

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration, made this 20th day of September 1977, A. D., by Creative Shelters, Inc. and Concord Development Company, both Colorado corporations (hereinafter collectively referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situate in the County of Arapahoe, State of Colorado, which is more particularly described as follows:

Lots 1 through 46, inclusive, Block 1, Lots 1 through 43, inclusive, Block 2, in accordance with the Plat for the Ridge at Foxridge, recorded in Book 30 at Page 84, Map 1617415, Arapahoe County Records, State of Colorado.

WHEREAS, the above-described Lots, situated within the Ridge at Foxridge, shall be called Rusty Sun for merchandising purposes and for the purposes of this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be hold, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I - DEFINITIONS

Section 1: "Committee" shall mean and refer to the Rusty Sun Architectural Control Committee, its successors and assigns.

Section 2: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3: "Properties" shall mean and refer to that certain real property hereinbefore described, and referred to as Rusty Sun.

Section 4: "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, excluding roads, streets, Tract A and Tract B.

Section 5: "Declarant" shall mean and refer to Creative Shelters, Inc. an Concord Development Company, both Colorado Corporations, their successors and assigns.

ARTICLE II - ARCHITECTURAL CONTROL

Section 1: Architectural Control Committee: There is hereby created the Rusty Sun Architectural Control Committee, hereinafter referred to as "Committee" for the purpose of maintaining, within Rusty Sun, a style and nature of building design which is homogeneous to and compatible with the area's physical setting.

Section 2: Membership: The Committee shall initially be composed of Benjamin F. Carter, Jr., John P. Collins, and Roger Acierno. In the event of the death or resignation of any member of the Committee, the remaining members shall have the full power and authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this Covenant. At any time, the record owners of a majority of the lots within the Properties shall have the power, through a duly written instrument, to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties.

Section 3: Review of Plans and Procedure: No building, fence, wall or other structure shall be erected, placed or altered on any Lot until the construction plans and specifications showing the kind, shape, height, materials, floor plans, exterior color scheme, landscaping and grading plan, and a plot plan setting forth the location of the contemplated improvement have been submitted to and approved in writing by the Committee as to the quality of and as to location with respect to topography and effect on the outlook from adjacent neighboring building sites or Lots, and finish grade elevation. The Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 4: Majority Vote: A majority vote of the Committee is required for approval or disapproval of proposed plans for improvements.

Section 5: Written Records: The Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.

Section 6: No Liability The Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

ARTICLE III - USE RESTRICTIONS

Section 1: Residential Use: No Lot or Lots embraced in the Properties shall be used for other than single family residence purposes. There shall not exist on any Lot as shown on the plat recorded at the Arapahoe County Clerk and Recorder's office at any time more than one residence. All buildings and structures erected upon said Properties shall be of new construction.

Section 2: Building Standards: All structures shall conform to the applicable building codes of Arapahoe County, Colorado and all other governmental entities and agencies having jurisdiction over the Properties.

Section 3: Building Height: The designated maximum building height shall be thirty-five (35) feet or two (2) stories. Building heights shall be considered as the vertical distance from the average finished ground level of the building site (Lot) to the highest point of the structure directly above said ground level. The designated maximum building height requirements may be waived by the Committee when in their opinion, such structures relate to sound architectural planning and land use, and conform to the overall design and pattern of the development.

Section 4: Dwelling Cost; Quality and Size: No dwelling shall be permitted on any Lot at a selling price of less than Fifty Thousand Dollars (\$50,000.00). The main floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than one thousand (1,000) square feet for a one-story dwelling, nor less than eight hundred (800) square feet for a dwelling of more than one story.

Section. 5: Building Location: No building shall be located on any Lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat and recorded Planned Unit Development' Plan. In any event no building shall be located on any Lot line nearer than fifteen (15) feet to the front Lot line, or nearer than ten (10) feet to any side street line. No dwelling shall be located on any interior Lot nearer than ten (10) feet to the rear Lot line. For the purposes of this Covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided however, that this shall not be construed to permit any portion of a building constructed on a Lot to encroach upon another Lot.

Section 6: Lot Area and Width: No dwelling shall be erected or placed on any Lot having a width of less than twenty-five (25) feet at the minimum building set back line nor shall any dwelling be erected or placed on any Lot having an area of less than two thousand five hundred (2500) square feet.

Section 7: Occupancy of Structures: No structure shall be occupied or the purpose for which it was designed or built until the same shall have been approved and/or inspected by the County Building Inspector or such other official designated by Arapahoe County. No structure erected upon any Lot shall be occupied in any manner while in the course of construction nor at any time prior to its being fully completed, as herein required.

Section 8: Building Exterior: The exterior, portions of all building shall be of color mixed manufactured finished surface material, natural stone, brick or shall be painted or stained upon completion so that all exposed surfaces shall have a finished appearance.

Section 9: Air-Conditioning Units: No air-conditioning unit, evaporative cooler or object shall be placed upon the roof of any residence or building except or unless such air-conditioning unit is architecturally concealed from view and plans for concealment have been submitted to and approved by the

Committee. This restriction shall not preclude solar heating provided, however, the Committee must first approve the design and appearance of such heating plans.

Section 10: Clearing of Trees and Grading: Approval shall be obtained from the Committee to cut down, clear or kill any trees on any Lot. Further, each and every owner of a Lot agrees that all the trees cleared by him will be disposed of in such a way that all Lots, whether vacant or occupied by a residence shall be kept free of accumulations of brush, trash or other materials which may constitute a fire hazard or render a Lot unsightly, provided, however, that this shall not prohibit or restrict owners of Lots from storing fireplace wood in neat stacks on their Lots.

Section 11: Unnatural Drainage: Under no circumstances shall the Owner of any Lot or parcel be permitted to or deliberately alter the topographic conditions of his Lot or parcel of land in any way which would permit unusual additional quantities of water from any source, except acts of God, to flow from his Lot or property onto any other Lot or property or public right-of-way. The elevation of a Lot shall not be changed so as to materially affect the surface elevation of grade of the surrounding Lots. No rock, gravel or clay shall be excavated or removed from the Properties for commercial purposes.

Section 12: Temporary Residences: No structure of temporary character, trailer, converted trailer, mobile home, basement, tent, or accessory building situated on any Lot shall be used as a residence, temporarily or permanently, and no used structures of any sort shall be moved onto any Lot, except that the Committee may approve the use of trailers or mobile homes for a designated length of time, to be used solely for construction headquarters during the construction of any permanent residence. Declarant may, however, erect temporary structures to be occupied for sales and merchandising programs at Rusty Sun.

Section 13: Site Distance at Intersections: No fence, wall, hedge or shrub planting shall obstruct site lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same site line limitation shall apply to any building site within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such site lines. It is expressly understood that the foregoing provisions to the contrary notwithstanding shall first be controlled by applicable law, if there be any in existence.

Section 14: Nuisance: Nothing shall be done or permitted on the Properties which may be or become annoyance or nuisance to the subdivision development. No noxious or offensive activities or, commercial business or trade shall be carried on or upon any Lot. No Lot shall be used in whole or in part for the storage of any property or thing that will cause such Lot to appear in an

unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material emit foul or obnoxious odors, or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

Section 15: Garbage and Refuse Disposal: No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 16: Tanks, Etc.: No elevated tanks of any kind shall be erected, placed or permitted on any part of the Properties, provided, that nothing herein shall prevent the placing of tanks and other water system apparatus on the Properties. Any such permitted tanks for use in connection with residence constructed on the Properties must be buried or walled sufficiently to conceal them from view from neighboring Lots, roads, or streets. All garbage cans equipment, coolers, or storage piles shall be walled or fenced to conceal them from the view of neighboring Lots, roads or streets. Plans for all enclosures of this nature must be approved by the Committee prior to construction.

Section 17: Signs: No signs of any character shall be displayed or placed upon any of the Lots within the Properties, except for one professional sign of not more than five square feet in area per side advertising the property for sale. Signs reflecting house numbers and the occupant's name shall be permitted. Signs used by a builder(s) to advertise the property during any construction and sales period shall be excepted from this Section. All signs shall be subject to the approval of the Committee.

Section 18: Subdivision of Lots: No Lot shall at any time be divided, subdivided or re-subdivided unless said division, sub-division or re-subdivision is permitted under the regulations, codes and ordinances of the County of Arapahoe, State of Colorado. In the event of said division, all property thereunder shall be subject to all other provisions hereof.

Section 19: Livestock and Poultry: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that domesticated dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 20: Mining : No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon the Properties, nor shall any oil, natural gas, petroleum, asphalt, hydrocarbon products, water or, minerals of any kind be produced or extracted therefrom, except the Willows Water District who shall have the right to extract water from beneath the surface of the Properties.

Section 21: Street Lighting: All Lots shall be subject to and bound by Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. Any

and all owners shall pay as billed a portion of the cost of public street lighting in the subdivision in accordance with Public Service Company rates, rules and regulations, now in effect and as hereinafter amended; the same to be filed with and approved by the Public utilities commission of the State of Colorado.

Section 22: Trailers, Boats and Motor Homes: No trailer, boat, motor or home, mobile home, camper or similar recreational vehicle shall be stored, maintained, or kept in the front yard or; driveway of any Lot. Subject to prior approval of the Committee, said vehicle may be stored in the rear or side yard of any Lot, provided adequate access is available, adequate fencing or screening is constructed to screen the vehicle from view and that such fencing or screening is approved by the Committee. This Article shall not apply to the Declarant or home builders in their use of trailers or temporary structures used in construction or sales activities.

Section 23: Repair of Automobiles, Trucks or other Vehicles: No repair of any vehicles shall take place on the front yard, on front drive, or in the street in front of any house constructed on any Lot and no repair shall take place in rear yard or side yard of any Lot unless screened from the view of any neighboring Lots, streets and rights of way.

Section 24: Antennas: No antenna of any type (T.V., CB, radio, etc.) shall be permitted, allowed or installed on the roof of any dwelling constructed on a Lot or attached in-any manner so that the same is visible from any others dwelling constructed on any other Lot within the Properties. No freestanding antennas shall be allowed or permitted if they are visible from an adjoining Lot or street or right of way.

ARTICLE IV - EASEMENTS

Section 1: Easements: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat of the Ridge at Foxridge and as set forth in subsequent utility easements of record filed with the Clerk and Recorder of the County of Arapahoe, State of Colorado. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of the flow of drainage channels situated within the easements, or which may obstruct or retard the flow of water through drainage channels in or stemming from said easements. However, the easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements which a public authority or utility company is responsible to maintain.

Section 2: Easement for Maintenance: In the event that any improvement constructed on any Lot shall be located within five (5), feet of any side Lot line; then and in such event, the owner of said Lot shall have a five (5) foot easement over, across and through the Lot immediately adjoining that portion of his improvement which is less than five (5) feet from his Lot line. Said easement shall commence at the front of any such adjoining Lot and terminate at the rear thereof and shall be used for the maintenance, repair, replacement

and preservation of the improvement constructed on said owner's Lot.

Section 3: Easement for Use: In the event that any improvement constructed on any Lot shall be located within three (3) feet of any side Lot line, then the owner of the adjoining Lot shall have an easement over, across and through said side Lot yard. Said easement shall commence at the front of the improvements constructed on the Lot and shall terminate at the rear thereof and the Owner of said adjoining Lot shall have the right to landscape and install a fence within said area, provided, however, that he shall be responsible for the maintenance, cleanliness and repair of any landscaping or fences so installed and shall hold the owner of the Lot upon which said landscaping has been installed harmless from any loss or damage sustained to said Lot owner's improvements or Lot as a result of said landscaping or fence installation.

ARTICLE V - GENERAL PROVISIONS

Section 1: Enforcement: The Committee, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Declaration. Failure of the Committee or any Owner to enforce any covenant restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3: Term: These covenants shall run with the land and shall be binding on the parties hereto and all persons claiming under them for a period of twenty years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then Owners of the Lots has been recorded, agreeing to change said covenants in whole or in part.

Section 4: Gender and Grammar The singular wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

In Witness Whereof, the undersigned, being the Declarant, has executed this Declaration this 20th day of September, 1977.