhouse, which easements are appurtenant to and run with the Townhouses served by such water, gas, electric, and other utility lines. Each Townhouse shall carry an exclusive easement of enjoyment for gutters, downspouts, light fixtures, and utility meter boxes which extend into an adjoining Lot or the Common Property and shall also carry an easement for discharge of surface waters through connecting gutters or downspouts on an adjoining Townhouse.

Easements Extend to Tenants and Guests

Section 208. Easements appurtenant to a Lot or Townhouse may be exercised by the Owner and by tenants occupying a Townhouse under a lease or tenancy and by their guests and invitees.

Easements for Utility Service Lines.

Section 209. The Association shall only install and repair those service lines within the Common Property that are essential (water, gas, electricity, and sewer), and shall cause the surface of the Common Property to be restored after installation. The Association shall maintain the essential service lines with the exception that any portion of the sewer line that exclusively services an individual townhouse is the sole responsibility of that owner to maintain. The Association shall implement the right hereby granted each Owner of a Townhouse to bring to his Townhouse, underground, from the primary distribution system and across the Common Property, service lines for water, sewer, electricity, fuel, telephone and television or other electronic service and may grant to the business or utility corporation supplying such service an easement across the Common Property to bring such service underground. Installation of the service line pursuant to order of the Association shall be sufficient to establish the grant of the easement. Any further grant or formal legal instrument shall be unnecessary. The installation, maintenance and repair of those service lines and the restoration of the surface of the Common Property after installation, repair, or maintenance of those service lines are the responsibility of the Owner.

Utility Service Lines within Lots.

Section 210. Owners retain the right to install, within their respective Lots, underground lines for water, electricity, fuel, telephone, television or other electronic signals at their own expense, provided the surface is promptly restored to its former appearance. The maintenance and repair of those lines is the Owners' responsibility.

Non-Exclusive Easements of Enjoyment in the Common Property.

Section 211. Each Owner of a Townhouse, his tenants, guest and invitees shall have a non-exclusive easement of enjoyment in and to the Common Property, except for those portions described in the Declaration as being subject to an exclusive easement.

Section 212. Subject to the nonexclusive easements appurtenant to each Townhouse in common with other Townhouses for ingress and egress and travel by foot or vehicle over that portion of the Common Property designated Private Road and subject to the easements appurtenant to each Townhouse for ingress, egress and access over and across the Driveway on the Common Property adjacent to the Townhouse, the Association retains all other ownership interests in the Private Road, including for illustration but by no means limited to, the right from time to time to grant such other easements and to convey title or lesser interests in the Private Road as the Association may elect.

Section 213. Exclusive and nonexclusive easements of enjoyment, including easements hereby granted in Driveways and the Private Road shall be subject to:

- A. Such reasonable rules and regulations as may be adopted by the Association for the use and enjoyment of Driveways or the Private Road or other private ways or those portions of the Common Property over or in which Owners have nonexclusive easements of enjoyment, provided that each Owner's rights of access over the

- Private Road and a Driveway serving his Townhouse shall always remain unimpaired; and subject to
- B. The right of the Association under Section 407 of the Declaration to suspend enjoyment rights of any Owner (except his rights to his Driveway and the Private Road) while his assessments remain overdue or while the Owner or the resident of his Townhouse is in violation of the restrictions adopted by this Declaration or of the Association's published rules and regulations; and subject to
- C. The right of the Association to charge reasonable admission and other fees for the use of the Common Property, other than Driveways and the Private Road and those portions of the Common Property over which Owners have or share exclusive easements of enjoyment; and subject to
- D. The right of the Association to grant easements and rights of ingress and egress in, across, under and over the Driveways and Private Road or other private ways in Provenance and to grant other interests and other types of easements in the Driveways, Private Road or other private ways which do not interfere materially or otherwise with the Owner's exercise and enjoyment of the easements.

Preservation of the Common Property.

Section 214. Subject to the provision of Sub-Section 213 D, substantial changes in the design, appearance or physical arrangement of the Common Property shall be made only after authorization by affirmative vote of at least two-thirds (2/3) of the Association's entire voting power.

No Partition of the Common Property

Section 215. The Common Property shall remain undivided and shall not be subject to partition, all rights to partition being waived by acceptance of a conveyance of a Lot.

No Separation of Lots From Townhouses

Section 216. A Townhouse may not be owned or conveyed separately from the Lot on which it is situated. A Lot and the Townhouse thereon may be sold or encumbered only as a unit and may not be physically subdivided. By Acceptance of a conveyance Owners waive and renounce all rights of partition. Membership in the Association is restricted to those who own an entire Lot with its Townhouse or if there is more than one Owner to those who together with their Co-owners own undivided interest in the entire Lot and Townhouse, which undivided interest aggregate one hundred (100%) per cent. This Section 216 is a covenant which runs with and binds each Lot and all Owners thereof and is for the benefit of each other Owner of a Lot in Provenance and for the benefit of the Association. Each Owner and the Association, separately or acting together, has the right to enforce this covenant by action for damages, suit for injunction, mandatory or prohibitive, and by any other appropriate legal remedy and shall be entitled to recover costs including reasonable attorneys' fees incurred in the enforcement of this Section.

Article III. Covenants to Preserve the Quality of Life in Provence.

Townhouses for Private Residential Use

Section 301. No Townhouse shall be occupied except for private residential purposes. Units 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 Unit 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 Provence results from such use.

No Unsightly or Offensive Conditions Permitted

Section 302. No Townhouse or Lot shall be maintained in an unsightly condition; no hazardous, noxious, or offensive activity shall be carried on nor anything done in a Townhouse, Garage or on a Lot tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighbors or neighborhood. No annoying lights, sounds, or odors shall be permitted to emanate from any Townhouse or Lot.

Garage Doors

Section 303. Garage doors shall remain closed at all times except; While vehicles or persons are in the course of leaving or entering the garage; While commercial enterprises are delivering goods, performing repairs, services or maintenance in or around the townhouse or on the Lot; While the occupant is present outside the garage in the courtyard or on the driveway; To ventilate the garage in hot summer months; opening of the door shall not exceed two (2) feet.

Trash Disposal

Section 304. No ashes, trash, rubbish, garbage, equipment or other refuse shall be stored or deposited anywhere upon the Common Property, Driveways, Lots, Private Road or elsewhere or outside of any Townhouse except in closed metal or plastic receptacles along the curb of the private road on the days scheduled for trash collection. Trash receptacles for collection may be set out on the evening before the scheduled trash pickup and must be removed by the Owner after pickup on the same day as soon as possible.

Activities Requiring Association Authority

Vehicular Access.

Section 305 (a). Passenger vehicles of residents and their guests, emergency vehicles, and vehicles performing deliveries, requested maintenance, repairs and replacement services to the Common Property, Townhouses or Lots can be brought within Provence, onto any Townhouse, Lot, Private Road, Driveway or Common area of Provence. RV's, mobile homes, campers, boats, motorcycles, trailers, recreation vehicles or other vehicles not mentioned here are permitted to be brought within Provence only if those vehicles are kept within the enclosed garage portion of a Townhouse day and night, or for temporary loading and unloading.

Parking

Section 305 (b). No vehicles of any kind shall be parked overnight on the Private Road, in Driveways, or elsewhere within Provence,

except within the enclosed garage portion of a Townhouse, or in temporary situations granted by the Board of Directors, and those emergency vehicles excepted from prohibition by State law.

Vehicle Repair

Section 305 (c). No Vehicle shall be repaired, serviced, rebuilt, dismantled or painted on the Private Road, Driveway or elsewhere within Provence except within the garage portion of a Townhouse, with the garage door closed and subject to Section 302 and 303.

Guest Parking

Section 305 (d) The Association may designate portions of the Common Property for guest parking and may adopt rules limiting and regulating guest parking.

Animals

Section 305 (e). No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded within any Townhouse or on any Lot; except, however, that the Owners of each Townhouse or Lot may keep two (2) dogs, three (3) cats, and including but not limited to, fish birds or other domesticated animals so long as such pets are not kept for any commercial purpose and are not kept in such numbers as to be unreasonable or to create a nuisance to any resident of Provence. All pets, at all times, must be carried or on a leash and under control of the homeowner while on any part of the Common Property. The Owner of the Townhouse or Lot in which any pet is kept is responsible for cleaning up and disposing any dirt or soilage left by the pet and for any damage caused by the pet to the Common Property, the Private Road or to any landscaped areas. The Association shall exclude and require the removal from Provence and shall revoke any permission to keep any dog, cat, or other animal which barks, howls or makes other noises so as to disturb neighbors or the neighborhood to a degree which in the opinion of the Association is unreasonable. The Association may adopt from time to time such other rules regulating the keeping, walking or exercising of pets. No pets of any kind are allowed in the Pool area at any time.

Exterior Appearance

Section 305 (f)

Only antenna which are expressly permitted under applicable federal statutes or regulations are allowed. In the event a permitted antenna is no longer expressly permitted under federal statutes or regulations, such antenna will no longer be permitted antenna for purposes of this Section. The Association may adopt rules regarding location and installation of permitted antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, statellite earth station or similar device shall be erected, installed or maintained on a Lot

Exterior Paint

Section 305 (g). The appearance, color, type of paint or stain or other exterior of a Townhouse shall not be changed; an Owner shall not repaint or restrain the exterior of his/her Townhouse except through the Association.

Changes to Exterior

Section 305 (h) No additions or changes shall be made to the exterior of any Townhouse. No change shall be made in the height, materials or color of any fence except with the written approval of the Board of Directors; fences and hedges shall not exceed a height of six (6) feet.

Unightly Conditions

Section 305 (i) No condition shall be permitted within any Townhouse or within any Lot which is visible from other Townhouses or the Common Property or the Easement Area and which in the opinion of the Board of Directors acting as Architectural Control is inconsistent with the design integrity of Provence.

Storage

Section 305 (j) No article or material of any type shall be stored in the streets or elsewhere within Provence except within a Townhouse, garage portion of the Townhouse or on a Lot where it is not visible from the Common Property, Private Road or any other Townhouse or Lot.

Signs and Other Displays

Section 305 (k) Except as otherwise permitted under Colorado law, no signs may be displayed on or from any Townhouse or Lot; Except as otherwise permitted under Colorado law, no flags or other displays may be placed on or shown from any Townhouse or Lot. For sale signs, temporary Open House signs, small Sale information boxes and security signs are permitted.

Architectural Control

Section 305 (l)

There shall be no additions, extensions or new construction affecting the exterior of any part of the Townhouse or the Lot on which situate without prior written approval by the Board of Directors acting as the Architectural Control authority; The Board of Directors may delegate such architectural control authority and engage such experts in the Board of Directors' reasonable judgment to perform its duties in this capacity.

- A. Backyards of Townhouses are exempt from Section 305 (m) as long as planted bushes, flowers, vegetables or any other kind of additions or improvements do not exceed six (6) feet in height or cause a disturbance or nuisance to its neighbors. Any improvement (including trees) that may eventually exceed six (6) feet in height must receive prior ACC approval.
- B. In case of a dispute between the Owner and the ACC regarding the approval of the submitted plans or specifications, the full Board of Directors shall have the final authority.
- C. In case of non-compliance of Section 305 (m), the Association shall exercise its rights to remedy the breach as stated in Section 412, Article IV.

Article IV. Provence Townhouse Association

Members

Section 401. Every Owner of a townhouse shall by virtue of such ownership be a Member of the Association. The voting power of the Association shall be vested in the Members, one vote for each Townhouse. When the Owners of a Townhouse number more than one, the vote for that Townhouse shall be exercised as they shall determine, but may not be split. An owner of a Townhouse is entitled to one membership for each Townhouse owned which membership shall be appurtenant to the Townhouse, shall be transferred automatically by conveyance of that Townhouse, and may not be transferred except in connection with the transfer of the Townhouse.

Association Will Perform

Section 402. The Association assumes the responsibility which this Declaration imposes on it, signifies that it is prepared to perform the function for which it is given authority by this Declaration, and to the extent that the Board of Directors determines will be in the best interests of the Townhouse Owners to exercise its powers and to perform the functions for which it is given authority by this Declaration.

Responsibility for Family Members and Guests

Section 403. Owners and residents of Townhouses shall be responsible for the safety of their family members, guests and invitees in and around the swimming pool and any other recreational facilities and on all other portions of the Common Property and shall defend, indemnify and save harmless the Association from any liabilities, loss and expenses (including attorneys fees) for harm or injury to such family members, guests and invitees.

Officers and Agents Excused from Liability

Section 404. The Association, the Board of Directors, the directors and officers of the Association, the Members and the agents of each of them, shall not be liable to the Owners or to any party whatsoever for any mistake of judgment or for any acts or omissions of any nature whatsoever as such Board of Directors, directors, officers, Members or agents except for any act of omission found by a court to constitute gross negligence or willful misconduct. The Association shall indemnify and hold harmless the Board of Directors, each of the directors, officers, Members and agents and their respective heirs, executors, administrators, successors and assigns in accordance with the provisions of the Bylaws and to the full extent provided under Colorado law.

Rules and Regulations

Section 405. The Association may adopt rules and regulations to regulate use of the Townhomes, Common Property and of any and all facilities and property of the Association, which rules and regulations shall have the same force as the restrictions imposed by this Declaration and may be enforced in the same manner.

Suspension of Rights of Enjoyment

Section 406. The Association may suspend some or all of any Townhouse Owner's non-exclusive easements of enjoyment in the Common Property (except the Private Road and his Driveway) while his assessment remain overdue or while the Owner or the resident of his Townhouse is in violation of the restrictions adopted

by this Declaration or the rules and regulations adopted by the Association.

Activities and Responsibilities of Association

Section 407. The Association shall be responsible and obligated and shall have power to provide for the care, operation, management, maintenance, repair and replacement of the Common Property and the Driveways and unless it should be dedicated to the public, the Private Road; the Association shall have the further authority to provide services to the Townhouse Owners, including, but not limited to refuse removal, snow removal, landscape maintenance, pool maintenance, and any other similar or dissimilar services which will benefit all the Townhouse Owners generally.

Outside Firms

Section 408. The Association may contract with outside firms for the provision of any of the services which the Association has authority to provide. Any written agreement for professional management and any written agreement for services to be provided to the Association shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days prior written notice.

Maintenance of Townhouses by the Association

Section 409. The Association shall provide maintenance, repair and replacement of the exterior surfaces of the Townhouses including the roofs, gutters and downspouts, and shall paint the exterior of all Townhouses as often as deemed necessary in the interest of the general welfare of all Townhouse Owners or the general enhancement of property values in Provence with the following exceptions:

(a). The Association is in no way responsible for maintenance, restoration, repair or replacement of garage doors (except painting), exterior doors, door bells, windows window screens, patio doors and screens, patios (concrete or otherwise), decks, awnings, foundations, window wells, air conditioning compressors and lines, energy saving measures.

The cost of all such maintenance, repainting, repair and treating of the exterior of the Townhouses shall be paid for with funds from the annual Operating Fund or the Reserve Fund and/or through a special assessment prorated equally among all Townhouse Owners. Each Owner hereby grants to the Association the right of access over their lot to affect the maintenance and other work described in this Section. If the need for maintenance or repair is caused through the willful or negligent act of any Owner, family, guests, or tenants, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such Owner's Lot is subject.

Maintenance of Common Areas

Section 410. Except as otherwise provided herein, the Association acting through the Board of Directors shall have the sole and exclusive right to manage, maintain, operate, control, repair, replace or restore all of the Common Areas, and any portion thereof including courtyards.

Access to Townhouses for Emergency Repairs

Section 411. In order to prevent damage to a Townhouse, to the contents therein or to adjacent Townhouses, each Owner hereby grants to the Association the right of immediate access to each Townhouse, at any time and from time to time, for the purpose of making emergency repairs. The cost of such repairs shall be paid by the Townhouse Owner or reimbursed to the Association. The right granted to the Association in this Section 411 shall not obligate the Association to make such repairs and the Association shall not be liable for any loss, costs, or damages to any Townhouse, Lot or Owner on account of its performance in making any such repairs, except for any loss, cost or damage caused by the Association's gross negligence or willful misconduct.

Association Can Remedy Violations

Section 412. In case of any breach of the Covenants in this Declaration the Association shall give prompt written notice to the Owner of the Townhouse or Lot where the breach occurs or which is occupied by the persons causing or responsible for the breach which notice shall state the nature of the breach and the intent of the Association to invoke this Section 412 unless within a period stated in the notice, not less than five (5) Days, the breach is cured and terminated or appropriate measures to cure and terminate are begun and are thereafter, in the judgment of the Association continuously prosecuted with diligence. If the breach is not cured and terminated as required by the notice the Association may cause the breach to be cured and terminated at the expense of the Owner so notified. The cost so incurred by the Association shall be paid by the person responsible for the breach and if not paid within thirty (30) days after the Association has sent such Owners notice of the amount due, such amount, plus Costs of collection, shall be a lien on the Lot of the Owner so notified and on the Townhouse situate thereon and shall in all respect be the obligation of the Owner and enforceable as provided by other assessments by the Association.

Property Insurance

Section 413. The Board of Directors of the Association or its agent shall obtain and maintain at all times a policy of property insurance for all Townhouse structures of the type and kind hereinafter provided:

- A. Against loss or damage by fire, lightning, storm, hail and other hazards covered by the standard extended coverage endorsement and for debris removal, cost of demolition, vandalism, and malicious mischief, in an amount equal to the full current replacement value (i.e., 100% of current replacement cost) but exclusive of land, foundations and those items typically excluded from the insurance policy.
- B. Exempt from this coverage, but not limited to, are the following: All personal belongings and property of Owners, occupants or invitees, garage content, furniture, floor coverings, fixtures, cabinets, appliances, wall coverings, window coverings, inside paint, art, and collections of any kind. Property insurance for these items are the sole responsibility of the Owners or occupants.

- C. The Association shall maintain property insurance covering all improvements located or constructed upon the Common Area against loss or damage by fire, lightening, storm, hail, sprinkler leakage and other hazards covered by the standard extended coverage endorsement, and for debris removal, cost of demolition, vandalism and malicious mischief, in an amount equal to the full current replacement value (i.e., 100% of current replacement cost) but exclusive of land.

Liability Insurance

Section 414. The Association shall carry broad form comprehensive, general public liability and property damage insurance against claims for bodily injury or death or property damage in limits of not less than \$2,000,000.00 in respect of bodily injury or death to any one or more persons and not less than \$2,000,000.00 for bodily injury or death to any number of persons arising out of one accident or disaster, and in limits of not less than \$2,000,000.00 for damage to property. Insurance covering liability or injury, death or damage occurring within his/her Townhouse or upon his/her Lot shall be the responsibility of the Owner thereof.

Other Insurance

Section 415. The Association shall carry insurance against such other hazards and in such amounts as the Board of Directors of the Association considers advisable.

Forms of Insurance

Section 416. Fire and other hazard insurance shall be carried in blanket policy from, shall name the Association the insured as attorney in fact for the Owners of the improvements insured, shall identify the interest of each Townhouse Owner and shall provide a standard, non-contributory mortgage clause in favor of each First Mortgagee which has given the Association notice of its lien. All such policies of insurance shall provide that breach of warranty, act, omission, negligence or non-compliance with any provision of the policy or non-payment of insurance premium of or by any Townhouse Owner or the Association, or its permitting or failing to prevent the happening of any event before or after a loss shall not invalidate or suspend the insurance except as to the interest of the particular insured guilty of the act, omission or other misconduct. All policies of insurance shall provide further that the insurance under any such policy, as to the interest of all other insured's not guilty of any such act, omission or misconduct shall remain in full force and effect and shall not be invalidated or suspended. All policies of physical damage insurance shall contain waivers of subrogation and of any defense based on co-insurance, unless the cost of such waivers is unreasonable.

Standards for Insurance Carriers

Section 417. Insurance carriers shall be licensed to do business in Colorado and shall have a Best's Insurance Rating of A-X or better.

Fidelity Bonds

Section 418. The Association shall maintain fidelity coverage against dishonest acts on the part of directors, managers, trustees,

employees or volunteers (including persons serving without compensation) responsible for handling funds collected and held for the benefit of Owners by the Association of no less than an amount equal to the Reserve Fund and three (3) months Association dues. The Association shall be named insured.

Owner's Insurance Responsibilities

419. Insurance coverage on the personal property of Owners, occupants or invitees (including coverage for items specified in Section 413 B) is the responsibility of the Owners or occupants. Public liability within the unit or the Lot is the sole responsibility of the unit owner or the occupant. Such insurance shall contain waivers of subrogation and shall be so written that insurance obtained by the Association shall not be affected or dismissed.

Damage or Destruction

Section 420. In case of damage or destruction of Common Property or any Townhouse or Townhouses or any part thereof by any cause, and whether or not covered by any insurance, the Association (as attorney-in-fact for the insured Townhouse Owners and as Owner of the Common Property) shall cause the damaged Townhouse or Townhouses or Common Property to be repaired and/or reconstructed, applying the proceeds of insurance for that purpose following the guidelines set forth:

- A. To the extent the Association settles claims for damages, it shall have the authority to assess Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one (1) Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid the Association.
- B. Any loss to any Unit or to any Common Property which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Owner who caused such loss. In the event that more than one (1) Owner caused such loss, then the deductible shall be apportioned among those Owners responsible for the loss. The deductible portion shall be assessed to the Unit or Units of the responsible Owner or Owners and shall be collected by the Association in the same manner as any other assessment.
- C. Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of dealing with any improvement covered by insurance written in the name of the Association pursuant to this Article upon their damage or destruction as provided in this Declaration, or a complete or partial taking or condemnation as provided in this Declaration. Acceptance by a grantee of a deed or other instrument of conveyance conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization right and power to make, execute, and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted

to the Association as attorney-in-fact. Furthermore, if so requested, an Owner shall execute a separate instrument specifically setting forth this appointment.

Quality of Work

Section 421. Repairs, renovation and restoration of Townhouses by the Association pursuant to Section 420 shall be done in such manner as to make the Townhouse at least as valuable after such work as it was immediately before the occurrence requiring the work to be done.

Condemnation, Casualty Insurance Allocations and Distributions

Section 422 (a). In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be to the parties as their interests and rights are determined or allocated by record or as set forth in the Colorado Common Interest Ownership Act.

Adjustments by the Association

Section 422 (b). Any loss covered by the Association insurance policy shall be adjusted by the Association, and the insurance proceeds for a loss shall be payable to the Association, and not to any first mortgage. The Association shall hold any insurance proceeds in trust for the Association, Owners and first mortgages as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property. The Association will receive any surplus of proceeds after the damaged property has been completely repaired or restored.

Duty to Repair

Section 422 (c). Any portion of the property and Common Property for which insurance is required under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner.

Dedication of Common Property

Section 423. By affirmative vote of at least two-thirds (2/3) of the Association's entire voting power vested in the membership of the Association, the Association may dedicate or transfer to a governmental unit or to a public utility all or any part of the Common Property other than those parts over which Owners have or share exclusive easements of enjoyment.

Easements in the Common Property

Section 424. The Association, while it holds title, may from time to time grant easements across, under or over the Common Property for utilities, sewers or similar or dissimilar purposes which do not materially interfere with exercise of easements of enjoyment granted Owners by the Declaration.

Successors of Association

Section 425. Should the Association in the future become a member or constituent of an owner's association administering a larger area, including other land as well as the land now or hereafter subject to this Declaration, the Association shall have the power to delegate to such Association all or part of its functions and rights under this Declaration, including part or all of its power of assessment. If the Association joins or becomes a constituent of another owners' association then to the extent established from

time to time by resolution of the Board of Directors of the Association such other association shall have the responsibilities and power given the Association by this Declaration. The Association may merge into an owners' association which administers an area including or coinciding with the land subject to this Declaration, which is so organized and constituted that Owner benefits and Association responsibilities in Providence will continue undiminished, and in which Owners have membership and comparable relative voting power. The surviving corporation in such merger shall become the Association for the purpose of this Declaration. Joining another Owners' Association or a Merger of the Association shall require the approval of at least two-thirds (2/3) of the membership of the Association.

Article V. Personal Obligation for Assessments

Personal Obligation for Assessments-

Section 501. Each Unit Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants, and agrees and shall be personally obligated to pay to the Association monthly assessments or charges, special assessments, and other charges, fines, fees, interest, late charges and other amounts all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Unit 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 Unit Owners of each Unit shall be jointly and severally liable to the Association for the payment of all assessment, fees, charges and other amounts attributable to their Unit. 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 Unit Owner of such Unit at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Unit Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Purpose of Assessments

Section 502. The assessments levied by the Association shall be used exclusively for promoting the safety and property values of the residents of Providence and in particular for improvement and maintenance of the Common Property and facilities in which Owners have maintenance and restoration of the easement of enjoyment, for repainting, repair and treatment of the exterior of the Townhouses, and for the provision of the services provided by the Association, including but not limited to insurance carried or arranged for by the Association, taxes and insurance on the Common Property or Association property, repairs, replacements and additions, labor, equipment, materials, management, operational expenses and supervision and costs and liabilities incurred by the Association in the course of its operations.

Bases of Annual Assessments

Section 503 (a) Annual assessments shall be based on such aggregate sum as the Association shall from time to time determine is required to be paid by the Townhouse Owners to provide for all estimated expenses growing out of or connected with the restoration, maintenance and operation of the Common Property and repainting, repair and treatment of the exterior of the Townhouses, including but not limited to services provided by the Association whether or not expressly mentioned in this Declaration; premiums for insurance carried or arranged for by the Association; management, legal and accounting fees; acquisition and maintenance of personal property of the Association; expenses and liabilities incurred by reason of this Declaration or in the course of the Association operations; and deficit from a previous period and reasonable reserves for contingencies and for future expenses.

Payment and Procedure for Annual Assessments

Section 503 (b) Annual assessments shall be payable in advance, monthly or at other intervals not less frequent than quarterly as the Association determines. Annual assessments shall be fixed in advance to cover the estimated financial requirements of the Association for the next calendar year. Assessments shall be fixed as provided below.

Budget

Section 503 (c) Within one (1) month before the beginning of the calendar year the Association shall give each Member notice of the annual assessments for that calendar year, together with a copy of the budget and a summary of the expenditures to be made during that year, including any amounts necessary to make up for any deficit for a previous period. The notice shall state a date and hour at least ten (10) days after the giving of such notice, and a place not more than ten (10) miles distant from Province of a meeting of the Members of the Association at which each Member shall have the opportunity to express his or her views as to the assessments and the budget. In the absence of a veto at the noticed meeting by a 2/3 vote of all members, the budget will be deemed approved by the Members, whether or not a quorum is present, and the Board of Directors shall by resolution fix the annual assessments for that calendar year against each Lot in Province.

Delayed Consideration

Section 503 (d) In case the Board of Directors fails to adopt a budget or fails to fix the annual assessments as provided above, the assessments in effect for the preceding calendar year shall continue in effect until the Board of Directors acts to fix the assessments.

Reserves

Section 503 (e) The Association shall maintain a reserve fund out of the annual assessments for the maintenance and repair of Townhouses or elements of the Common Property, as provided by the Declaration. These funds shall be kept in a separate fund from the general fund.

Special AssessmentsSection 504.

The Association shall make a special assessment against each Townhouse and its Owner for any costs of repair or restoration to be paid and not covered by insurance. The Association may also levy from time to time a special assessment for the purpose of defraying the cost of any construction or reconstruction, unexpected repair or replacement, or other expense, or any deficit incurred, should anticipated expenses prove to have been underestimated. Special assessments shall be payable over such a period as the Board of Directors may determine. The Association shall give notice of special assessments and of the time when payments are due.

Supplemental Assessments

The Association shall have the right to add to any individual Owner's Assessment as provided in this Article the following:

Section 505 (a) those amounts expended by the Association for the benefit of any individual Lot or any occupant thereof, including but not limited to: insurance; improvement, repair, replacement and maintenance specific to a Lot; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;

Section 505 (b) All fines and costs assessed against an Owner pursuant to the Governing Documents;

Section 505(c) Any extraordinary maintenance, repair, improvements and replacement costs of any area which the Association maintains required on fewer than all the lots;

Section 505(d) Any extraordinary insurance costs incurred as a result of the value of a particular Owner's Townhome or the actions of an Owner (his agents, guests, licensees, invitees or lessees);

Section 505 e) Any other expenditures or charges which the Board, at its sole discretion, chooses to allocate to a Lot and are reasonably determined to be allocable to a particular Lot.

Proration of Annual and Special Assessments

Section 506 Except as provided in this Declaration, all assessments shall be assessed against all Lots equally.

Levy of Assessments

Section 507 All assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration..

Certificate of Outstanding Assessments

Section 508 Upon payment of a reasonable fee, in the judgment of the Association, to compensate the Association for the work involved and the risk assumed and upon the written request of any Owner, prospective Owner, First Mortgagee or prospective First Mortgagee, the Association will issue a written statement setting forth the amount of unpaid assessments, if any, with respect to the

subject Lot, the amount and due date of the current assessment and any credits for advance payments or for prepaid items including, but not limited to, insurance premiums.

Effect of non-payment of Assessments

Section 509.

- A. Any assessment not paid within 15 days after the due date may bear interest from the due date at the rate set forth by the Board of Directors and the Board of Directors may assess a monthly late charge thereon. Failure to make payment within 30 days of the due date may cause the total amount of the annual assessment for the remainder of that fiscal year to become immediately due.
- B. The Association may bring an action at law against the Unit Owner personally obligated to pay the same, or foreclose the lien against such Unit Owner's Unit. 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 interest and late charges, as above provided.
- C. No Unit Owner may be exempt from liability for payment of any Common Expense by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or to prohibit the Association from taking deed in lieu of foreclosure.

Article VI. Protection of Lenders

Lien for Assessments

Section 601 (a). The Association has a statutory lien on a Lot for any assessment levied against that Lot or fines imposed against its Lot Owner from the time the assessment or fine becomes due. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. A lien under this Section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) except as otherwise provided in the Act, a first lien security interest on the Lot recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (iii) liens for real estate and other governmental taxes, and liens of the District.

Section 601 (b). Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Article is required. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Owner Consent Required

Section 602. Unless Owners of at least two-thirds (2/3) of the Lots in Provenge have given their prior written approval, the Association

- A. Shall not by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property;
- B. Shall not change the method of determining the obligations, assessments, dues or other charges which may be levied against the Lots, Townhouses and their owner;
- C. Shall not by act or omission change, waive, or abandon regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Townhouses, the exterior maintenance of Townhouses, the maintenance of the Common Property;
- D. Shall not fail to maintain fire and extended coverage on Townhouse structures and insurable Common Property in an amount not less than 100% of the insurable value (based on current replacement costs);
- E. Shall not use hazard insurance proceeds for losses to any Common Property for other than the repair, replacement or reconstruction of such Common Property;
- F. Shall not distribute awards for Common Property taken by eminent domain.

Article VII. General Provision for Effect of These Covenants

Acceptance of Provisions of All Documents

Section 701. The conveyance or encumbrance of a Lot shall be deemed to include the acceptance of all provisions of this Declaration, the Articles of Incorporation of the Association and the Association's Bylaws and rules and regulations all of which shall be binding upon each grantee and everyone having an interest in the Lot without the necessity of inclusion of an express provision in the instrument of conveyance or encumbrance. A Conveyance and any instrument affecting title to a Lot may describe it by its Lot number and by reference to this Declaration, which description shall be sufficient to include the Townhouse and all of the exclusive and non-exclusive easements in the Common Property or to the Driveway and Private Road which benefit or otherwise affect such Lot without the necessity of inclusion of an express provision in the conveyance or other instrument affecting title.

Enumeration Inclusive

Section 702. References to Lots and all other designations by one number to another include both numbers and all intervening.

Provisions are Cumulative

Section 703. Each provision of this Declaration is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

Captions

Section 704. Captions, titles, and headings in this Declaration are for convenience only and do not expand or limit the meaning of the Section and shall not be taken into account in construing the Section.

Association Resolves Questions of Construction

Section 705. If any doubt or question shall arise concerning the true intent or meaning of any of this Declaration the Board of Directors of the Association shall by resolution determine the proper construction of the provision in question and such resolution shall fix and establish the meaning, effect, and application of the provision.

Provisions Run with the Land

Section 706. The Provisions of this Declaration shall run with the land and shall inure to and be binding on each Lot and each Townhouse and upon each person or entity hereafter acquiring ownership or any right, title and interest in any Lot in Provence.

The Covenants May Not Be Waived

Section 707. Except as this Declaration may be amended or terminated in the manner hereinafter set forth in Section 710, the Covenants in Article III to preserve the quality of live in Provence may not be waived, modified or terminated and no officers or Directors of the Association by failure to enforce may waive or impair the effectiveness or enforceability of those Covenants. Every person bound by this Declaration is deemed to recognize and agree that is not the intent of those Covenants to require constant, harsh or literal enforcement of them as a requisite of their continuing vitality and that leniency or neglect in their enforcement shall not in any way invalidate those Covenants or any part of them, nor operate as an impediment to their subsequent enforcement. No such person shall defend against enforcement on the ground of waiver.

Enforcement of the Covenants

Section 708. The Covenants in Article III to preserve the quality of life in Provence are for the benefit of the Owners, severally, the Association and may be enforced by action for damages, suit for injunction, mandatory and prohibitive, and by any other appropriate legal and equitable remedy instituted by one or more Owners, or the Association or any combination of them who as a part of their relief shall recover their Costs of Collection, including attorneys fees.

Duration of Restrictions

Section 709. Unless sooner terminated as provided in Section 711, the restrictions and other provisions set forth in Sections 301 through 508 of this Declaration shall remain in force until January 1, 2020 A.D. and shall be automatically renewed for successive periods of ten (10) years unless before January 1, 2020 A.D., or before the end of any ten-year extension, there is filed for record with the Clerk and Recorder of the City and County of Denver, Colorado an instrument stating that extension is not desired, signed and acknowledged by the Owners of at least two-thirds (2/3) of the Lots of Provence.

Amendment, Termination and Extension

Section 710. Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of at least two-thirds (2/3) of the total votes in the Association. Said votes may be obtained in any method allowed by the Articles of Incorporation, Bylaws, or Declaration of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the City and County of Denver, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association. Notwithstanding the foregoing, any provision contained within this Declaration may be amended with the consent of a majority of all Owners in order to comply with any local, state or federal law.

Severability

Section 711. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected.

Number and Gender

Section 712. The masculine gender includes the feminine and neuter. Singular includes plural and plural includes singular.

Notices

Section 713. Any notice to an Owner required or permitted by this Declaration shall be sufficiently served if in writing and delivered by mail or otherwise to the Owner's address. It is the Owner's responsibility to supply a mailing address to the Association.

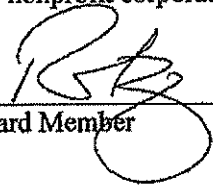
Article VIII Property Subject to this Declaration

Map

Section 801. The Map, as recorded with the Clerk and Recorder of the City and County of Denver, State of Colorado, as amended and supplemented, depicts all of the property subject to this Declaration.

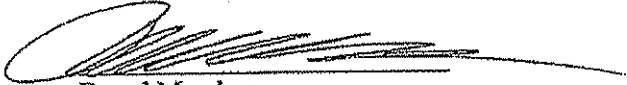
The undersigned, being members of the Board of Directors of Provence Townhouse Association hereby certify that the Association has obtained written approval of this Declaration from at least 67% of all Lot Owners.

Provence Townhouse Association,
a Colorado nonprofit corporation,

By: 

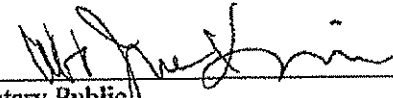
Board Member

ATTEST:


Board Member

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing Declaration was acknowledged before me by
Wolfgang Dieter Reittig, as a member of the Board of Directors, and by
Donna Marie Wheeler as a member of the Board of Directors, of Provence
Townhouse Association, a Colorado nonprofit corporation, on this 23rd day of
February, 2010.


Notary Public

My commission expires: 8/10/13

