RECEPTION #487778

THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HILLCREST ESTATES

THIS THIRD AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 30th day of June, 1983, by HILLCREST ESTATES, INC., a Colorado corporation and DURKEE TESTING LABORATORIES, INC., PROFIT SHARING PLAN AND TRUST, hereinafter collectively referred to as the "DECLARANT" and various owners of lots and tracts within Hillcrest Estates Subdivision whose names and signatures hereinafter appear, who shall hereinafter be collectively be referred to as "OWNERS".

R E C I T A L S :

1. DECLARANT is the record owner of certain real property located in the County of La Plata, State of Colorado, commonly known as Hillcrest Estates, described more particularly on Exhibit "A" attached hereto, made a part hereof and incorporated herein by reference, and desires to create thereon a residential community combining single-family lots and multi-family tracts with open space, streets, roads, and other facilities for the benefit of said community through the granting of specific rights, privileges and easements of enjoyment which may be shared and enjoyed by all the residents and property owners thereof.

2. OWNERS are the fee simple owners of certain tracts and lots to be located within the boundaries of the property, as described on Exhibit "A", attached hereto, made a part hereof and incorporated herein by reference, and by the execution hereof expressly subject their lands to this Third Amendment to the Declaration of Covenants, Conditions and Restrictions.

3. That the real property described on Exhibit "A" known as Hillcrest Estates Subdivision, Amendment No. 2, recorded on the 18th day of ~~June~~ August, 1983, as Reception No. 487777, shall be hereinafter referred to as "The Property".

4. That on the 10th day of July, 1979 certain Protective Covenants were recorded on the Property, in the office of County Clerk and Recorder, La Plata County, Colorado, as Reception No. 432562 and on the 18th day of December, 1980 certain additional Protective Covenants were recorded as Reception No. 450591. Furthermore, on the 29th day of June, 1981 at Reception No. 457574, a certain addendum to the Protective Covenants was recorded in the office of County Clerk and Recorder, La Plata County, Colorado.

5. It is the specific intention of DECLARANT and the OWNERS, as expressed by the execution of this document and the subsequent recording thereof to completely supercede and abandon

rious Protective Covenants heretofore recorded and des-
in paragraph 3 of these Recitals, and to subject all
described on Exhibit "A" to this Third Amendment to the
ation of Covenants, Conditions and Restrictions of
est Estates Subdivision.

6. It is the further intent of the DECLARANT and
expressed by the execution of this instrument that all
perty within Hillcrest Estates Subdivision, according
final plat thereof recorded on the 18th day of August,
s Reception No. 487777, be developed
ntained as a highly desirable residential area. It
purpose of these Covenants that the present natural
view and surroundings of Hillcrest Estates Subdivision
lways be protected insofar as possible in connection
e uses and structures permitted by this Declaration
nants, Conditions and Restrictions.

DECLARANT and OWNERS hereby declare that the Property
ry part thereof is held and shall be held, conveyed,
, leased, rented, encumbered, used, occupied, and
d and otherwise affected in any manner subject to
visions of this Declaration, each and all of which
ons are hereby declared to be in furtherance of the
plan and scheme of ownership referred to herein and

are further declared to be for the benefit of the Property and every part thereof and for the benefit of each owner thereof. All provisions herein contained shall be deemed to run with the land as Covenants running with the land or as equitable servitudes as the case may be, and shall constitute benefits and burdens to the DECLARANT, its successors and assigns, the present OWNERS who have executed this instrument, and to all parties hereafter owning any interest in the Property.

ARTICLE I

DEFINITIONS

Section 1.1 "The Property" shall mean and refer to the property which is held and shall be held, transferred, conveyed, leased, rented and occupied subject to this Declaration, which is more particularly described on Exhibits "A" and "B", attached hereto and made a part hereof and known as Hillcrest Estates Subdivision according to the plat thereof recorded on the 18th day of ~~June~~ August, 1983, as Reception No. 487777.

Section 1.2 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the single family lot, or private dwelling unit, situate within the Property which is subject to these Covenants and Restrictions, but not withstanding any applicable theory relating to mortgages, deeds of trust or other liens or

encumbrances upon any such property, "Owner" shall not include or refer to a mortgagee, beneficiary of deed of trust or lien holder, unless and until such party has acquired title pursuant to foreclosure or any applicable procedure in lieu of foreclosure.

Section 1.3 "Declarant" shall mean and refer to Hillcrest Estates, Inc., a Colorado corporation and Durkee Testing Laboratories, Inc., Profit Sharing Plan and Trust, its successors and assigns.

Section 1.4 "Single Family Lot" shall mean and refer to a platted lot on which there may be constructed only one single family dwelling unit.

Section 1.5 "Private Dwelling Unit" shall mean and refer to all completed living units within the building or groups of buildings containing two (2) or more living units, including buildings containing living units commonly known as condominiums and buildings consisting of attached or semi-detached living units singularly known as town houses and shall not include residences constructed on single family lots.

Section 1.6 "Supplementary Declaration" shall mean any Declaration of Covenants, Conditions and Restrictions which may be recorded by DECLARANT, which: (1) supplement the provisions of this Declaration as to the Property or any portions thereof, and (2) may contain additions, amendments

and modifications to the Declaration. The term "Declaration" wherever utilized herein shall include any supplementary declarations to the extent applicable.

Section 1.7 "Gender" shall include and refer to all genders whenever used unless the context shall otherwise provide.

Section 1.8 "Multi-Family Tract" shall refer to any platted Tract on which there may be constructed more than one single-family dwelling unit.

ARTICLE II

ARCHITECTURAL REVIEW COMMITTEE

Section 2.1 The Committee

(i) There is hereby established an Architectural Review Committee consisting of five (5) members. All of the members of the Committee shall be appointed by the DECLARANT; provided, however, that at least one (1) of the members shall be persons licensed or registered in the State of Colorado, as either architects, land planners, engineers, or building contractors; and, provided, further, that two (2) of the members shall be owners of single family lots or private dwelling units within the Property. The aforesaid members of the Architectural Review Committee shall serve at the pleasure of the DECLARANT.

(ii) No improvements shall be constructed, erected, placed, altered, maintained or permitted on any lot or multiple family tract, nor shall any construction or excavation whatscever be commenced or materials, equipment or construction vehicles be placed on any lot or tract until plans and specifications with respect thereto in manner and form satisfactory to the Architectural Review Committee showing the proposed improvements, site location of such improvements, complete building plans and material specifications, and all exterior elevations, materials and colors, landscaping, grading, easements and utilities, and such other information as may be requested by said Committee have been submitted to and approved in writing by the Architectural Review Committee. All such materials shall be submitted in writing over the signature of the owner of the lot or the owner's authorized agent. The Architectural Review Committee shall have the right to charge persons submitting such plans, a reasonable fee for reviewing each application or approval of the plans and specifications in an amount not to exceed Fifty Dollars ($50.00).

(iii) Approval shall be based, among other things, on conformity and harmony of exterior design, colors and materials with neighboring structures, relation of the proposed

improvements to the natural topography, grade and finished ground elevation of the structure to that of neighboring structures and natural features of the Property, and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

(iv) If the Architectural Review Committee fails either to approve or disapprove such plans and specifications (including resubmission of disapproved plans and specifications within twenty (20) days after the same have been submitted to it (provided that all required information has been submitted), it shall be conclusively presumed that said plans and specifications have been approved subject, however, to the restrictions contained in ARTICLE V hereof. The Architectural Review Committee shall notify the owner in writing upon receipt of all required plans and specifications and the aforesaid twenty (20) day period shall commence on the date of such notification.

(v) Neither the Architectural Review Committee nor DECLARANT or its respective successors or assigns shall be liable in damages to anyone submitting plans to them for approval, or to any owner of land affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance

arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every owner or other person who submits plans to the Architectural Review Committee for approval agrees, by submission of such plans and secifications that he will not bring any action or suit against the Architectural Review Committee or DECLARANT to recover any such damages. Approval by the Architectural Review Committee shall not be deemed to constitute compliance with the requirements of any local building codes, and it shall be the responsibility of the owner or other person submitting plans to the Architectural Review Committee to comply therewith.

(vi) Until December 31, 1990, unless voluntarily relinquished at an earlier date, the DECLARANT, in its own name and on behalf of the Architectural Review Committee shall have the right to enforce these Covenants, Conditions and Restrictions. DECLARANT reserves the right to transfer at any time its duties to the Architectural Review Committee, pursuant to these Covenants, whereupon said Committee shall have the right and the duty to enforce these Covenants and to restrain any violation hereof.

Section 2.2 Variances. Where circumstances, such as topography, hardship, location of property lines, location of trees, brush, streams or other matters require, the Architectural Committee may, by an affirmative vote of the majority of the members of said Committee, allow reasonable variances as to any of the covenants and restrictions contained in this instrument, on such terms and conditions as it shall require.

Section 3.3 Written Records. The Architectural Review Comittee shall keep and safeguard complete written records of all applications for approval submitted to it (including one set of all preliminary sketches and all architectural plans so submitted) and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument which records shall be maintained for a minimum of five (5) years after approval or disapproval.

ARTICLE III

USE RESTRICTIONS

SINGLE FAMILY LOTS

Section 3.1 Single Family Lots.

(i) Lots 1 through 48 and Lots 50-90 are single family lots, and as such each and every one thereof shall be used for single family residential purposes only.

No building or structure intended for or adapted to business purposes or multi-family dwelling purposes shall be erected, placed, permitted or maintained on such lots, or any part thereof.

Section 3.2 Additional Restrictions on Single Family Lots.

(i) No noxious or offensive activities shall be carried on at any lot, nor shall anything be done or placed therein which may become a nuisance or cause unreasonable embarrassment, disturbance or annoyance to the other owners in the enjoyment of their lots or private dwelling units.

(ii) No oil or gas drilling or the extraction thereof or mining operations shall be permitted on these lots. No lot owner shall be permitted to drill a well intended for the extraction of water from the ground, nor construct a septic or sewage disposal system on any lot. All lots are to be provided with central water and sewer from the City of Durango.

(iii) No lot shall be used other than for residential purposes and each dwelling constructed on a lot shall contain a minimum of One Thousand Five Hundred (1,500) square feet of fully enclosed floor

area devoted to primary living space (exclusive of roofed or unroofed porches, terraces, garages, unfinished basements, or other structures). A maximum of one building shall be permitted on each lot, which shall be utilized as a residence.

(vi) In order to preserve the natural quality and esthetic appearance of the existing geographic areas within the Property, all property lines shall be kept free and open one to another and no fences or plantings simulating fences shall be permitted on any lot or lot lines, except where in the opinion of the Architectural Review Committee, a fence or other enclosure, as a structure or esthetic feature of a design concept, will contribute to and be in keeping with the character of the area.

(v) No clothes lines or equipment intended for children's recreational use, such as swing sets and slides, shall be placed within a lot in such a way as to be exposed to view from roads, or other lots and tracts unless said clothes lines or equipment is surrounded by fencing or other screening approved by the Architectural Review Committee. This restriction is intended to shield from view, in a particular and attractive way, such installation and shall not be so construed as to exclude installations tastefully hidden behind trees or rock formations.

(vi) No exterior antennas shall be permitted except as approved by the Architectural Review Committee, and in any event, such antennas shall be placed in such a manner and location as to be least visable from neighboring lots, tracts or roads.

(vii) No elevated tanks or appurtenances of any kind shall be erected, placed or permitted upon any part of a lot Any tank used in connection with any dwelling (e.g., for storage of gas, oil or water) or any type of refrigeration or heating aparatus must be located underground or concealed by appropriate fencing or screening. The restrictions contained in this Subsection (vii) may be varied or waived only with the prior approval of the Architectural Review Committee.

(viii) All electric, television, telepone, radio or other utility lines shall be placed underground when extended from the lot line to any dwelling or other improvement on a lot, and all lots shall have a utility easement ten feet on either side of the front, side and back lines of such lot, for the purpose of constructing, installing, maintaining, repairing and replacing utilities of all kinds, including, water, gas, electric, sewer, telephone, television, radio and other utility lines.

(ix) No exterior horns, whistles, bells or other sound devices except security devices used exclusively to protect the security of dwellings and other improvements located thereon or essential to the function of community services shall be placed or used on any lot.

(x) No permanent exterior lighting of any sort shall be installed or maintained on any dwelling or other improvement on a lot without first obtaining the approval of the Architectural Review Committee, which lighting standards shall be established by the Architectural Review Commitee from time to time.

(xi) Trees shall not be cut or tree roots disturbed by trenching on a lot without prior approval of the Architectural Review Committee.

(xii) The height restriction for any detached single family dwelling unit shall be two stories, not exceeding a total height of twenty-five (25) feet from street level to the highest most ridge line of the residence. An exception to the two story limit shall be made for day-lighted basements within a residence so long as said basement is not exposed to the street upon which access is derived. For good cause shown, such height may be varied or waived by the Architectural Review Committee.

(xiii) No domestic animals totaling more than two generally recognized house or yard pets shall be maintained on any lot. If an owner choses to keep house or yard pets, said owner shall at all times have them under his or her control, whether within the owners lot or in any other location within the Property. Animals shall not be permitted to roam at will, and at the option of DECLARANT, steps may be taken to control any animals not under the immediate control of their owners, including the right to impound animals not under such control and charge substantial fees to their owner for their return. The DECLARANT shall have the right to adopt further rules and regulations to enforce this provision.

(xiv) No horses shall be kept or otherwise maintained within lots.

(xv) If lot owners landscape, plans for which must be reviewed and approved by the Architectural Review Committee, lot owners are encouraged to use indigenous species in such landscaping.

(xvi) No lot shall be used or maintained as a dumping ground for rubbish. No garbage or trash or other waste shall be placed anywhere other than in covered sanitary containers which shall be maintained in good and clean condition. Containers shall be made from material which will minimize noise

during handling. No waste shall be burned upon any lot. All garbage and trash collection and disposal shall be in strict compliance with the rules and ordinances of the City of Durango.

(xvii) No exterior fires shall be permitted except for barbecue fires contained within receptacles designed for that use. No coal or other type of fuel which gives off smoke, except wood and charcoal, shall be used for heating, cooking, or any other purpose within a lot unless approved by the Architectural Review Committee.

(xviii) A lot and all improvements thereon shall be maintained at all times by the owner in good condition and repair. The owner shall cause all dwellings and other improvements to be refinished, resurfaced or repaired periodically as effects of damage, deterioration or weather become apparent. Appearance, color, type of painting or stain or other exterior conditions shall not be changed without prior approval of the Architectural Review Committee. All appropriate repairs and replacements shall be made as often as necessary. Unsightly conditions shall constitute a nuisance as defined in these Covenants and Restrictions.

Section 3.3 Automobile, Boat and Camper Parking.

(i) Trucks, trailers, mobile homes, truck campers, boats and commercial vehicles shall not be kept, placed or maintained upon any lot, road, or private drive in such a

manner that such vehicle or boat is visible from the neighboring lots, tracts and roads. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any dwelling or other improvement.

(ii) Each dwelling shall include at least one completely enclosed parking space within the lot. If approved by the Architectural Review Committee, garages may be totally detached from the dwelling and need not be joined by any architectural feature. Temporary parking shall be permitted on the roads and streets only in areas designated by the Architectural Review Committee.

(iii) No trailer, vehicle or boat shall be constructed, reconstructed, or repaired upon any lot in such a manner that such activity is visible from neighboring lots, tracts or roads.

(iv) No trailer, vehicle or boat shall be parked upon the streets as designated on the official plat of Hillcrest Estates Subdivision between the hours of 2:00 A.M. and 6:00 A.M.

Section 3.4 Signs.

(i) No signs whatsoever shall be permitted within any lot, with the exception of those listed below:

(a) Signs required by legal proceedings;

(b) Residential identification signs constructed of materials which are compatible with the architecture of the area, and those shall be subject to the approval of the Architectural Review Committee prior to erection thereof. Such signs shall not exceed a total face area of two square feet;

(c) Signs of the type usually used by contractors, subcontractors and tradesmen may be erected during the authorized time of construction, provided those signs do not exceed a total face area of six square feet;

(d) For sale signs may be erected upon a lot, provided that no more than one sign is erected and that such sign does not exceed a total face area of six square feet unless otherwise approved in advance in writing by the Architectural Review Committee;

(e) No sign shall exceed a height of four feet from grade.

ARTICLE IV

USE RESTRICTIONS

MULTI-FAMILY TRACTS

Section 4.1 Multiple Family Tracts.

(i) Tracts 1-5 shall be "Multiple Family Tracts".

(ii) Only multiple family dwellings may be erected, placed, permitted or maintained on such Tracts, or any part thereof. No building or structure intended for or adapted to business purposes or single family dwelling purposes shall be erected, placed, permitted or maintained on such Tracts, or any part thereof.

Section 4.2 Additional Restrictions on Multi-Family Tracts

(i) Any purchaser of a Multiple Family Tract shall be required, prior to the construction, or improvement of any Tract to submit his proposed improvements to the City of Durango Planning Department for approval. Simultaneous with project review by the City of Durango, said owner shall submit his proposed plans and improvements to the Architectural Review Committee and shall further comply with all requirements contained in Article II of this Declaration. Written approval by the Architectural Review Committee shall be a prerequisite to Final Plat approval of the owners project by the City of Durango.

(ii) No oil or gas drilling or the extraction thereof or mining operations shall be permitted on these Tracts. No Tract owner or dwelling unit owner shall be permitted to drill a well intended for the extraction of water from the ground, nor construct a septic or sewage disposal system on

any Tract. All Tracts are to be provided with central water and sewer from the City of Durango.

(iii) No Tract shall be used other than for residential purposes and each unit constructed on a multi-family tract shall contain a minimum of Nine Hundred Fifty (950) square feet for two (2) bedrooms and Six Hundred Fifty (650) square feet for one (1) bedroom, of fully enclosed floor area devoted to primary living space (exclusive of roofed or unroofed porches, terraces, garages, or other structures).

(iv) In order to preserve the natural quality and esthetic appearance of the extising geographic areas within the Property, all property lines shall be kept free and open one to another and no fences or plantings simulating fences shall be permitted on any Tract or Tract lines, except where in the opinion of the Architectural Review Committee, a fence or other enclosure, as a structure or esthetic feature of a design concept, will contribute to and be in keeping with the character of the area.

(v) No clothes line or equipment intended for children's reacreational use, such as swing sets and slides, shall be placed within a tract in such a way as to be exposed to view from roads, or other lots and tracts unless said clothes line or equipment is surrounded by fencing or other

screening approved by the Architectural Review Committee. This restriction is intended to shield from view, in a particular and attractive way, such installation and shall not be so construed as to exclude installations tastefully hidden behind trees or rock formations.

(vi) No exterior antennas shall be permitted except as approved by the Architectural Review Committee, and in any event, such antennas shall be placed in such a manner and location as to be least visable from neighboring lots, tracts or roads.

(vii) No elevated tanks or appurtenances of any kind shall be erected, placed or permitted upon any part of a Tract. Any tank used in connection with any dwelling (e.g. for storage of gas, oil or water) or any type of refrigeration or heating apparatus must be located underground or concealed by appropriate fencing or screening. The restrictions contained in this Subsection (vii) may be varied or waived only with the prior approval of the Architectural Review Committee.

(viii) All electric, television, telephone, radio or other utility lines shall be placed underground when extended from the Tract line to any dwelling or other improvement on a Tract, and all Tracts shall have a utility easement ten feet on either side of the front, side and back lines of such

Tract, for the purpose of constructing, installing, maintaining, repairing and replacing utilities of all kinds, including water, gas, electric, sewer, telephone, television, radio and other utility lines.

(ix) No exterior horns, whistles, bells or other sound devices except security devices used exclusively to protect the security of dwellings and other improvements located thereon or essential to the function of community services shall be placed or used on any Tract.

(x) No permanent exterior lighting of any sort shall be installed or maintained on any dwelling or other improvement on a Tract without first obtaining the approval of the Architectural Review Committee from time to time.

(xi) Trees shall not be cut or tree roots disturbed by trenching on a Tract without prior approval of the Architectural Review Committee.

(xii) The height restriction for a multi-family building shall be two stories, not exceeding a total height of twenty-five (25) square feet from street level to the highest most ridgeline of the multi-family building. An exception to the two story limit shall be made for day-lighted basements within a residence so long as said basement is not exposed to the street upon which access is derived. For good cause

shown, such height may be barred or waived by the Architectural Review Committee.

(xiii) No domestic animals totaling more than two generally recognized house or yard pets shall be maintained within any dwelling unit. If an owner choses to keep house or yard pets, said owner shall at all times have them under his or her control, whether within the owners unit or in any other location within the Property. Animals shall not be permitted to roam at will, and at the option of DECLARANT, steps may be taken to control any animals not under the immediate control of their owners, including the right to impound animals not under such control and charge substantial fees to their owners for their return. The DECLARANT shall have the right to adopt further rules and regulations to enforce this provision.

(xiv) No horses shall be kept or otherwise maintained within tracts.

(xv) If Tract owners or their separate Homeowners Association landscape, plans for which must be reviewed and approved by the Architectural Review Committee, they are encouraged to use indigenous species as such landscaping.

(xvi) No Tract shall be used or maintained as a dumping ground for rubbish. No garbage or trash or other waste shall be placed anywhere other than in covered sanitary containers which shall be maintained in good and clean condition. Containers shall be made from material which will minimize noise during handling. No waste shall be burned upon any Tract. All garbage and trash collection and disposal shall be in strict compliance with the rules and ordinances of the City of Durango.

(xvii) No exterior fires shall be permitted except for barbecue fires contained within the receptacles designed for that use. No coal or other type of fuel which gives off smoke, except wood and charcoal, shall be used for heating, cooking, or any other purpose within a unit unless approved by the Architectural Review Committee.

(xviii) All Tracts and all improvements thereon shall be maintained at all times by the owners in good condition and repair. The owners shall cause all dwellings and other improvements to be refinished, resurfaced or repaired periodically as effects of damage, deterioration or weather become apparent. Appearance, color, type of painting or stain or other exterior conditions shall be made as often

as necessary. Unsightly conditions shall constitute a nuisance as defined in these Covenants and Restrictions.

(xix) Each Tract shall maintain the landscaping as approved by the Architectural Review Committee in good condition.

(xx) The owner of a multi-family Tract may impose further restrictions with respect to the use of said Tract. HOWEVER, in no event may the restrictions imposed thereon be less stringent than those provided in the Declaration. When any restriction imposed by an owner of a multi-family Tract conflicts with this Declaration, said Declarations shall prevail.

Section 4.3 Automobile, Boat and Camper Parking.

(i) Trucks, trailers, mobile homes, truck campers, boat and commercial vehicles shall not be kept, placed or maintained upon any Tract, road, private drive or in such a manner that such vehicle or boat is visible from the neighboring lots, tracts and roads. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any dwelling or other

(ii) Each dwelling shall include at least one completely enclosed parking space within the building. If approved by the Architectural Review Committee, garages may be totally detached from the dwelling and need not be joined by any architectural feature. Temporary parking shall be permitted on the roads and streets only in areas designated by the Architectural Review Committee.

(iii) No trailer, vehicle or boat shall be constructed, reconstructed, or repaired upon any Tract in such a manner that such activity is visible from neighboring lots, tracts or roads.

Section 4.4 Signs.

(i) No signs whatsoever shall be permitted within any Tract, with the exception of those listed below:

(a) Signs required by legal proceedings;

(b) Residential identification signs constructed of materials which are compatible with the architecture of the area, and those shall be subject to the approval of the Architectural Review Committee prior to erection thereof. Such signs shall not exceed a total face area of two square feet;

(c) Signs of the type usually used by contractors subcontractors and tradesmen may be erected during the authorize

time of construction, provided those signs do not exceed a total face area of six square feet;

(d) For sale signs may be erected upon a Tract, provided that no more than one sign is erected and that such sign does not exceed a total face area of six square feet unless otherwise approved in advance in writing by the Architectural Review Committee;

(e) No sign shall exceed a height of four feet from grade.

ARTICLE V

ENFORCEMENT

Section 5.1 Abatement and Suit. The Conditions, Covenants and Restrictions herein contained shall run with the land, and be binding upon and inure to the benefit of the DECLARANT and OWNERS of every lot and unit on the Property. These Covenants Conditions and Restrictions may be enforced as provided hereinafter by DECLARANT acting for itself, the Architectural Review Committee and as Trustee on behalf of all of the owners of single family lots and private dwelling units. In the event that any covenant shall be violated, the offending party may be notified, in writing by certified mail, return receipt requested by the DECLARANT or any OWNER. Such notification shall state the name and description of the

covenant which is violated. The offending party shall have ten (10) days to remedy the violation. In the event the violation continues, enforcement shall be by any proceeding at law or in equity and may seek an order to restrain the violation or to recover damages, including reasonable attorneys' fees or both. Failure by the DECLARANT or by any owner to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 5.2 Deemed to Constitute a Nuisance. Every violation of these covenants or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an owner, shall be applicable against every such violation and may be exercised by DECLARANT or lot or unit owners pursuant to Section 5.1 of this ARTICLE V.

Section 5.3 Certificate of Compliance. Upon payment of a reasonable fee not to exceed twenty dollars ($20.00) and upon written request of any lot or unit owner, mortgagee, prospective owner, lessee or prospective lessee of any property covered by these covenants, DECLARANT shall issue an acknowledged certificate in recordable form setting forth generally whether or not to the best of DECLARANT'S knowledge said owner is in violation of any of the terms and conditions

of these covenants. Said written statement shall be conclusive upon DECLARANT in favor of the persons who rely thereon in good faith. Such statement shall be furnished by DECLARANT within a reasonable time, but not to exceed ten (10) days from the receipt of written request for such written statement. In the event DECLARANT fails to furnish such statement within ten (10) days, it shall be conclusively presumed that said lot or unit is in conformance with all the terms and conditions of these covenants.

ARTICLE VI

ADDITIONAL PROPERTIES WHICH MAY BECOME SUBJECT TO THIS DECLARATION

Section 6.1 Additions to the Property. Additions may be made to the Property in any of the following ways:

(i) The DECLARANT shall have the right, but shall be under no obligation except as hereinafter provided, to bring within the scheme of this Declaration, and make subject to the provisions hereof, additional properties.

(ii) The additions, or changes in the scheme of the Property, as the case may be, authorized under this subsection shall be made by filing of record a supplementary declaration with respect to the additional properties, or with respect to the additional properties, or with respect to the Property, as

he case may be, which shall extend the coverage of the covenants, Conditions and Restrictions and Reservations of this Declaration to such Property.

(iii) DECLARANT shall have until January 1, 1990 to bring in additional lands within the scope of this Declaration.

ARTICLE VI

GENERAL PROVISIONS

Section 7.1 The Term Mortgage. The term "mortgage" when used herein shall include deeds of trust or trust deeds.

Section 7.2 Effect of Official Development Plan an Other Documents Filed With the County of La Plata and at City of Durango. The Official Development Plan of Hillcrest Estates Subdivision and other related documents which are on record in the office of the Clerk and Recorder of the County of La Plata, or other applicable governmental agencies, has the effect and only the effect described by the Statutes of the State of Colorado, and the rules and regulations of said County, and the City. The Plan and related documents constitute part of the public controls imposed by the City and County upon developers, owners, residents and users of the Subdivison and does not create, and is not intended to create, any private property or contract rights in the owners and residents of the Development except as such rights may be

created expressly by separate contracts, deeds and other documents, including this declaration. The Plan on file in the office of said Clerk and Recorder or other applicable governmental agencies describes a plan of development which DECLARANT believes will provide maximum benefit to the residents, owners and the public. During an extended development program, however, various factors may intervene which may hinder the effectiveness of the Plan and which may threaten the benefits to be derived by the residents, owners and the public unless the Plan can be modified as prescribed by the applicable law. Accordingly, this Declaration is not intended to nor does it grant or create any private property or contract rights in the Plan for Development and such plans continue to remain subject to modification by the proper governmental authorities in accordance with the procedures set forth in the statutes, rules and regulations of the County of La Plata, City of Durango, State of Colorado, moreover, there is no assurance that DECLARANT will develop any other properties, other than as set forth on Exhibits "A" and "B" to these Declarations, even though set forth in said Plan.

Section 7.3 Duration and Amendment.

(i) This Declaration, every provison hereof and every Covenant, Condition and Restriction contained herein

shall run with and bind the land and shall continue in full force and effect for a period of fifty (50) years from the date hereof, and shall thereafter be automatically extended for successive periods of five (5) years unless otherwise terminated or modified as hereinafter provided.

(ii) This Declaration and any provision hereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified, or amended, as to the whole of the Property or any portion thereof, with the written consent of the owners holding at least eighty percent (80%) of the lots or private dwelling units during the first twenty-five (25) year period of these covenants and thereafter by not less than ninety percent (90%) of the lots or private dwelling units provided, however, that no such termination, extension, modification or amendment shall be effective in any event prior to December 31, 1990, without written approval of DECLARANT. No amendment of these Covenants, Conditions and Restrictions shall be effective unless the instrument evidencing such amendment has been duly recorded and unless a written notice of the proposed amendment is sent to every owner of lots or private dwelling units at least sixty (60) days in advance of any action taken. Such termination, extension, modification or amendment shall be immediatly effective upon recording the

proper instrument in writing, executed and acknowledged by such owners (and by DECLARANT as required herein) in the office of the Clerk and Recorder of La Plata County; Colorado.

(iii) For the purposes of this Section 7.3 of ARTICLE VII of this Declaration, each record owner of a fee or undivided interest in any single family lot, or private dwelling unit shall be allowed to vote, provided, however, that any such peron or entity who holds such interest merely as security for the performance of an obligation shall not be allowed to vote.

When more than one person holds an ownership interest or interests in any single family lot or private dwelling unit, all such persons shall be entited to one vote and said vote provided herein shall be exercised as they among themselves determine. In no event shall more than one vote be cast with resepect to any single family lot or private dwelling unit.

Until a multiple family tract is developed into two or more private dwelling units the owner of a tract

to the Architectural Review Committee which will assume any and all duties of DECLARANT hereunder, and upon the committee's evidencing its consent in writing to accept such assignment, said Committee to the extent of such assignment, shall assume DECLARANT'S duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by DECLARANT hereunder. Upon such assignment, and to the extent thereof, DECLARANT shall thereafter be relieved from all liabilities, obligations and duties hereunder.

Section 7.5 No Waiver. All of the conditions, covenants, restrictions and reservations contained in this Declaration of Covenants, Conditions and Restrictions shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions and reservations or any part thereof, is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall be affected or impaired.

Section 7.6 Benefits and Burdens. The terms and provisions contained in this Declaration shall bind and inure to the benefit of the DECLARANT, the lot and unit owners located within the Property and their respective heirs, successors, personal representatives and assigns.

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Section 7.7 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, all of which shall remain in full force and effect.

Section 7.8 Singular and Plural. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural and any other gender, masculine, feminine or neuter, as the context requires.

IN WITNESS WHEREOF, DECLARANT and the present OWNERS who are listed hereinafter have executed this instrument on the day and year written beside their respective names.

DECLARANT:

HILLCREST ESTATES, INC.,
a Colorado corporation

By: Kenneth E. Jenkins
Kenneth E. Jenkins,
President

(ATTEST)
Lyn L. Jenkins
Lyn L. Jenkins, Secretary

DURKEE TESTING LABORATORIES, IN
PROFIT SHARING PLAN AND TRUST

John A. Durkee Trustee
John A. Durkee, Trustee

OWNERS:

Lot 35: Eddie Jo McMinn
by Anthony Ferdinando
as Attorney in Fact
Eddie Jo McMinn by
Anthony Ferdinando, as
Attorney-in-Fact