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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DUSTY HILLS

Amended July 16, 2020

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DUSTY HILLS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DUSTY HILLS (the “Declaration”), is made as of this ___ day of _____, 2016, by DUSTY HILLS, INC., a Colorado corporation (the “Declarant”).

ARTICLE 1

GENERAL

1.1 **Community.** Declarant is the owner of those certain parcels of land in the City of Colorado Springs, County of El Paso, State of Colorado, more particularly described on Exhibits A and B attached hereto and incorporated herein by reference, which is defined in this Declaration as the “Community.” Declarant intends to develop the Community, including any property which may be annexed to the Community as provided herein, as a Community of single-family residential homes.

1.2 **Purposes of Declaration.** Property which is subject to this Declaration in the manner hereinafter provided shall be referred to as the Community. This Declaration is executed: (a) in furtherance of a common and general plan for the Community; (b) to protect and enhance the quality, value, aesthetic, desirability, and attractiveness of the Community; (c) to provide for a Association as a vehicle to hold, maintain, care for, and manage Association Properties and/or amenities, if any, including internal landscaped areas, private open space areas, private roads and access driveways, perimeter fencing, recreational facilities and project signage to benefit all Owners of Sites; (d) to define the duties, powers, and rights of the Association; and (e) to define certain duties, powers, and rights of Owners of Sites within the Community.

1.3 **Declaration.** Declarant, for itself, its successors and assigns, hereby declares that the entire Community and all other property which becomes subject to this Declaration in the manner hereinafter provided, and each part thereof, shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement, and protection of the Community. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon, and inure to the mutual benefit of: (a) all of the property which is now or becomes part of the Community and each part or parcel thereof, (b) Declarant and its successors and assigns, (c) the Association and its successors and assigns, and (d) all Persons having or acquiring any right, title or interest in any property which becomes part of the Community or any part or parcel thereof or any Improvement thereon and their heirs, personal representatives,

successors and assigns. The provisions of this Declaration shall be binding on each Owner and the family members, guests, invitees, and tenants of each Owner. An Owner shall be responsible for any non-compliance with this Declaration by such Owner's family members, guests, invitees, and tenants.

1.4 Applicability of Colorado Common Interest Ownership Act. Pursuant to the Colorado Common Interest Ownership Act (the "Act"), Section 38-33.3-116(2), a Community which provides in its declaration that the annual average common expense liability of each unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the Association, may not exceed Four Hundred Dollars (\$400.00), as such amount is adjusted annually beginning on July 1, 1999 pursuant to Section 38-33.3-116(3), is subject only to Sections 38- 33.3-105, 38-33.3-106 and 38-33.3-107 of the Act (the "Applicable Provisions"), unless the Declaration provides otherwise. In accordance therewith and with the terms and conditions contained herein, Declarant expressly declares that the Community created by this Declaration shall not be subject to the terms and provisions of the Act, except for the Applicable Provisions. Notwithstanding the foregoing, Declarant reserves the right to amend this Declaration to comply with the provisions of the Act and to eliminate the cap on the annual average common expense liability set forth in Section 9.3 below without the necessity of obtaining the consent of any other Owners or any Mortgagees.

ARTICLE 2

DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

2.1 Act. "Act" shall mean the Colorado Common Interest Ownership Act as provided in C.R.S. § 38-33.3-101, et seq., as the same may be amended from time to time.

2.2 Administrative Functions. "Administrative Functions" shall mean all functions as are necessary and proper under this Declaration and shall include, without limitation, providing management and administration of the Association; providing architectural or design review services under Article 4 hereof; incurring reasonable attorneys' fees and accountants' fees; obtaining errors and omissions insurance for officers, directors, and agents of the Association; obtaining fidelity bonds for any Person handling funds of the Association; paying taxes levied against the Association Properties; incurring filing fees, recording costs, and bookkeeping fees; obtaining and maintaining offices and office furniture and equipment; and performing other such reasonable and ordinary administration tasks associated with operating the Association, including the engagement of professional management consultants.

2.3 Articles of Incorporation. "Articles of Incorporation" shall mean the Articles of Incorporation of ~~Dusty Hills~~ **Stage Station at Woodmen Valley (First Amendment approved July 16, 2020)** Homeowners Association, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

2.4 Assessment. “Assessment” shall mean a Common Assessment, Special Assessment, or a Reimbursement Assessment.

2.5 Association. “Association” shall mean ~~Dusty Hills~~ **Stage Station at Woodmen Valley (First Amendment approved July 16, 2020)** Homeowners Association, a Colorado non-profit corporation, its successors and assigns.

2.6 Association Properties. “Association Properties” shall mean all the real property and personal property, if any, including Improvements and all Common Areas, now or hereafter owned by the Association or with respect to which the Association holds an easement for the use, care, or maintenance thereof, or for which the Association has a right or obligation to maintain, held for the common use and enjoyment of its Members as provided herein, and for other purposes as may be permitted by this Declaration.

2.7 Board of Directors. “Board of Directors” or “Board” shall mean the Board of Directors of the Association.

2.8 Budget. “Budget” shall mean a written itemized estimate of the annual revenues and expenses to be incurred by the Association in performing its functions under this Declaration and prepared pursuant to Section 9.5 of this Declaration.

2.9 Building Envelope. “Building Envelope” shall mean that portion of any Site which is designated on an approved development plan as the area within which improvements may be constructed and clearing, grading, fencing, landscaping, and impervious areas must be located.

2.10 By-Laws. “By-Laws” shall mean the By-Laws of the Association which have been or will be adopted by the Board of Directors of the Association, as the same may be amended from time to time.

2.11 City. “City” shall mean the City of Colorado Springs, Colorado.

2.12 Common Area. “Common Area” shall mean any portions of the Community identified as a tract, improvement or amenity to be maintained by the Association on a plat or instrument recorded by Declarant for any part of the Community; or conveyed to the Association by the Declarant or a Principal Builder, which are owned or maintained by the Association for the common use and enjoyment of the Owners, including, but not limited to, landscaped and open areas along roadways; ponds; natural drainage ways; landscaped areas; perimeter fences, if any; signs and entryway landscaping and features for the Community; parks or other open space; access roads from public roads to certain lots as identified on an approved final plat; and easements for the use and benefit of the Owners as may be provided in this Declaration. Such Common Area may be owned: (a) by the Association; (b) by individual Owners over which the Association may have an easement for maintenance purposes; (c) by a special district; or (d) by the City. For purposes of the Act, the Common Area and additional common areas created pursuant to any Supplemental Declaration shall be deemed to be the only “Common Elements” within the Community. The Declarant or Principal Builders may add land to the Common Area in connection with the annexation of additional land to the Community.

2.13 Common Assessment. “Common Assessment” shall mean the assessments made for the purpose of covering the portion of the annual costs of operating the Association and any improvements owned and/or maintained by the Association together with reasonable replacement reserves for the same, including expenses incurred in connection with any authorized function of the Association, which are to be paid by each Owner to the Association for purposes provided herein and charged to such Owner and to the Site of such Owner.

2.14 Declarant. “Declarant” shall mean Dusty Hills, Inc., a Colorado corporation, its successors and assigns. A Person shall be deemed to be a “successor and assign” of Declarant, only if specifically designated in a duly Recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument. However, a successor to Dusty Hills, Inc. by consolidation or merger shall automatically be deemed a successor or assign of Dusty Hills, Inc. as Declarant under this Declaration.

2.15 Declaration. “Declaration” shall mean this instrument as it may be amended from time.

2.16 Deed of Trust. “Deed of Trust” shall mean a Mortgage.

2.17 Design Review Committee. “Design Review Committee” shall mean the Committee provided for in Article 4 of this Declaration.

2.18 Development Period. “Development Period” shall mean the earlier of (a) the date that the last Site that may be included within the Community has been sold and conveyed by a Declarant to persons other than a Declarant or a Principal Builder and a certificate of occupancy has been issued for the residence constructed thereon; or (b) the date which is twenty (20) years after the date of Recording of this Declaration.

2.19 Improvement. “Improvement” shall mean all structures and any appurtenances thereto and equipment of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, painting of any exterior surfaces of any visible structure, additions, walkways, outdoor sculptures or artwork, sprinkler pipes, above ground and underground utilities, mailboxes, garages, carports, basketball poles and/or backboards, playground equipment, flagpoles, clotheslines, roads, driveways, private drives, dog or pet houses, mailboxes, exterior lighting, storage sheds, treehouses, playhouses, spas, hot tubs, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, antennae, satellite dishes, exterior air conditioning, and water softener fixtures.

2.20 Improvement to Property. “Improvement to Property” shall mean any Improvement, change, alteration, or addition to any property within the Community. “Improvement to Property” is more particularly defined in Section 4.2 of this Declaration.

2.21 Leases. “Lease” shall mean and refer to any agreement for the leasing or rental of a Site, and shall specifically include, without limitation, a month-to-month rental.

2.22 Maintenance Funds. “Maintenance Funds” shall mean the accounts into which the Board shall deposit monies paid to the Association and from which disbursements shall be made in the performance of the functions of the Association pursuant to Article 8 hereof.

2.23 Member. “Member” shall mean the Person or, if more than one, all Persons collectively who constitute the Owner of a Site.

2.24 Mortgage. “Mortgage” shall mean any mortgage or deed of trust or other such instrument, given voluntarily by the Owner of a Site, encumbering the Site to secure the performance of an obligation or the payment of a debt and which is required to be released upon performance of the obligation or payment of the debt. The term “Deed of Trust” when used herein shall be synonymous with the term “Mortgage.” “First Mortgage” shall mean a Mortgage which has priority over all other security interests in a Lot, other than statutory liens for taxes and special assessments, and shall include an executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not.

2.25 Mortgagee. “Mortgagee” shall mean a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee. “First Mortgagee” shall mean any person named as the mortgagee or beneficiary under any First Mortgage, or any insurer or guarantor of a First Mortgage, including the Administrator of Veterans Affairs (Veterans Administration).

2.26 Mortgagor. “Mortgagor” shall mean the Person who mortgages his or its property to another (i.e., the maker or grantor of a Mortgage). The term “Mortgagor” shall include a trustor or grantor under a Deed of Trust.

2.27 Notice of Completion. “Notice of Completion” shall mean written notice to the Design Review Committee of the completion of any Improvement to Property pursuant to Article 4 of this Declaration.

2.28 Owner. “Owner” shall mean the Person, including Declarant, or, if more than one, all Persons collectively, who hold fee simple title of Record to a Site, including sellers under executory contracts of sale and excluding buyers thereunder.

2.29 Person. “Person” shall mean a natural person, a corporation, a partnership, or any other entity.

2.30 Plat. “Plat” shall mean a Final Plat which includes a Site or Common Area and which has been approved by the City and Recorded.

2.31 Principal Builder. “Principal Builder” shall mean and include any homebuilder designated as a Principal Builder in writing by Declarant or herein. Such writing also may assign to the Principal Builder designated therein some or all of the rights of the Declarant which may be exercised in connection with the development of Sites acquired by such Principal Builder.

2.32 Record or Recorded. “Record” or “Recorded” shall mean the filing for record of any document in the office of the Clerk and Recorder of the County of El Paso, Colorado.

2.33 Reimbursement Assessment. “Reimbursement Assessment” shall mean a charge against a particular Owner and his Site for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation, directly attributable to the Owner, of the Declaration or the Rules and Regulations, pursuant to Section 9.10 hereof, together with late charges and interest as provided for herein.

2.34 Rules and Regulations. “Rules and Regulations” shall mean rules and regulations adopted by the Board of Directors as provided in Section 8.16 of this Declaration.

2.35 Site. “Site” shall mean any lot or parcel of land within the Community which is shown upon any Recorded Final Plat or any other parcel of land which may be sold or conveyed without violation of the provisions of Colorado law pertaining to the subdivision of land. “Site” shall not include: (a) any property owned by a public body, (b) the Association Properties, or (c) any Common Area as defined herein.

2.36 Special Assessment. “Special Assessment” shall mean a charge against each Owner and his Site representing a portion of the costs of the Association for the purpose of funding major capital repairs, maintenance, replacements, reserves for future replacements, and Improvements which are not paid for out of Common Assessments for any reason, pursuant to Section 9.9 hereof.

2.38 Total Sites That May Be Included. Shall mean the total number of Sites that may be subjected to this Declaration and made part of the Community, and which shall number Thirty (30) Sites.

ARTICLE 3

GENERAL RESTRICTIONS APPLICABLE TO COMMUNITY

All real property within the Community shall be held, used and enjoyed subject to the following limitations and restrictions, and subject to exemptions of Declarant set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Design Review Committee if such strict application would be unreasonably or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the Design Review Committee.

3.1 Landscaping and Maintenance of Community. All landscaping installed by Declarant, Principal Builder, or individual Owners shall comply with any Design Standards that may be adopted by the Design Review Committee. Landscaping shall be installed by the Owner of each Site (except for Declarant or a Principal Builder) within one hundred twenty (120) days after approval of an Owner’s landscape plan by the Design Review Committee, or within such longer period of time as may be approved by the Design Review Committee based upon

consideration of weather conditions and other factors beyond the control of the Owner. Landscape plans shall be submitted to the Design Review Committee by an Owner (other than a Declarant or Principal Builder) within sixty (60) days after closing on the purchase of a Site. Landscaping installed on Sites for which a Building Envelope is designated on a Plat shall be located within the Building Envelope.

No property within the Community shall be permitted to fall into disrepair, and all property within the Community, including any fences, Improvements, and landscaping thereon, shall be kept and maintained in a clean, attractive, and sightly condition and in good repair. Maintenance, repair, and upkeep of each Site shall be the responsibility of the Owner of the Site. Maintenance, repair, and upkeep of Association Properties shall be the responsibility of the Association. Dead or dying landscape materials shall be replaced as soon as possible, taking into account weather conditions affecting the planting of replacement landscaping, and all landscaping shall be regularly maintained in a neat and trim manner. Automatic irrigation systems shall be maintained and operated in such a fashion as to conserve water to the maximum extent practicable while still maintaining landscaping in an attractive condition.

Each Owner of a Site shall be responsible for maintaining, repairing, and replacing, in a reasonably attractive manner, any fence located on such Owner's Site, unless such fence is to be maintained by the Association. Any fence located on a lot line between two Sites shall be maintained jointly by the Owners of such Sites if the fence was installed by the Declarant or a Principal Builder, and any fence located on a lot line between two Sites which was installed by one of the Owners shall be maintained by the Owner who installed the fence. Owners are hereby granted an easement across adjacent Sites for the purpose of maintaining, repairing, and replacing any fence installed by such Owner.

If a fence which is installed by the Declarant or a Principal Builder, or portion thereof, is located on a lot line separating a Site from an adjoining public right-of-way, street, publicly-owned tract or parcel of land, Common Area, Association Property, or other property which is not an adjoining Site, then the Association shall be responsible for maintaining, repairing, and replacing, in a reasonably attractive manner, such fence or portion thereof. The Association is hereby granted an easement across all Sites for the purpose of maintaining, repairing, and replacing any and all fences, the maintenance of which is the responsibility of the Association. Any fence located on any of the Association Properties shall also be maintained by the Association. The Association also shall maintain fences located on public rights-of-way consistent with any Development Agreements between the City and the Declarant or any Plat requirements.

Any Owner constructing, installing, erecting, modifying, or replacing a fence shall obtain the prior approval of the Design Review Committee in accordance with the provisions of this Declaration. New or replacement fences shall comply with the design standards which may be adopted by the Design Review Committee.

Violation of this Section 3.1 by an Owner shall permit the Association to enter on the Site of the Owner and cure the violation or cause compliance with this provision and to levy and collect a Reimbursement Assessment for the costs and expenses of the Association in so doing; provided,

however, that there shall be no entry into the interior of an Improvement intended for human occupancy without the consent of the Owner thereof unless a clear emergency exists.

3.2 Property Uses. All Sites shall be used for residential purposes and such other purposes as may be permitted under the applicable requirements of the City. No dwelling erected or maintained within the Community shall be used or occupied for any purpose other than for a single-family detached dwelling. Notwithstanding the foregoing, business activities associated with the sale of Sites or residences constructed thereon shall be allowed, including construction trailers, sales offices, and model homes used by Declarant or a Principal Builder, subject to all of the requirements of the City. In addition, in-home businesses not involving the servicing of customers or use of employees in the residence, other than the Owners of the Site on which such activities occur or their family members, shall be allowed if permitted under applicable zoning and other City regulations and requirements, provided such activities are conducted solely within the residence and do not create or result in any offensive or noxious activities, do not constitute a nuisance, and do not result in customers, employees or clients coming to the residence for purposes related to the business or parking in public or private streets.

3.3 Construction Type; Building Height and Setbacks. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling or structure may be moved onto a Site, except as expressly hereinafter provided for temporary buildings. The height and setbacks of all buildings constructed within the Community shall be limited to the height limits required or approved by the City and as set forth in this Declaration, any Supplemental Declaration, or Design Standards adopted by the Design Review Committee, whichever is more restrictive. Each Site shall obtain an approved Hillside Site Plan/Lot Grading Plan (HSS/LGP) from the City of Colorado Springs in accordance with the City of Colorado Springs Zoning Code.

3.4 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any property within the Community, nor shall anything be done or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to others.

3.5 Annoying Sounds or Odors. No sound or odor shall be emitted from any property within the Community which is noxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used on any property except with the prior written approval of the Design Review Committee. All materials located upon a Site which create or cause an odor shall be removed immediately by the Owner of the Site. The Board of Directors of the Association may require the Owner of a residence or motor vehicle with a security system which experiences false alarms more than three (3) times in any thirty (30) day period or more than six (6) times in any twelve month period to repair, replace or deactivate such alarm system.

Notwithstanding the foregoing, special gatherings of residents within the community and their invited guests (family parties, block parties, community garage and similar activities) which may utilize outdoor speakers may be permitted, provided that the event has first been approved by

the Association Board of Directors and is permitted by the City's Code Enforcement office or similar office. Any approval by the Board of the Association may impose conditions on the noise level, location, hours, number of participants, and other matters in connection with any approval of the gathering.

3.6 No Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any property within the Community which is or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property within the Community and no open fires shall be lighted or permitted on any property within the Community except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace or firepit designed to prevent the dispersal of burning embers. No exploding fireworks shall be discharged within the Community.

3.7 No Unsightliness. All unsightly conditions, structures, facilities, equipment, and objects shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment except when in actual use. The Board may specify what conditions and objects constitute "unsightliness" by Rules and Regulations duly adopted by the Board.

3.8 Weeds. The grass and other landscaped areas in all yards and other portions of every Site on which no building has been constructed shall be maintained in an attractive condition. In addition, each Site shall be kept free from brush or other growth or trash which, in the reasonable opinion of the Design Review Committee, is unsightly or causes undue danger of fire.

3.9 Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub, or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any Site except within an enclosed structure or appropriately screened from view, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up. All trash containers shall have a cover that is resistant to animals that may be attracted to trash. The Board of the Association may prescribe the types of permitted trash containers by rules which shall be followed by all Owners after adoption. The Board may, in its sole discretion, contract with one or more trash disposal contractors to provide regular and consistent refuse management for all Owners within the Community and include the costs of such services in the Common Assessments.

3.10 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Site, except that domesticated birds or fish and other small domestic animals permanently confined indoors (not including pot-bellied pigs and other animals capable of being domesticated that are excluded pursuant to rules and regulations adopted by the Board of the Association), and except an aggregate of not more than two domesticated dogs (which must be fenced or restrained in a fenced side yard or in the backyard of a Site or kept inside the residence at all times within a Site) and two domesticated cats (not including tamed wildlife), will be permitted within the Community. Pet fencing may include an invisible fence on or within the perimeter boundary of a Site. Any permitted pets may not be kept, bred, or maintained for any commercial purpose. Animals may not be leashed or allowed to run in the front yard or unfenced side yards of a Site. No animal of any kind shall be permitted which, in the opinion of the Board of Directors, makes

an unreasonable amount of noise or odor, chases or otherwise harasses wildlife within the Community or adjacent public or private properties or is a nuisance. All household pets (except domesticated cats) shall be controlled by their Owner and shall not be allowed off the Owner's Site except when properly leashed and accompanied by the pet Owner or his representative. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet to any Association Properties, to wildlife, to Sites owned by any other Persons, injuries to any Persons, or otherwise. Animal waste shall be cleaned up regularly and damaged landscaping shall be replaced as soon as the landscaping is visually unattractive, dead or dying. Within the Community, animal waste deposited by an Owner's pet shall be immediately removed by such Owner. Notwithstanding the foregoing, any portion of the Community which is at least twenty (20) acres in size upon which Improvements have not been constructed may be used for such transitional agricultural and other uses as may be permitted under the applicable requirements of the City.

3.11 No Temporary Structures. No tent, shack, storage shed, playhouse, temporary structure, or temporary building other than those placed within the Community by Declarant or a Principal Builder in connection with the sale of Sites or construction and sale of Improvements on Sites shall be placed upon any property within the Community except with the prior written consent of the Design Review Committee obtained in each instance, subject to such conditions or restrictions as may be required by the Design Review Committee.

3.12 Restriction on Antennae, Pipes, Utility Lines and Transmitters. Pipes for water, gas, sewer, drainage, or other purposes, and wires, poles, aerials, antennae, satellite dishes, and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent possible, underground or within an enclosed structure. Any satellite dish or other facility for the transmission or reception of audio or visual signals (except those located entirely inside a residence and those which are less than one meter (39.37 inches) in diameter placed along the side yard or back yard of a Site) shall be screened from view from streets and adjacent Sites and shall first be approved by the Design Review Committee. Satellite dishes which are less than one meter (39.37 inches) in diameter may be placed on the side of a residential structure abutting the back yard or side yard of a Site without first obtaining approval from the Design Review Committee; provided, however, if a signal cannot be obtained in such locations, an Owner may submit an application to the Design Review Committee to approve another location on a Site. The Design Review Committee shall act on applications for approval of satellite dishes and antennae in accordance with the requirements of the Federal Telecommunications Act of 1996, and any applicable regulations adopted pursuant thereto, as such statute and regulations may be amended from time to time. With the approval of the Design Review Committee, a master antenna or cable television antenna may, but need not, be provided for use of all Owners or a group of Owners, and Declarant may grant easements for such purposes. Antennae for shortwave or HAM radio operation are prohibited unless it can be demonstrated that said antennae can be screened from view similar to a television satellite dish or similar equipment or unless the Association is prohibited from excluding such antennae from the Community under applicable federal or state law.

3.13 Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device, or display of any kind shall be erected or maintained anywhere within the Community so

as to be evident to public view, except signs as may be approved in writing by the Design Review Committee or which are permitted herein. A sign advertising a Site for sale or for lease may be placed on such Site; provided, however, that standards relating to dimensions, color, style, and location of such sign shall be subject to the sign code requirements of the City. The provisions of this Section shall not apply to Declarant or Principal Builder with respect to advertising in connection with the construction and/or sale of residences located within the Community.

3.14 Restrictions on Mining or Drilling. No property within the Community shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

3.15 Maintenance of Drainage. Each Owner shall be responsible for maintenance of the established drainage pattern on his Site in accordance with the applicable grading plan approved by and on file with the City. There shall be no interference with the established drainage pattern over any property within the Community, except as approved in writing by the Design Review Committee. Approval shall not be granted unless provision is made for adequate alternate drainage. The Owner of the Site for which the established drainage pattern is changed shall be solely liable for the impact of such changes on adjacent Sites, Association Properties, adjacent properties outside the Community, or public property. The “established drainage pattern” shall mean the drainage pattern which exists at the time the approved grading of any property is completed and shall include any established drainage pattern shown on any plans approved by the Design Review Committee. The established drainage pattern may include the drainage pattern: (a) from Association Properties over any Site; (b) from any Site over the Association Properties; (c) from any property owned by the City, a special district or other Persons over any Site; (d) from any Site over property owned by the City, a special district or other Persons; (e) from any Site over another Site; or (1) from any Site over properties outside the Community.

3.16 Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept on property within the Community which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

3.17 Compliance with Laws. Nothing shall be done or kept on any property within the Community in violation of any law, ordinance, rule, or regulation of any governmental authority having jurisdiction.

3.18 Further Subdivision of Sites. The Owner of a Site shall not further subdivide that Site without the approval of the Design Review Committee and the City. The foregoing restriction shall not apply to the Declarant or a Principal Builder (with the approval of the Declarant).

3.19 Restrictions on Sewage Disposal Systems. No cesspool, septic tank, or other alternative on-site wastewater treatment system shall be installed within the Community. Any sewage disposal system installed for property within the Community shall be subject to applicable ordinances, rules, and regulations of the City.

3.20 Restrictions on Water Systems. No individual domestic water supply system shall be installed or maintained for any property within the Community. The Association may irrigate Common Area and other property required to be maintained by the Association with untreated raw or partially treated re-use water, if approved by the City.

3.21 Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on any Site, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced in a timely manner to its original condition or such other condition as may be approved in writing by the Design Review Committee, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Site to be suitably landscaped, subject to the approval of the Design Review Committee, so as to present a pleasing and attractive appearance. The obligations of an Owner under this Section 3.22 may be exercised by a Subassociation when authorized in a duly approved and recorded Supplemental Declaration.

3.22 Temporary Storage of Building Materials. No building materials shall be stored on any Site except temporarily during continuous construction of an Improvement on the same Site or inside a residence. Building materials shall be removed from a Site or other portion of the Community within thirty (30) days after cessation of actual construction in those areas being served by such material storage area.

3.23 Playground Equipment. No playground equipment such as basketball backboards and poles above six (6) feet in height, as measured from the rear ground level porch of any home built on any Site, shall be erected on any property within the Community without the prior written consent of the Design Review Committee. No basketball backboards may be attached to a structure. Free-standing basketball backboards shall be made of standard manufacturers materials and colors. Temporary, portable basketball backboards and poles may be used anyplace on a Site, but may not be used within public or private streets. Temporary, portable basketball backboards and poles may be left in the front part of a Site from March 1 through October 30 of each year. From November 1 of a year through the last day of February of the following year, such temporary, portable basketball backboards and poles shall be stored out of view from adjacent properties and streets when not in use.

3.24 Vehicle Repairs. No maintenance (other than washing and polishing vehicles), servicing, repair, dismantling, or repainting of any type of vehicle, boat, trailer, machine, or device may be carried on within the Community, except within a completely enclosed structure which screens the sight and sound of the activity from the street and from other Sites, Association Properties, and public property.

3.25 Storage of Gasoline and Explosives, Etc. No Site shall be used for storage of explosives, gasoline, or other volatile and/or incendiary materials or devices. Gasoline or fuel for Owner's lawn mower, snowblower, and the like may be maintained on an incidental basis on the Site in an amount not to exceed five (5) gallons and shall be kept in UL approved containers.

3.26 Trailers, Campers, and Commercial Vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck (other than a 3/4-ton or smaller pick-up truck not used

for commercial purposes), towed trailer unit, motorcycle, snowmobiles, disabled, junk, or abandoned vehicles, motor home, mobile home, camper, recreational vehicle, or any other vehicle, the primary purpose of which is recreational, sporting, or commercial use, shall be parked or stored in, on, or about any Site or street within the Community, except within the attached garage or unless such vehicles are concealed from view from the street and from other Sites, Association Properties, and public property from the street and from other Sites, Association Properties and public property in a location which is first approved by the Design Review Committee. Any vehicle which has external lettering or signage that gives the appearance of being a vehicle used in connection with a commercial enterprise or business shall be deemed to be a vehicle the primary purpose of which is commercial use. The Association shall have the right to enter Owner's Site to remove and store, at Owner's expense, vehicles in violation of this Section. Owner shall be entitled to thirty (30) days' written notice prior to such action by the Association. Parking of motor vehicles and the types of equipment listed above on public and private streets or driveways within the Community shall be prohibited, unless permitted by the Association pursuant to duly-adopted Rules and Regulations which shall be consistent with the ordinances of the City. The foregoing restrictions shall not apply to the temporary, day time parking of commercial vehicles while providing service at a residence within the Community.

3.27 Fences Prohibited Without Approval. Except for fences which may be installed by Declarant or by a Principal Builder with the approval of the Declarant, no fences shall be constructed on any Site without the prior written approval of the Design Review Committee or in compliance with standard design specifications for fences adopted by the Design Review Committee. If the Design Review Committee has not approved standard design specifications for fences, all fences shall first be approved by the Design Review Committee. No fences may be installed in any Common Area unless installed by the Declarant or a Principal Builder.

3.28 Air Conditioning and Heating Equipment. No heating, air conditioning, solar collectors, evaporative coolers, or refrigeration equipment shall be placed, allowed, or maintained anywhere on a Site or structure other than within a structure or on the ground in an area which shall be screened from public view, or, with respect to solar collectors, which are flush with the roof surface, in accordance with plans approved by the Design Review Committee.

3.29 Construction Activities. Normal construction activities carried out by a Declarant or a Principal Builder within the Community or carried out by an Owner or Owner's contractor in connection with Improvements to Property approved by the Design Review Committee or a similar committee created under a Supplemental Declaration shall not be deemed a violation of any of the provisions of this Article 3. All contractors (including Principal Builders) engaged in construction activities within the Community shall ensure that all construction activities comply with applicable requirements of the City and OSHA, that construction debris is removed from the Community on a regular basis, that streets are cleaned of mud, dirt, and debris caused by such contractor or its subcontractors, and that any damage to streets, curbs, sidewalks, utilities, and any other Improvements within the Community caused by such contractor or any of its subcontractors is repaired in a timely manner.

3.30 General Design and Planning Requirements. Any Improvement to Property, as such term is defined in Section 4.2 below, within the Community, shall comply with the following requirements:

(a) Each Site shall comply with the City of Colorado Springs ordinance concerning Wildland Urban Interface Mitigation Requirements for the Hillside Overlay Zone.

(b) In the planning, development and construction on any Site and any Improvement to Property, consideration shall be given to the relationship of roads and buildings to existing slope grades and drainageways. All structures and roadways shall achieve be designed and located in a manner that is not intrusive with the landscape.

(c) Significant natural drainageways shall not be disturbed or re-routed except where of general benefit to the Community and shall be subject to the review and approval of the City.

(d) Unique natural features within the Community, shall receive special consideration in the planning or development of any Site or Common Area within the Community. Such features shall be left undisturbed wherever practical in Site development.

(e) Structures in sloping areas shall be designed to conform to the slope by means of “stepped” foundations or similar methods that will keep grading and Site preparation to a minimum. In principle, structures shall accommodate slope in design rather than cause slope to accommodate structures.

(f) All Improvements on Sites shall fit into the existing natural environment as determined by the Design Review Committee in its sole discretion. Materials massing, proportion and overall design character shall enhance and reflect the natural character that exists on the Site.

(g) ~~Each principal residential Improvement on a Site (“ Dwelling”) must contain a minimum of two thousand (2,000) square feet of above-ground living area, exclusive of basements, garages (attached or detached), terraces, porches, breezeways or patios.~~

Each principal residential Improvement on a Site (“ Dwelling”) with no lower-level walk out or upper-level in addition to the main-level (Ranch-style) must contain a minimum of two thousand (2,000) square feet of above-ground living area, exclusive of basements, garages (attached or detached), terraces, porches, decks, breezeways or patios.

A Dwelling with a lower-level walk out or an upper-level, in addition to the main level, must contain a minimum finished area of two thousand five hundred (2,500) square feet for all levels. The main level may be less than 2000 square feet, provided the total of all levels is at least 2500 square feet. Total square foot allocation toward the 2500 square foot minimum shall be counted as follows: 100% of main level finished square footage, plus credit given for 50% of finished lower-level square footage, plus credit given for 75% of finished upper-level square footage (as an example, if the main level is 1700 square feet, and there is a 1700 square foot

finished lower-level, then the minimum total square feet of the Dwelling is met by 1700 square feet (main level) plus 850 square feet (50% of lower-level) = 2550 square feet). No credit will be given toward minimum dwelling size for any unfinished areas on any level.

The Design Review Committee may impose additional size or design requirements beyond the minimum square footage to Dwellings to ensure they remain consistent with the desired architectural appearance of the Community. (First Amendment approved July 16, 2020)

(h) The exterior elevations of a Dwelling shall be designed as a single cohesive style; designs and finishes substantially different in the front elevation from the rear or side elevations shall not be approved.

(i) High quality permanent materials are required on the exterior of all Dwellings. All exterior materials shall further comply, at a minimum, with the City of Colorado Springs' Hillside Wildfire Mitigation Design Manual. Additional requirements or restrictions on exterior finishes and materials may be adopted by the Design Review Committee as provided in Section 4.7 herein.

(j) All roof materials shall blend harmoniously in color and texture with the overall design of the Dwelling. Tile, slate, concrete and other similar materials shall be required. Composite material roofs or other asphalt materials may be approved upon specific authorization by the Design Review Committee or as provided in any Design Standards. Wood shake shingles are prohibited in the Community.

(k) Earth tones will be the principle colors required for Dwellings and accessory Improvements. Accent colors that are not earth tones must be limited in their application. Specific color proposals must be approved by the Design Review Committee.

(l) Grading shall be shaped to compliment the natural land forms found within the Community.

(m) Roads in steeply sloping or heavily vegetated areas shall be designed to minimize the area of disturbance. Clearing of vegetation within the right-of-way shall be "feathered" to create more natural appearing edges and to accommodate snow stacking.

(n) Additional design and planning requirements may be adopted by the Design Review Committee as provided in Section 4.7 herein.

3.31 Building Envelopes. Construction or installation of Improvements on Sites upon which a Building Envelope has been designated in an approved development plan shall comply with the following requirements in addition to all other applicable requirements of this Declaration:

(a) Improvements may be constructed or installed only within the designated Building Envelope, except for utilities, mailboxes, and driveways which connect the primary residential Improvement to a street for ingress and egress, native landscaping if approved by the

Design Review Committee, and split-rail fences, if approved by the Design Review Committee as provided in subparagraph (d) below.

(b) No area outside the Building Envelope may be cleared, graded, contain any introduced, non-native irrigated landscaping or any impervious areas, or have any construction activities, other than the utilities, mailboxes, native landscaping or access driveway described above or the split-rail fencing described in subparagraph (d) below.

(c) For all principal residential Improvements constructed on Sites with designated Building Envelopes, the entire principal residential Improvement, including attached or detached garages, patios and other impervious surface areas (other than drives providing access to and from a street) and irrigated, non-native landscape areas shall be located within the Building Envelope.

(d) No privacy fences may be installed outside the Building Envelope. Notwithstanding the foregoing, one-, two-, or three-rail, open-rail fencing may be located outside the Building Envelope at the property boundaries with approval of the Design Review Committee as required in Section 3.28 above.

(e) No Supplemental Declaration may contain provisions which are contrary to or in conflict with the provisions of this Section 3.32, or Sections 3.21, 3.31 or 3.33.

3.32 Exterior Lighting. No exterior lights of any kind may be erected, placed, installed or otherwise incorporated into any Site, Common Area, or public or private street within the Community whereby any glare or direct light is visible beyond the perimeter of the Community. This restriction shall apply to all lighting, including, but not limited to, entry lights, garage lights, driveway illumination or interior lights visible from outside the Community.

3.33 Leases. All leases of Improvements located on any Site within the Community shall be subject in all respects to the provisions of this Declaration. No lease may be executed for a term of less than six (6) months. Any lease shall include the entire residence and Site.

3.34 Clotheslines. No outdoor clotheslines may be placed on any Site.

ARTICLE 4

ARCHITECTURAL APPROVAL

4.1 Approval of Improvements Required. The approval of the Design Review Committee shall be required for any Improvement to Property on any Site, except (a) for any Improvement to Property made by Declarant or by a homebuilder which is designated a “Principal Builder” by Declarant and who has received written approval for such Improvement from the Declarant, and (b) where prior approval of an Improvement to Property may be waived or certain Improvements to Property may be exempted in writing or under written guidelines, rules, or design standards promulgated by the Design Review Committee. The Design Review Committee may delegate some or all of its authority under this Declaration to such subcommittee or subcommittees as the Design Review Committee may elect to establish from time to time. Membership on any

subcommittee may include Owners and non-Owners and need not include members of the Design Review Committee. Procedures governing the operations of such subcommittees shall be adopted by the Design Review Committee and any delegation of authority to a subcommittee may be revoked at any time by the Design Review Committee.

4.2 Improvement to Property Defined. “Improvement to Property” requiring approval of the Design Review Committee shall mean and include, without limitation: (a) the construction, installation, erection, or expansion of any building, structure, or other Improvement, including utility facilities and fences; (b) the demolition or destruction, by voluntary action, of any building, structure, or other Improvement; (c) the grading, excavation, filling, or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern, or change of stream bed; (d) installation of landscaping on a Site; (e) the access point and driveway location for any Site; and (f) any change or alteration of any previously approved Improvement to Property, including any change of exterior appearance, color, or texture.

4.3 Membership of Committee. The Design Review Committee shall consist of three (3) members, all of whom shall be initially appointed by Declarant. Declarant shall have the continuing right to appoint and replace all three (3) members during the Appointment Period (as hereinafter defined). The Board of Directors of the Association shall have the right to appoint such members after the expiration of the Appointment Period. During the period of development of the Community while Declarant has rights to appoint members of the Design Review Committee, Declarant shall give the Association written notice of the appointment or removal of any member of the Design Review Committee. The “Appointment Period” shall mean the period of time commencing as of the date of Recordation of this Declaration and continuing until the earliest to occur of the following events: (a) when all Sites have been conveyed to Persons other than Declarant, a successor Declarant or a Principal Builder and certificates of occupancy have been issued for the residences constructed thereon; or (b) when, in its discretion, Declarant voluntarily relinquishes such right. After expiration of the Appointment Period, the Board of Directors shall have the right to appoint members of the Design Review Committee. After the expiration of the Appointment Period, the Association may at any time and from time to time change the authorized number of members of the Design Review Committee, but the number of members of the Design Review Committee shall not be less than three (3).

4.4 Address of Design Review Committee. The address of the Design Review Committee shall be at the principal office of the Association.

4.5 Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property (“Applicant”) shall submit to the Design Review Committee at its offices such descriptions, sketches, surveys, plot plans, drainage plans, elevation drawings, construction plans, HSS/LGP, specifications, and samples of materials and colors as the Design Review Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property. The Design Review Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Design Review Committee of all required

materials in connection with the proposed Improvement to Property, the Design Review Committee may postpone review of any materials submitted for approval.

4.6 Criteria for Approval. The Design Review Committee shall approve any proposed Improvement to Property only if it deems in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Community as a whole; that the appearance, exterior design, materials and colors of the proposed Improvement to Property will be in harmony with the surrounding areas of the Community; that the Improvement to Property will not detract from the beauty, wholesomeness, and attractiveness of the Community or the enjoyment thereof by Owners; that the proposed changes in topography, if any, properly relate to adjacent Sites and the Community as a whole; that the proposed Improvement to Property complies with all applicable public and private development restrictions, including all development restrictions set forth in this Declaration, any Design Standards adopted by the Design Review Committee and on a Preliminary and Final Plat or other development approval by the City; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association.

4.7 Design Standards; Waivers. The Design Review Committee may issue standards or rules (“Design Standards”) relating to approval criteria, recommended materials and designs, submittal and approval procedures, materials to be submitted, fees, and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. The Design Standards, or the Design Review Committee on a case-by-case basis, may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part or variances granted because strict application of such limitations or restrictions would be unreasonable or unduly harsh under the circumstances. The Design Standards, or the Design Review Committee on a case-by-case basis, may waive the requirement for approval of certain Improvements to Property or exempt certain Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration. Notwithstanding the foregoing or the provisions of Section 4.18 below governing variances, the Design Review Committee may not grant waivers or variances from the requirements of Section 3.31 above setting forth general design and planning requirements, Section 3.32 above regarding development on Sites with designated Building Envelopes, or Section 3.33 above regarding exterior lighting. Any Design Standards adopted by the Design Review Committee shall be consistent with the provisions of Sections 3.21 and Sections 3.31 through 3.33 above.

4.8 Design Review Fee. The Design Review Committee may, in the Design Standards, provide for the payment of a fee to accompany each request for approval of any proposed Improvement to Property. The Design Review Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to Property or that the fee shall be determined in any other reasonable manner, such as based upon the estimated cost of the proposed Improvement to Property or the anticipated costs to be incurred by the Design Review Committee in reviewing the application. Such fee may not exceed the amount set forth in the Design Standards, if any, as amended from time to time.

4.9 Decision of Committee. Any decision of the Design Review Committee shall be made within the time period specified in the Design Standards, but in no event later than the time period set forth in Section 4.10 below. The Design Review Committee's decision shall be in writing. The Design Review Committee may adopt a streamlined or accelerated review and approval schedule and procedure to grant quicker approval for such minor improvements as basketball backboards, exterior house painting, swing sets, play structures, awnings or similar minor structures and changes, which procedure may include review and approval by a single member of the Design Review Committee. The decision of the Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Design Review Committee. The Design Review Committee shall maintain records of all submittals, approvals and disapprovals, and correspondence.

4.10 Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Design Review Committee within thirty (30) days after the date of actual receipt by the Design Review Committee of all required materials and expiration of the additional ten (10) day period described below. If additional information or materials are requested by the Design Review Committee, the thirty (30) day time period within which the Design Review Committee is required to make its decision shall be automatically extended to thirty (30) days after the Design Review Committee receives the requested information or materials. If an Applicant does not receive a response from the Design Review Committee within thirty (30) days after the Applicant sent the request to the Design Review Committee, the Applicant shall notify the Design Review Committee that a response was not received and the Design Review Committee shall have ten (10) days after actual receipt of such notification (and an additional copy of the request and supporting materials) to act on the request. If the Design Review Committee fails to act on the request within such ten (10) days, the request shall be deemed to have been approved.

4.11 Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement to Property, any materials submitted to the Design Review Committee in connection with the proposed Improvement to Property, and any conditions imposed by the Design Review Committee. Failure to complete the proposed Improvement to Property within twelve (12) months after the date of approval or such other period or extension of the initial twelve (12) month period as specified in writing by the Design Review Committee, or to complete the Improvement to Property in accordance with the description and materials furnished to, and the conditions imposed by, the Design Review Committee, shall constitute noncompliance with the requirements for approval of the Improvement to Property.

4.12 Notice of Completion. Upon completion of the Improvement to Property, the Applicant may give written Notice of Completion to the Design Review Committee. Until the date of receipt of such Notice of Completion, the Design Review Committee shall not be deemed to have notice of completion of such Improvement to Property.

4.13 Inspection of Work. The Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion, provided that the right of inspection shall terminate sixty (60) days after the Design Review Committee shall have received a Notice of Completion from Applicant.

4.14 Notice of Noncompliance. If, as a result of inspections or otherwise, the Design Review Committee finds that any Improvement to Property has been done without obtaining the approval of the Design Review Committee or was not done in complete conformity with the description and materials furnished to, and any conditions imposed by, the Design Review Committee or was not completed within twelve (12) months after the date of approval by the Design Review Committee or such other period as may have been specified in writing by the Design Review Committee, the Design Review Committee shall notify the Applicant in writing of the noncompliance, which notice shall be given, in any event, within sixty (60) days after the Design Review Committee receives a Notice of Completion from the Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

4.15 Failure of Committee to Act After Completion. Failure of the Design Review Committee to inspect the work shall not relieve the Applicant from its obligations to comply with this Declaration or all conditions of approval or prevent the Design Review Committee from pursuing all remedies available to it in the event of any noncompliance.

4.16 Correction of Noncompliance. If the Design Review Committee determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the Applicant of notice of noncompliance from the Design Review Committee. If the Applicant does not comply with the Committee ruling within such period, the Committee may, at its option, record a Notice of Noncompliance against the real property on which the noncompliance exists, may enter upon such property and remove the noncomplying Improvement to Property, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses, including attorneys fees, incurred therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy a Reimbursement Assessment against the Owner of the Site for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or under this Declaration. The Applicant and Owner of the Site shall have no claim for damages or otherwise on account of the entry upon the property and removal of the noncomplying Improvement to Property.

4.17 No Implied Waiver or Estoppel. No action or failure to act by the Design Review Committee, including the granting of a variance, shall constitute a waiver or estoppel with respect to future action by the Design Review Committee with respect to any Improvement to Property. Specifically, the approval of the Design Review Committee of any Improvement to Property or granting of a variance shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement to Property on the same Site or any other Sites or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement to Property on the same Site or any other Site.

4.18 Committee Power to Grant Variances. Subject to the limitations set forth in Section 4.7 above, the Design Review Committee may authorize variances from compliance with any of the provisions of this Declaration, including restrictions upon height, size, floor area, or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental consideration may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Design Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

4.19 Meetings of Committee; Delegation of Authority. The Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Design Review Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Design Review Committee, except the granting of approval to any Improvement to Property and granting of variances. The action of such Committee Representative within the authority of such Committee Representative or the written consent or the vote of a majority of the members of the Design Review Committee shall constitute action of the Design Review Committee.

4.20 Records of Actions. The Design Review Committee shall keep a permanent record of all final actions taken by the Committee for a period of six years after each final action.

4.21 Estoppel Certificates. The Board of Directors shall, upon the reasonable request of any interested Person and after confirming any necessary facts with the Design Review Committee, furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

4.22 Non-Liability for Committee Action. There shall be no liability imposed on the Design Review Committee, any member of the Design Review Committee or any subcommittee appointed by the Design Review Committee, any Committee or subcommittee Representative, the Association, any member of the Board of Directors, any Principal Builder or Declarant (or their respective owners, officers, directors, managers and employees) for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Design Review Committee unless due to the willful misconduct of the party to be held liable. In reviewing any matter, the Design Review Committee shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes, plat restrictions, or other governmental laws or regulations. Members of the Design Review

Committee shall be indemnified by the Association to the same extent as the Board of Directors of the Association, as set forth in the Articles of Incorporation or By-Laws of the Association.

4.23 Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the provisions contained in this Declaration as to the property upon which the construction is taking place shall be deemed to have been suspended temporarily to the extent necessary to permit such construction, provided that, during the course of any such construction, nothing is done which will result in a violation of any of the provisions of this Declaration upon completion of construction and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property.

ARTICLE 5

ASSOCIATION PROPERTIES

5.1 Member's Rights of Use and Enjoyment Generally. Unless otherwise provided in this Declaration, all Members may use and are hereby granted an easement of enjoyment in the Association Properties. Such easement and right of use and enjoyment shall be appurtenant to the Sites. Association Properties are dedicated for use by all Members, their family members, guests, and lessees, and not for use by the public.

5.2 Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate use of Association Properties by Members and the public to further enhance the overall rights of use and enjoyment of all Members.

5.3 No Partition of Association Properties. No Owner shall have the right to partition or seek partition of the Association Properties or any part thereof.

5.4 Liability of Owners for Damage by Member. Each Member shall be liable to the Association for any damage to Association Properties or for any expense or liability incurred by the Association, to the extent not covered by insurance obtained by the Association, which may be sustained by reason of the negligence or willful misconduct of such Member or any Person using the Association Properties through such Member and for any violation by such Member or any such Person of this Declaration or any Rule and Regulation adopted by the Association. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Reimbursement Assessment against a Member, to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of this Declaration or of such Rules and Regulations (including any deductible payable by the Association under insurance obtained by the Association) or for any increase in insurance premiums directly attributable to any such damage or any such violation.

5.5 Association Duties if Damage, Destruction or Required Improvements. In the event of damage to Association Properties by fire or other casualty or in the event any governmental authority shall require any repair, reconstruction, or replacement of any Association Properties, the Association shall have the duty to repair, reconstruct, or replace the same. Any insurance

proceeds payable by reason of damage or destruction of Association Properties by fire or other casualty shall be paid to the Association and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction, or replacement of Improvements damaged or destroyed, or if the Association is required to make repairs, replacements, or Improvements by governmental authorities, the Association may, in order to make up any deficiency in the insurance proceeds or to pay for the required repair, replacement, or improvement, levy a Special Assessment in accordance with Section 9.9, or if a Member or group of Members is liable for such damage, levy a Reimbursement Assessment against the Member or group of Members responsible therefor, to provide the additional funds necessary. Repair, reconstruction, or replacement of Association Properties shall be done under such contracting and bidding procedures as the Association shall determine are appropriate. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Association may use the same for future maintenance, repair, Improvement, and operation of other Association Properties.

5.6 Association Powers in the Event of Condemnation. If any Association Properties or interests therein are taken under exercise of the power of eminent domain or by private purchase in lieu thereof, the award in condemnation or the price payable shall be paid to the Association, except to the extent payable to any other Person with an interest in such property, including any Mortgagee of such property. The Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners or other Persons therein. Any award or funds received by the Association shall be held by the Association in the Maintenance Fund as determined by the Board, as a reserve for future maintenance, repair, reconstruction, or replacement of Association Properties or may be used for Improvements or additions to or operation of Association Properties. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings.

5.7 Title to Association Properties on Dissolution of Association. In the event of dissolution of the Association, the Association Properties shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental, or quasi-governmental agencies or organizations or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association. To the extent the foregoing is not possible, the Association Properties shall be sold or disposed of and the proceeds from the sale or disposition shall be allocated equally to the Sites and distributed to Members.

5.8 Easement for Encroachment and Maintenance of Association Properties. There is hereby created a blanket easement across all Sites for the benefit of the Association for the purpose of entering upon the portion of any Site not within an enclosed structure to maintain, repair, replace, or remove any Association Properties, including fences installed by Declarant or a Principal Builder upon or adjacent to any landscaped tracts along public roadways which shall be maintained by the Association. In the event any fence or other Association Properties encroach upon any Site, a valid easement is hereby created and does exist for the encroachment and for the maintenance, repair, replacement, or removal of such encroachment as long as it exists. Such

encroachments or easements shall not be considered or determined to be encumbrances on any Site for the purposes of marketability of title.

5.9 Easements Deemed Created. All conveyances of Sites or Association Properties hereafter made, whether by Declarant, a Principal Builder, or otherwise, shall be construed to grant and reserve the easements and rights contained in this Declaration, even though no specific reference to such easements or to this Declaration appears in the instrument for such conveyance.

5.10 Recreational Facilities. The Declarant or a Principal Builder may, but shall not be obligated to, in the future, construct recreational facilities as part of the Community. If constructed, such recreational facilities shall be conveyed either to the Association or to a Subassociation created pursuant to a Supplemental Declaration or to the City or a special district.

ARTICLE 6

DECLARANT'S RIGHTS AND RESERVATIONS

6.1 Period of Declarant's Rights and Reservations. Declarant shall have, retain, and reserve certain rights as hereinafter set forth with respect to the Sites, which rights include "development rights" and "special declarant rights" under the Act which may be exercised by Declarant with respect to all parts of the Community, the Association and the Association Properties from the date hereof, until the expiration of the Development Period. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association whether or not specifically stated therein and in each deed or other instrument by which any property within the Community is conveyed by Declarant. The rights, reservations, and easements hereinafter set forth may be exercised by Declarant with respect to all parts of the Community and shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other subsequent amendment. Declarant may assign and convey any of the rights, reservations, and easements hereinafter set forth to a successor Declarant or a Principal Builder.

6.2 Right to Construct Additional Improvements on Association Properties. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey Association Properties to the Association, construct additional Improvements on Association Properties at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners. Declarant shall convey or transfer Association Properties to the Association and Declarant shall convey or transfer to the Association the Improvements described in the preceding sentence if Declarant has elected to construct such Improvements or if Declarant is obligated by the City to convey any Common Area or Improvements to the Association and the Association shall be obligated to accept title to, care for, and maintain the same as Association Properties as elsewhere provided in this Declaration.

6.3 Declarant's and Principal Builders' Rights to Use Association Properties in Promotion and Marketing of Community. Declarant shall have and hereby reserves the right to

reasonable use of the Association Properties and Sites owned by Declarant or a Principal Builder and of services offered by the Association in connection with the promotion and marketing of the Community. Without limiting the generality of the foregoing, Declarant and, with Declarant's written consent, a Principal Builder, may erect and maintain on any part of the Association Properties and Sites owned by Declarant or a Principal Builder such signs, temporary buildings, and other structures as Declarant or such Principal Builder may reasonably deem necessary or proper in connection with the promotion, development, and marketing and sales of real property within the Community; may use vehicles and equipment on Association Properties and Sites owned by Declarant or a Principal Builder for promotional purposes; may permit prospective purchasers of property within the boundaries of the Community who are not Owners or Members of the Association to use Association Properties at reasonable times and in reasonable numbers; and may refer to the Association Properties and to the Association and services offered by the Association in connection with the development, promotion, and marketing of property within the boundaries of the Community.

6.4 Right to Complete Development of Community. Declarant reserves the right to develop residential units on Sites within the Community. No provision of this Declaration shall be construed to prevent or limit the rights of Declarant or a Principal Builder to complete development of property within the boundaries of the Community or elect not to complete development of any part of the Community; to construct or alter Improvements on any property owned by Declarant or a Principal Builder within the Community provided that all such construction is approved by Declarant and conforms to the requirements of this Declaration; to maintain model homes, offices for construction, Principal Builder and Declarant offices, sales purposes, or similar facilities on any property owned by Declarant, a Principal Builder, persons affiliated with Declarant or Principal Builder, or owned by the Association within the Community; or to post signs or do any other act or thing incidental to development, construction office, promotion, marketing, or sales of property within the boundaries of the Community. Nothing contained in this Declaration shall limit the right of Declarant or a Principal Builder or require Declarant or a Principal Builder to obtain approvals from the Association, the Design Review Committee or any other Owners: (a) to excavate, cut, fill, or grade any property owned by Declarant or by a Principal Builder with approval of the Declarant or to construct, alter, demolish, or replace any Improvements on any property owned by Declarant or a Principal Builder (provided, however, any such activities by either Declarant or a Principal Builder shall comply with the requirements of Sections 3.21 and 3.31 through 3.33 above); (b) to use any structure on any property owned by Declarant or a Principal Builder as a construction office, model home, Principal Builder office, Declarant office, or real estate sales office in connection with the development and sale of any property within the boundaries of the Community, unless and until any such use is prohibited under applicable requirements of the City; (c) to store construction materials, supplies, equipment, tools, waste or other items on property within the Community that is owned by Declarant or a Principal Builder; or (d) to require Declarant or a Principal Builder to seek or obtain the approval of the Design Review Committee or of the Association for any such activity or Improvement to Property on any property owned by Declarant or a Principal Builder. Nothing in this Declaration shall limit or impair the rights reserved by Declarant or granted to Principal Builders as elsewhere provided in this Declaration.

6.5 Declarant's Approval of Conveyances or Changes in Use of Association Properties. Until Declarant has lost the right to appoint the members of the Design Review Committee, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change, or alter the use of Association Properties, Mortgage the Association Properties, or use Association Properties other than solely for the benefit of Members or as specifically allowed hereunder.

6.6 Declarant's Rights to Grant and Create Easements. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements for access, utilities, drainage, water, and other purposes incident to development and sale of the Community located in, on, under, over, and across (a) Sites owned by Declarant, and (b) Association Properties.

6.7 Declarant's Rights to Convey Property to Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey real property and Improvements thereon to the Association at any time and from time to time in accordance with this Declaration. Any property conveyed to the Association by the Declarant shall not be subject to any encumbrances requiring the payment of money (other than liens for taxes not yet due and payable).

6.8 Declarant's Right to Annex Additional Property to Community. Declarant and Principal Builders shall have and Declarant hereby reserves the right to, but shall not be obligated to, develop the Property in phases and, as part of such phased development, to annex part or all of any property now or hereafter owned by Declarant or a Principal Builder, including the property described on Exhibit B, to the Community in phases as may be determined by Declarant or a Principal Builder, at any time during the Development Period. Any property added to the Community which is not described in either Exhibit A or B may not exceed ten percent (10%) of the total area of the property described in Exhibits A and B.

Property shall be annexed to the Community by Declarant and a Principal Builder (if a Principal Builder is the Owner of the Property to be annexed) executing and recording: (a) a Notice of Annexation; (b) a deed conveying a Site to an Owner other than Declarant or a Principal Builder; or (c) a deed or Plat dedicating or conveying Common Area to the Association. Such Notice or deed shall describe the real property to be annexed and shall refer to this Declaration, including the date and reception number for the Recordation of this Declaration. In the event Declarant or a Principal Builder exercises this right, any such property annexed to the Community shall be subject to the terms and conditions of this Declaration. No approval of any other Owners or Mortgagees, other than the Owner of the property to be annexed, shall be required. Declarant and Principal Builder may record a Supplemental Declaration as provided in Article 12 below in connection with the annexation of property to this Declaration, which right is a Special Declarant Right hereunder.

Notwithstanding the foregoing, if Declarant and the Owner of Lot 23 (which contains a pre-existing residential Improvement) elect to annex Lot 23 into the Community, Declarant reserves the right to exempt Lot 23 from any or all building restrictions, architectural restrictions or Design Standards for the Community and/or the requirements of Sections 3.19 and 3.20 herein concerning water and sewer services. Any such exemptions shall be set forth in a Notice of Annexation that annexes Lot 23 into the Community.

Declarant may withdraw from the Community any property then owned by Declarant which previously has been made subject to the provisions of this Declaration, without the necessity of obtaining the consents of any other Owners or Mortgagees. Such withdrawal shall be accomplished by the recordation of a Notice of Withdrawal executed by Declarant and setting forth the legal description of the property to be withdrawn. The withdrawal shall be effective upon recordation of the Notice of Withdrawal. This right of withdrawal shall terminate as to any property upon the first conveyance of such property to any person other than the Declarant or a Successor Declarant; provided, however, that this right of withdrawal shall be reinstated as to any property to which Declarant subsequently reacquires title.

6.9 Successor Declarant. Declarant may designate as a “Successor Declarant” any person which acquires some or all of the Declarant’s then remaining interest in the Community or the property described on Exhibit B by an instrument which may be recorded. Upon execution and delivery of such instrument by Declarant, the person designated as Successor Declarant therein shall accede to all of the rights and obligations of Declarant under this Declaration with respect to the property acquired by such Successor Declarant and all references to Declarant contained herein shall be deemed to refer to such Successor Declarant.

ARTICLE 7

ASSOCIATION OPERATION

7.1 Association. The Association has been or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act, §7-121-101, et seq., C.R.S. The Association has been or shall be organized prior to the date the first Site located in the Community is conveyed to an Owner (other than a Successor Declarant or a Principal Builder). The Association shall have the duties, powers, and rights set forth in this Declaration, and in its Articles of Incorporation and By-Laws. As more specifically set forth hereinafter, the Association shall have a Board of Directors to manage its affairs. Except as may be provided herein, the Articles of Incorporation or the By-Laws, the Board of Directors shall be elected by Owners acting in their capacity as Members of the Association.

7.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number, term, and qualifications of the Board of Directors shall be fixed in the Articles of Incorporation and By-Laws. The Board of Directors may, by resolution, delegate portions of its authority to officers of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent, or employee without a vote of Members, except as otherwise specifically provided in this Declaration.

7.3 Membership in Association. Each Owner of a Site within the Community shall be a Member of the Association. There shall be one Membership in the Association for each Site within the Community. The Person or Persons who constitute the Owner of a Site shall automatically be the holder of the Membership appurtenant to that Site, and the Membership

appurtenant thereto shall automatically pass with fee simple title to the Site. Declarant shall hold a Membership in the Association for each Site owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Site except that an Owner may assign some or all of his rights as an Owner and as a Member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration.

7.4 Voting Rights of Members. There shall be one class of Members, comprised of all of the Owners. Except as specifically provided otherwise in this Declaration, the Articles or the By-Laws, all matters voted on by the Members shall be voted on by the Members. Each Member, including Declarant, shall have the right to cast one vote for each Site owned by such Member. The By-Laws shall provide for the manner, time, place, conduct, and voting procedures for Member meetings.

7.5 Appointment and Election of Directors. From the date of formation of the Association until the termination of the Period of Declarant's Control as provided below, Declarant shall have the right to appoint and remove all members of the Board of Directors and all officers of the Association. The Period of Declarant's Control of the Association shall terminate upon the first to occur of one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Total Sites That May Be Included within the Community to Owners other than a Successor Declarant, or ~~seven (7)~~ **nine (9) (First Amendment approved July 16, 2020)** years after recordation of this Declaration (the "Period of Declarant's Control"). Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant's Control, but, in that event, Declarant may require, for the duration of the Period of Declarant's Control described above, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than the termination of the Period of Declarant's Control as provided above, the Owners (including Declarant if the Declarant is still an Owner) shall elect the Board of Directors of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant, and the Board of Directors shall elect the officers, with such Board members and officers to take office upon termination of the Period of Declarant's Control. Members of the Board of Directors and officers appointed by the Declarant need not be Owners or employees of Declarant.

7.6 Directors and Officers Appointed by the Declarant. Notwithstanding anything contained herein to the contrary, the Declarant shall have the right to appoint all of the Directors and officers of the Association during the Period of Declarant's Control. All Directors and officers appointed by the Declarant shall serve at the pleasure of the Declarant, and the Declarant shall have the absolute right, at any time, and in its sole discretion, to remove any Director or officer appointed by it, and to replace such Director or officer with another person to serve on the Board or as an officer. Replacement of any Director or officer appointed by the Declarant shall be made by written instrument delivered to any officer or any other Director, which instrument shall specify the name of the person designated as successor Director or officer. The removal of any Director or officer and the designation of his successor by the Declarant shall become effective immediately upon delivery of such written instrument by the Declarant.

ARTICLE 8

DUTIES AND POWERS OF ASSOCIATION

8.1 General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or Persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests and the property values of the Members, to maintain, improve, and enhance the common interests of the Members, to maintain, improve, and enhance Association Properties, and to improve and enhance the attractiveness, aesthetics, and desirability of the entire Community. The Association shall maintain all Common Areas and all portions of the Community required to be maintained by the Association under any Preliminary and Final Plat, site plan or other development approval by the City, including, but not limited to, perimeter fencing, fencing abutting Common Areas, landscaping areas along roadways, recreational facilities, project signage and entry facilities, if any.

The Association shall have no snow removal responsibilities on Lot driveways, including shared driveways on Tract B, during the Period of Declarant's Control. After the termination of the Period of Declarant's Control, the Association may assume the responsibility for snow removal on Lot driveways, if approved by a majority of the Association members. (First Amendment approved July 16, 2020)

8.2 Duty to Acquire and Accept Property and Facilities Transferred by Declarant or a Principal Builder. The Association shall accept title to any property, including any Improvements thereon and personal property transferred to the Association by Declarant or a Principal Builder, and equipment related thereto, together with the responsibility to perform any and all Administrative Functions associated therewith. Property interests transferred to the Association by Declarant or a Principal Builder may include fee simple title, easements, leasehold interests, and licenses to use. Any real property or interest in real property transferred to the Association by Declarant or a Principal Builder shall be within the boundaries of the Community. Any property or interest in property transferred to the Association by Declarant or a Principal Builder shall be subject to the terms of this Declaration, and easements, covenants, conditions, restrictions, and equitable servitudes or other encumbrances, except mortgages and liens (other than liens for taxes not yet due and payable) requiring the payment of money. Except as otherwise specifically approved by resolution of the Board of Directors, no property or interest in property transferred to the Association by Declarant or a Principal Builder shall impose upon the Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, or a Principal Builder or an affiliate of a Principal Builder, including, but not limited to, any purchase price, rent, charge, or fee.

8.3 Power to Manage and Care for Association Properties. The Association shall have the power to manage, operate, care for, maintain, and repair all Association Properties and to keep the same in an attractive and desirable condition for the use and enjoyment of the Members.

8.4 Power to Pay Taxes. The Association shall have the power to pay all taxes and assessments levied upon the Association Properties and all taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings or protest provisions before the El Paso County Assessor and other public entities.

8.5 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect, property insurance on all insurable Improvements and personal property owned by the Association or that may be owned by the Association in the future, for broad form covered causes of loss, including, casualty, fire, and extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less reasonable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies. If any part of the Community is located in a special flood hazard area, the Association shall carry a master policy of flood insurance on the Common Area.

8.6 Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Association Properties and covering public liability for bodily injury and property damage and, if the Association owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable: (a) have limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) in the aggregate per occurrence; (b) insure the Board, the Association, the Design Review Committee, the Manager, the Declarant, all Principal Builders and their respective employees, agents, owners, officers, directors and all Persons acting as agents of the foregoing; (c) include the Declarant as an additional insured in such Declarant's capacity as a Member or Board member; (d) include the Members as an additional insured, but only for claims and liabilities arising in connection with the ownership, existence, use or management of Association Properties; and (e) cover claims of one or more insured parties against other insured properties.

8.7 General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as the Board of Directors may determine. If any insurance described above is obtained and thereafter is not reasonably available, or if any policy of such insurance is canceled or renewed without a replacement policy therefor having been obtained for it, the Association shall promptly cause notice of that fact to be delivered to all Members. The Association may carry any other type of insurance it considers appropriate in amounts it deems appropriate, to insure the interests of the Association. Insurance policies carried pursuant to Sections 8.5 and 8.6 shall provide that: (a) each Member is an insured Person under the policy with respect to liability arising out of such Member's interest in the Association Properties or membership in the Association; (b) the insurer shall waive its right of subrogation under the policy against any Member or such Member's household; (c) no act or omission by any Member, unless

acting within the scope of such Member's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (d) if at the time of a loss under the policy, there is other insurance in the name of a Member covering the same risk covered by the policy, the Association's policy shall be the primary insurance; and (e) shall meet all applicable requirements of FNMA and other governmental and quasi-governmental entities to the extent applicable to the Community.

The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Association. At Declarant's request, insurance obtained by the Association shall, to the extent reasonably possible and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage may be reviewed annually by the Board of Directors to ascertain whether coverage under the policies is sufficient in light of the current values of the Association Properties and in light of the possible or potential liabilities of the Association. The aforementioned insurance may be provided under blanket policies covering the Association Properties. In no event shall insurance coverage obtained or maintained by the Association be bought into contribution with insurance purchased by Owners, occupants or their Mortgagees.

8.8 Fidelity Bonds. The Association shall obtain and keep in force a fidelity bond or bonds for any Person handling funds of the Association. Each such bond shall name the Association as obligee and shall be in such amount as the Board of Directors determines. The Board of Directors may request any Person employed as an independent contractor by the Association for the purpose of managing the Association Properties to obtain and maintain fidelity insurance in an amount determined by the Board.

8.9 Other Insurance and Bonds. The Association shall obtain such other insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity, or other bonds as the Association shall deem necessary or desirable.

8.10 Duty to Prepare Budgets. The Association shall prepare Budgets for the Association as elsewhere provided in this Declaration.

8.11 Power to Levy and Collect Assessments. The Association may levy and collect Assessments as elsewhere provided in this Declaration.

8.12 Duty to Keep Association Records. The Association shall keep financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against an Owner. Such records shall be made reasonably available for examination by any Member and such Member's authorized agents.

8.13 Duties With Respect to Design Review Committee Approvals. The Association shall perform functions to assist the Design Review Committee as elsewhere provided in this Declaration.

8.14 Power to Acquire Property and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners including Improvements and personal property. The Association may construct Improvements on property and may demolish existing Improvements.

8.15 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Association Properties, and the use of any other property within the Community, including Sites. Any such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Member at the address for notices to Members as elsewhere provided in this Declaration or the By-Laws, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

8.16 Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each member and each Person claiming by, through, or under such Member (“Related User”). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations by any one or more of the following means: (a) by entry upon any property within the Community, without liability to the Owner thereof or the Association, for the purpose of enforcement or causing compliance with this Declaration or the Rules and Regulations; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by suspension of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of such Member of this Declaration or the Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (e) by levying and collecting a Reimbursement Assessment against any Member for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member; and (f) uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member. Any Rules and Regulations which adopt a system of

finer shall include a procedure to require notice and provide an opportunity for an Owner to be heard prior to imposing a fine.

8.17 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility, and other easements in, on, over, or under Association Properties.

8.18 Power to Convey and Dedicate Property to Government Agencies. The Association, with the approval of Members representing at least sixty-seven percent (67%) of the voting power of the Association (exclusive of the voting power of the Declarant), shall have the power to grant, convey, dedicate, or transfer any Association Properties or facilities to any public, governmental or quasi-governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate.

8.19 Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and, with the approval of Members representing at least sixty-seven percent (67%) of the voting power of the Association (exclusive of the voting power of Declarant), to encumber Association Properties as security for such borrowing. An agreement to convey, or subject the Association Properties to a security interest in accordance with this Declaration shall be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed by the requisite number of Owners. The agreement shall specify a date after which the agreement will be void unless Recorded before that date and shall be effective upon Recordation.

8.20 Power to Engage Employees, Agents, and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for legal, management, and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration. The Board of the Directors of the Association shall use its best efforts to obtain competitive proposals for the aforementioned consultant services.

8.21 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or By-Laws. The Association shall also have the power to do any and all lawful things which may be authorized, required, or permitted to be done under this Declaration or the Articles of Incorporation or By-Laws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration and the Articles of Incorporation or By-Laws.

8.22 Powers Provided by Law. In addition to the above-referenced powers, the Association shall have full power to take and perform any and all actions which may be lawfully taken by the Association under the Colorado Revised Nonprofit Corporation Act.

ARTICLE 9

ASSESSMENTS

9.1 Obligation and Lien for Assessments. Each Owner, by acceptance of a Deed, agrees to pay to the Association, Assessments, together with interest, late charges, cost of collection, and attorneys' fees as provided herein. Such Assessments, interest, late charges, cost of collection, and attorneys' fees shall also be a continuing lien upon the Site against which each Assessment is made in the event of delinquency in payment. Such Assessments, interest, late charges, cost of collection, and attorneys' fees shall also be the personal obligation of the person who was the Owner, or the persons, jointly and severally, who were the Owners at the time the Assessment was made. Assessments may consist of Common Assessments, Special Assessments, and Reimbursement Assessments.

9.2 Allocation of Assessments/Working Capital. All Assessments (other than Reimbursement Assessments) will be allocated equally among the Sites, except as provided in the following sentences. All Assessments (other than Reimbursement Assessments) imposed on Sites that are unimproved or which do not have a certificate of occupancy issued for improvements constructed thereon (which Sites are referred to herein as "Unfinished Sites") shall be assessed at one-quarter (1/4) of the Assessment rate for other Sites. Upon issuance of a certificate of occupancy for improvements constructed on an Unfinished Site, such Site shall be assessed at the full assessment rate commencing the first day of the month immediately following the month in which the certificate of occupancy is issued. Such reduced assessment rate for Unfinished Sites is based on the fact that Unfinished Sites do not receive the same benefits from assessments as Sites for which certificates of occupancy have been issued.

Upon conveyance of a Site to an Owner, other than a Successor Declarant or a Principal Builder, by the Declarant or a Principal Builder, the Purchaser of the Site shall pay to the Association the sum of \$200.00 as working capital for the Association. Upon the subsequent sale of such Site, the Seller shall receive a credit from the Purchaser for such contribution. Under no circumstance may an Owner obtain repayment of such contribution from the Association.

9.3 Common Assessments, Maximum Annual Assessment, and Initial Assessment. For each calendar year, the Association may levy Common Assessments against Owners of the Sites. Each Owner shall be obligated to pay the Common Assessments levied against and allocated to such Owner and the Site of such Owner, as hereinafter provided. For the purposes of the calendar year 2016, the amount of and commencement date for payment of the initial Common Assessment shall be determined by the Board of Directors (the "Initial Assessment"), subject to the requirements of Section 9.5 below. The Initial Assessment shall be payable by the Owner of any Site at such time as the Owner of such Site takes title to the Site. The Initial Common Assessment paid by the Owner of a Site shall be prorated to reflect the time that the Owner took title to the Site. Until such time as the Initial Assessment commences, the Declarant shall pay the expenses of the Association.

(a) The Board of Directors of the Association may fix the annual assessment at an amount not to exceed the \$400.00 maximum cap on the annual average common expense

liability set forth in Section 116(2) of the Act (as that amount has been increased annually beginning on July 1, 1999 as provided in Section 116(3) of Act (the "maximum base annual assessment")), plus optional user fees (if any) and a pro rata share of insurance premiums paid by the Association.

(b) Automatically, without a vote of the Membership, from and after July 1 of the year in which the conveyance of the first Site to an Owner by Declarant occurs, the maximum base annual assessment shall be increased effective on the first day of July of each year by an amount equal to the increase, if any, of the Consumer Price Index for the Denver-Boulder SMSA, published by the United States Department of Labor (or any successor index) for the twelve (12) months preceding July of the previous year, as provided in Section 38-33.3-116(3) of the Act.

(b) The Board of Directors of the Association may fix the annual assessment at an amount not to exceed the maximum base annual assessment for such year, plus optional user fees (if any) and a pro rata share of insurance premiums paid by the Association.

9.4 Supplemental Common Assessments. If the estimated sums required for Common Assessments prove inadequate for any reason, including non-payment of any Owner's Common Assessment, the Board may, from time to time, levy a Supplemental Common Assessment, provided that the total Common Assessment per Site does not exceed the maximum base annual assessment as set forth in Section 9.3 above. Such Supplemental Common Assessments shall be allocated among the Sites in the same manner Common Assessments are allocated. Written notice of any change in the amount of any annual Common Assessment shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change, and shall be submitted to the Members as part of a supplemental budget proposal pursuant to Section 9.5 below.

9.5 Annual Budgets. The Board of Directors shall cause to be prepared prior to imposing any Assessments and, commencing with calendar year 2016, prior to the commencement of each calendar year, a Budget for such calendar year. The Budget shall include an amount for normal operations and maintenance, for contingencies, and amounts deemed necessary or desirable for deposits to create, replenish, or add to the reserve fund for major capital repairs, replacements, and improvements to the Association Properties in such amounts as the Board of the Association deems appropriate. Copies of the Budget shall be made available by the Association to any Members requesting a copy of the same upon payment of the reasonable expenses of copying the same.

Within thirty (30) days after adoption of any proposed budget, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver the full budget or a summary of the budget to all Owners for informational purposes. The budget shall be effective upon adoption by the Board of Directors, whether or not the budget or a summary thereof is mailed or otherwise delivered to the Owners.

9.6 Commencement of Common Assessments. Common Assessments shall commence as to each Site within the Community on the first day of the first month following the date of Recordation of the first Deed conveying a Site within the Community to an Owner other than

Declarant, a Successor Declarant or a Principal Builder. The Common Assessments for the then current calendar year shall be prorated within the Community on the basis of the number of months in such calendar year remaining from the date of commencement of such Common Assessments to the end of such calendar year. Prior to the commencement of assessments, the Declarant shall be responsible for all costs of the Association.

9.7 Payment of Assessment. Common Assessments shall be due and payable in advance to the Association by the assessed Member during the calendar year in equal quarterly installments, on or before January 1, April 1, July 1 and October 1 of each calendar year, or in such other manner and on such other dates as the Board of Directors may designate in its sole and absolute discretion. Notice of the amount of the Common Assessments shall be given to each Member prior to January 1 of each year.

9.8 Failure to Fix Assessment. The failure by the Board of Directors to levy an Assessment for any year shall be deemed to be a continuation of the Assessment previously levied by the Association pursuant to the Budget adopted for the previous year and shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent year. No abatement of the Common Assessment or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to Association Properties or from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

9.9 Special Assessments for Capital Expenditures. After termination of Declarant's right to appoint members of the Board of Directors of the Association, in addition to Common Assessments, the Board of Directors may, subject to the provisions of this Section, levy and include in the budget Special Assessments for the purpose of raising funds not otherwise provided under the Budget from Common Assessments to construct or reconstruct, repair, or replace capital Improvements upon Association Properties, including necessary personal property related thereto; to add to the Association Properties; to provide for necessary facilities and equipment to offer the services authorized in this Declaration; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. The Board of Directors shall not levy Special Assessments without the vote of the Members representing at least sixty-seven percent (67%) of the voting power of all Members at a meeting, written notice of which shall be sent to all Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. Special Assessments shall be allocated in the same manner as Common Assessments. The Association shall notify Members in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable and the Members shall pay any such Special Assessment in the manner so specified.

9.10 Reimbursement Assessments. The Board of Directors may, subject to the provisions hereof, levy an Assessment against any Member if the willful or negligent failure of the Member or a Person claiming through the Member to comply with this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations shall have resulted in the expenditure of funds by the Association to cause such compliance. Such Assessment shall be known as a

Reimbursement Assessment and shall be levied only after approval by the Board. The amount of the Reimbursement Assessment for each Site shall be based upon such criteria and factors as the Board of Directors determines to be appropriate and shall be due and payable to the Association thirty (30) days after notice to the Member of the decision of the Board of Directors that the Reimbursement Assessment is owing.

9.11 Late Charges and Interest. If any Common Assessment, Special Assessment, or Reimbursement Assessment or any installment thereof is not paid within thirty (30) days after it is due, the Member obligated to pay the Assessment may be required to pay a reasonable late charge to be determined by the Board. Any Assessment or installment of an Assessment which is not paid within thirty (30) days after it is due shall bear interest from the due date at the rate of eighteen percent (18%) per annum, or such other rate as may be established by the Board from time to time.

9.12 Attribution of Payments. All Common Assessment payments shall be credited first to late fees, interest, attorneys' fees, and other costs of collection, and next to principal reduction, satisfying the oldest obligations first followed by more current obligations.

9.13 Notice of Default and Acceleration of Assessments. If any Common Assessment, Special Assessment, or Reimbursement Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Board of Directors may mail a notice of default ("Notice of Default") to the Owner and to each Mortgagee of the Site who has requested a copy of the notice. The notice shall specify (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is mailed to the Member, by which such default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Assessment or the installments of the Assessment against the Site of the Member. If the delinquent Assessment or installment and any late charges, legal fees or interest thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law in this Declaration, subject to the protection afforded to the Mortgagees under this Declaration.

9.14 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct, and personal debt and obligation of the Owner or Member against whom the same is assessed. In the event of a default in payment of any Assessment or installment thereof, whether Common, Special, or Reimbursement, the Board may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided.

9.15 Lawsuit to Enforce Assessments. The Board may bring suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charges, interest, and other costs of enforcement, including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Owner or Member.

9.16 Lien to Enforce Assessments. All Assessments against a Site (including late fees, interest, cost of collection and attorneys' fees) shall constitute a lien on such Site superior to all

other liens and encumbrances, except: (a) tax and special assessment liens in favor of any assessing authority; (b) liens and encumbrances recorded prior to recordation of this Declaration; and (c) all sums unpaid under a Mortgage encumbering a Site (“First Mortgage”) that has first priority over any other Mortgage encumbering such Site to the extent the Assessments were assessed after the First Mortgage is recorded. By acceptance of a deed for a Site, the Owner or Owners agree that the Assessment lien shall be prior to any homestead exemption or right and irrevocably waive any and all rights they may have to claim a homestead exemption against enforcement of the Assessment lien.

Notwithstanding the foregoing, the statutory lien for assessments is also prior to the lien of a First Mortgage to the extent of an amount equal to the assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution of an action to enforce or extinguish the statutory lien or the lien of the First Mortgage.

The recording of this Declaration constitutes record notice and perfection of the assessment lien. No further recordation of any claim of lien or assessment is required. However, to evidence such lien, the Association may Record a written notice setting forth the amount of such unpaid Assessments, the name of the Owner of the Site and the identification of the Site. Such notice shall be signed by one of the Board of Directors, an officer of the Association or an agent appointed by the Board and shall be recorded. The recording of a notice of lien shall not be a condition precedent to nor delay the attachment of a lien which shall attach as of the first day of any period for which any Assessment is levied. Such lien may be enforced by foreclosure on the defaulting Owner’s Site by the Association in the same manner as a mortgage on real property and shall encumber all rents and profits issuing from the Site, which lien on rents and profits shall be subordinate to the matters described in subparagraphs (a) and (b) above. The Association shall have the power to bid at the foreclosure sale and to acquire and hold, lease, mortgage and convey the Site. The Association shall have all of the rights and obligations with respect to enforcement of assessment liens which are set forth in the Act.

9.17 Estoppel Certificates. Upon the written request delivered personally or by certified mail, return receipt requested, first-class postage prepaid, addressed to the Association’s registered agent, of any Member or his designee and any Person with, or intending to acquire, any right, title, or interest in the Site of such Member, or of any Mortgagee or its designee, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Site and the Owner thereof, and setting forth the amount of any Assessment levied against such Site which is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, be sent to the requesting person within fourteen (14) days after receipt of the written request and, if sent within such time period, shall be conclusive against the Association and all Persons for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied.

9.18 No Offsets. The payment of Assessments is an independent covenant and all Assessments shall be payable in the amounts specified in the levy thereof without notice or demand (except as may be specifically required in this Declaration), and no offsets or reduction thereof

shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors in not properly exercising its duties and powers under this Declaration.

9.19 Other Liens. It is possible that liens other than mechanics' liens and Assessment liens may be obtained against Association Properties, including, without limitation, judgment liens, purchase money mortgage liens and liens for assessments imposed by any Subassociation created for a portion of the Community.

ARTICLE 10

MISCELLANEOUS

10.1 Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect for a period of thirty (30) years after the date this Declaration is Recorded, and thereafter shall be automatically extended for successive periods of ten (10) years each unless terminated by the vote, by written ballot, of Members holding at least ninety percent (90%) of the voting power of Members of the Association at duly constituted meetings of the Members. In the event this Declaration is terminated, the termination of this Declaration shall be evidenced by a termination agreement ("Termination Agreement"), or ratification thereof, executed by the requisite number of Owners. The Termination Agreement shall specify a date after which the Termination Agreement will be void unless Recorded before such date. The Termination Agreement shall be Recorded and the termination of this Declaration shall be effective upon such Recording.

10.2 Amendment of Declaration by Members. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provisions, covenant, condition, restriction, or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members of the Association holding at least sixty-seven percent (67%) of the voting power of the Association present in person or by proxy at duly constituted meetings of the Members, and during the Development Period, the written consent of Declarant. The approval of any such amendment or repeal shall be evidenced by the certification by the Board of Directors of the Association of the votes of Members. The amendment or repeal shall be effective upon the Recordation of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the required vote of the Members. Any Amendment to the Declaration made hereunder shall be effective only when Recorded. If HUD or VA has insured or guaranteed a mortgage on any Site, until termination of Declarant's right to appoint a majority of the Board of Directors, any amendment shall be approved by HUD or VA, as the case may be.

10.3 Member and First Mortgagee Approval. Notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

(a) Unless it has obtained the prior written consent of at least sixty-seven percent (67%) of the Members or the consent of sixty-seven percent (67%) of the First Mortgagees

of Sites (based on one vote for each First Mortgage held) and either the VA or HUD if either agency has insured or guaranteed a First Mortgage:

(i) seek to abandon or terminate the Declaration, whether by act or omission;

(ii) change the pro rata interest or obligations of any individual Site for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Association Properties (excluding the granting of permits, licenses, and easements for public utilities, roads, or other purposes reasonably necessary or useful for the proper maintenance or operation of the Association Properties);

(iv) amend any provisions of this Declaration or the Articles of Incorporation or By-Laws of the Association which are for the express benefit of First Mortgagees; or

(v) use hazard insurance proceeds for losses to any part of the Association Properties for other than the repair, replacement, or reconstruction of such part of the Association Properties.

(b) Unless, within thirty (30) days after receipt of written notice, a First Mortgagee or insurer or guarantor of a First Mortgage notifies the Association of its disapproval of any of the matters requiring their approval as provided herein, the approval of such First Mortgagee or insurer or guarantor of a First Mortgage shall be deemed to have been given.

10.4 Amendment of Articles and By-Laws. The Articles of Incorporation and By-Laws may be amended in accordance with the provisions set forth in such instruments and any applicable provisions of this Declaration or, in the absence of such provisions, in accordance with applicable provisions of the Colorado Revised Nonprofit Corporation Act.

10.5 Special Rights of First Mortgagees. Any First Mortgagee of a First Mortgage encumbering any Site in the Community which has filed a written request with the Association to be notified of any proposed action requiring First Mortgagee consents, shall be entitled to:

(a) Receive written notice from the Association of any default by the Mortgagor of such Site in the performance of the Mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default;

(b) Examine the books and records of the Association during normal business hours;

(c) Receive a copy of financial statements of the Association including any annual financial statement within ninety (90) days following the end of any fiscal year of the Association;

(d) Receive written notice of all meetings of Members;

(e) Designate a representative to attend any meeting of Members;

(f) Receive thirty (30) days' written notice prior to the effective date of any proposed material amendment to this Declaration, the Articles of Incorporation, or the By-Laws requiring consent of a certain percentage of First Mortgagees;

(g) Receive immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Association Properties, if the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000) and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Association Properties; and

(h) Receive written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

10.6 First Mortgagee Exemption from Rights of First Refusal. Any such First Mortgagee who obtains title to any Site pursuant to the remedies provided in the Mortgage held by such First Mortgagee or pursuant to any foreclosure of Mortgage or by deed or assignment in lieu of foreclosure shall be exempt from any right of first refusal if any such right of first refusal is ever contained in this Declaration or any Supplemental Declaration.

10.7 Priority of First Mortgage Over Assessments. Each First Mortgagee of a Mortgage encumbering a Site who obtains title to such Site pursuant to the remedies provided in the Mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure shall take title to the Site free and clear of any claims for unpaid Assessments or charges against such Site which accrued prior to the time such holder acquires title to such Site in excess of the amount of Assessments which is prior to the lien of the First Mortgage as provided in Section 9.16 above.

10.8 First Mortgagee Right to Pay Taxes and Insurance Premiums. Any such First Mortgagee or any such First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may or have become a charge against any of the Association Properties and may pay any overdue premiums on hazard insurance policies for any Association Properties, and the First Mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

10.9 Association Right to Mortgage Information. Each Owner hereby authorizes any First Mortgagee holding a Mortgage on such Owner's Site to furnish information to the Association concerning the status of such First Mortgage and the loan which it secures.

10.10 Amendment Required by Government Mortgage Agencies. Notwithstanding the provisions of Article 10 hereof, any provision, covenant, condition, restriction, or equitable

servitude contained in this Declaration which any Government Mortgage Agency requires to be amended or repealed may be amended or repealed solely by Declarant and no approval, consent, or vote of any other person or entity shall be required, other than the prior written consent of the VA or FHA if either agency has insured or guaranteed a Mortgage on a Site. Declarant's rights under this Section 10.10 shall terminate upon the expiration of the Development Period. Any such amendment or repeal shall be effective upon the Recordation of a certificate, executed by Declarant, setting forth the amendment or repeal in full. "Governmental Mortgage Agency" shall mean the FHA, the VA, the FHLMC, the GNMA, the FNMA, or any similar entity, public or private, authorized, approved, or sponsored by any governmental agency to insure, guarantee, make, or purchase Mortgage loans. "FHA" shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development, including such department or agency of the United States Government as shall succeed to the FHA in insuring notes secured by mortgages and deeds of trust on residential real estate. "VA" shall mean the Department of Veterans Affairs of the United States of America, including such department or agency of the United States Government as shall succeed to the VA in its present function of issuing guarantees with respect to notes secured by Mortgages on Residential Sites. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation or The Mortgage Corporation created by Title III of the Emergency Home Finance Act of 1970, including any successors thereto. "FNMA" shall mean the Federal National Mortgage Association, a governmental-sponsored private corporation established as such pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto. "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Urban Development, including any successor thereto.

10.11 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, facsimile, or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Site of such Person if no address has been given to the Association and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

10.12 Persons Entitled to Enforce Declaration. The Association, acting by authority of the Board, and any Member of the Association shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration against any property within the Community and the Owner thereof, as well as the family members, guests, invitees, and tenants of each Owner. The right of enforcement shall include the right to bring an action for damages as well as an action to enjoin any violation of any provision of this Declaration.

Notwithstanding any other provisions of this Declaration to the contrary, any action brought by the Association in which it seeks to recover an unspecified amount of damages or damages in excess of \$25,000.00 shall first be approved by the vote of the Members holding at least seventy-five percent (75%) of the voting power of the Association. All costs and fees to be incurred in connection with such action shall be described in a budget which is approved by the

vote of Members holding at least seventy-five percent (75%) of the voting power of the Association at the same time as the required vote of the Members is obtained to bring the action. Any expenditures in excess of such approved budget shall be approved as an amendment to the budget which is approved by the same percentage vote of the Members. The proposed litigation budget and a summary of the claims to be asserted in the action shall be mailed to all of the Members with a notice of the meeting describing the purpose of the meeting at least thirty (30) days prior to the date of the meeting. The costs and fees incurred in connection with such action shall be assessed against all of the Owners, other than the Owner against whom any such action is proposed, as a Special Assessment. Such costs and fees shall not be paid from Common Assessments. The Association may not bring an action for breach of warranty or other claims that do not arise out of a violation of the provisions of this Declaration. The foregoing requirements shall not apply to any action brought by the Association to collect assessments from Members or to obtain injunctive relief in connection with a violation of the provisions of this Declaration, whether or not the Association seeks to recover its costs of suit and attorneys fees.

10.13 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction, and equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

10.14 Enforcement of Self-Help. Declarant, any Principal Builder or the Association, or any authorized agent of any of them, may enforce, by self-help, any of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration.

10.15 Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Community is hereby declared to be a violation of this Declaration and shall be subject to any and all enforcement procedures set forth in this Declaration.

10.16 Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

10.17 Costs and Attorneys' Fees. In any action or proceeding under this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith including reasonable attorneys' fees.

10.18 Limitation on Liability. The Association, the Board of Directors, the Design Review Committee, Declarant, Principal Builders, and any Member, owner, officer, director, agent, or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

10.19 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, any Principal Builders, or their agents or employees in connection with any portion of the Community, or any Improvement thereon, its or their physical condition, zoning, compliance with applicable laws,

fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

10.20 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

10.21 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

10.22 Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability or partial validity or partial enforceability of the provisions or portion thereof shall not affect the validity or enforceability of any other provision.

10.23 Number and Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine, or neuter genders shall each include the masculine, feminine, and neuter genders.

10.24 Captions for Convenience. The titles, headings, and captions used in this Declaration are intended solely for convenience of reference and shall not be construed in construing any of the provisions of this Declaration.

10.25 Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving consolidated association may administer and enforce the covenants, conditions, and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other property as one plan.

10.26 Disclaimer Regarding Safety. DECLARANT AND PRINCIPAL BUILDERS HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. ANY OWNER OF PROPERTY WITHIN THE COMMUNITY ACKNOWLEDGES THAT DECLARANT AND PRINCIPAL BUILDERS ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

10.27 Recorded Easements. In addition to all easements and rights-of-way of record at or before recordation of this Declaration, the Community, and all portions thereof, shall be subject to the easements shown on any Recorded plat or map of the Community, or any portion thereof. Further, the Community, or portions thereof, is now or may hereafter be subject to the easements, licenses, and other recorded documents, or any of them, set forth on Exhibit C attached hereto and incorporated herein by this reference.

10.28 Association Books and Records. The Association shall make available to Owners, First Mortgagees of Sites, and insurers or guarantors of any such First Mortgage, current copies of this Declaration, and the Articles of Incorporation, By-Laws, Rules and Regulations, books, records, and financial statements of the Association, copies of which shall be maintained by the Association. The Association shall make available to prospective purchasers of Sites current copies of this Declaration, and the Articles of Incorporation, By-Laws, Rules and Regulations, and the most recent annual financial statement, if such is prepared, of the Association. The Association shall not be required to prepare audited financial statements. However, if there is no audited financial statement available, any First Mortgagee shall be allowed to have an audited financial statement prepared, at its expense, three (3) copies of which shall be provided to the Association. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances. The Association may charge a fee for the reasonable copying costs of any materials provided pursuant to this Section.

10.29 Statement of Unpaid Assessments. The Association shall provide to an Owner or its designee or to a holder of a security interest or its designee, upon written request, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Site, as provided in Section 9.17 above.

ARTICLE 11

ARBITRATION

11.1 Selection of an Alternative Dispute Resolution Process and Rejection of Litigation as a Remedy. By an Owner's purchase of a Site and by the Association's receipt of title to any Common Area, the Owner and the Association (which, together with the Declarant or other Development Party (as defined below), will be referred to in this Declaration as "Party" and "Parties") acknowledge that he/it is expressly agreeing to submit all disputes concerning a "Construction Defect Claim," (as defined herein below) within the Planned Community to the Dispute Resolution Process set forth in this Article 11 and further that he/it is waiving certain rights, including (1) waiving the right to proceed in any action against any Development Party (as defined below) or any Development Party's representatives or its respective former and present employees, agents, officers, directors, partners, successors assigns, sub-contractors and affiliates in any court; (2) waiving right to a trial by jury; and (3) waiving certain types of damages, including punitive or exemplary damages, treble damages, consequential damages, and damages for emotional distress and pain and suffering, subject to applicable law. The Parties expressly recognize the many benefits of electing alternative dispute resolution, including potentially reduced costs, and faster resolution of disputes. The Dispute Resolution Process consists of the following three phases including 1) Notification, Inspection, and Neutral Evaluation, 2) Mediation, and 3) Binding Arbitration. Notwithstanding any other provision contained in this Article 11, prior to the Association commencing the alternative dispute resolution process described in this Article 11, the Association shall obtain the informed consent thereto of at least sixty-seven percent (67%) of the Owners.

(a) For purposes of this Article 11, "Construction Defect Claim" shall mean a civil action or arbitration proceeding for damages, indemnity or contribution brought against a

"Development Party" to assert a claim, counterclaim, cross-claim or third-party claim for damages or loss to, or the loss of use of, real or personal property or personal injury caused by a defect in the design or construction of an Improvement to real property that is part of the Planned Community. "Development Party" means any architect, contractor, subcontractor, developer, Declarant or affiliate of Declarant, Principal Builder, builder, builder vendor, engineer, inspector, manufacturer or supplier of materials or any of such Development Party's affiliates, officers, directors, shareholders, members, managers, employers or servants performing or furnishing the design, supervision, inspection, construction or observation of the construction of any Improvement that is part of the Planned Community.

(b) First Phase: Notification, Inspection, and Neutral Evaluation. Notification, Inspection and Neutral Evaluation are condition precedents to mediation and arbitration.

(i) Notification. Any Party claiming to have suffered an injury, or claiming to have discovered a defect in the construction of any portion of his Site or the Improvements thereon, or a Common Area, shall deliver to Declarant (at the address provided in Section 12.8 hereof) a written notice as provided in this Section. The Notice shall contain the following:

A. The name and address of the claimant and the name and address of his attorney, if any;

B. A concise statement of the factual basis of the claim, including the date, time, place, and circumstances of the act, omission, or event complained of;

C. The name and address of any person responsible, if known;

D. A concise statement of the nature and the extent of the injury claimed to have been suffered or defect claimed; and

E. A statement of the amount of monetary damages that is being requested, and other remedy sought.

Notice shall be sent to the Declarant in one of the following manners: by registered mail or upon personal service by an uninterested third party upon the Declarant as provided in the Colorado Rules of Civil Procedure Rule 4.

(ii) Inspection. Within ten (10) days of receipt by Declarant of the above Notice, as set out in Section, the Declarant shall contact the complaining Party to set up an inspection of the Site and applicable Improvement(s) or Common Area. After said inspection, the Declarant and the complaining Party(ies) shall meet to determine whether they can agree to a course of action to address the concerns in a manner agreeable to all Parties. If the Parties cannot agree on a course of action, the Parties shall proceed to obtain a "Neutral Evaluation," as described in Section 11.1b.iii below.

(iii) Neutral Evaluation. The Parties shall select a neutral third party "evaluator" with expertise in the area in question to come to the Site and applicable Improvement(s) or Common Area and inspect and evaluate the claimed defects. If the Parties are unable to agree upon a single "evaluator" each Party shall select one evaluator, and the two evaluators shall select a third. The Parties shall share equally in the evaluator(s)' fees and expenses. After selecting the evaluator(s), the evaluator(s) shall conduct an inspection and make an initial determination including (a) whether there is a defect and (b) the most appropriate remedy for the defect. The Parties shall then meet to determine whether they can agree to a course of action to address the concerns. If the dispute is not resolved, the Parties shall proceed to mediation as provided in Section 11.1 c. below.

(c) Second Stage; Mediation. If the dispute cannot be resolved pursuant to the proceeding set forth in Section 11.1 b. above, mediation is a condition precedent to any further action. The Parties shall agree upon a neutral mediator, and attend a mediation with said person. If the Parties cannot agree upon a mediator, either Party may file an action, exclusively to cause the Adams District Court to appoint a neutral mediator. The Parties shall share equally in the mediator's fees and expenses, and all costs related thereto.

(d) Final Stage; Binding Arbitration. If mediation is not successful, and either Party wishes to pursue the dispute further, the Parties shall proceed to binding arbitration under the Uniform Arbitrator Act Part 2 of Article 22, of Title 13, C.R.S. The Parties shall select a neutral arbiter. If the Parties are unable to agree upon a single arbiter, each Party shall select one arbiter, and the two arbitrators shall select a third. The Parties shall share equally in the arbiter(s)' fees and expenses. If the two arbiters are unable to select a third arbiter, either Party may file suit for the sole purpose of asking a Court of competent jurisdiction to select the third arbiter. The Court shall be given a list of three arbiters by each Party. Arbitration shall be valid and binding pursuant to the Uniform Arbitration Act, C.R.S. § 13-22-203. In matters of construction standards, arbitrators will render a decision based upon whether the Declarant has met the NAHB Residential Construction Performance Guidelines. The arbitrator's decision will be final and binding upon the Parties who are subject to this Declaration and result in final resolution of the disputed items between the Parties. Judgment upon any award rendered by the arbitrator may be entered by any state or federal court, as appropriate. The decision of the arbitrator shall be final, and not appealable, except as provided under C.R.S. §13-22-201, et seq.

(d) Limitation of Remedies. OWNER AND ASSOCIATION HEREBY DISCLAIMS AND WAIVES ANY CLAIMS FOR THE FOLLOWING REMEDIES AND DAMAGES FOR ANY MATTERS RELATED TO A DISPUTE ARISING OUT OF ANY ALLEGED CONSTRUCTION DEFECT WITHIN THE PLANNED COMMUNITY, SITE OR IMPROVEMENT, WHETHER A CLAIM IS MADE ON THE BASIS OF CONTRACT, TORT OR ANY OTHER THEORY OR BASIS AT LAW OR IN EQUITY, EXCEPT AS OTHERWISE PROVIDED BY APPLICABLE LAW: (I) PUNITIVE, EXEMPLARY OR TREBLE DAMAGES, (II) CLAIMS FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING AND (III) CLAIMS FOR CONSEQUENTIAL DAMAGES.

EXHIBIT A
LEGAL DESCRIPTION
OF
COMMUNITY

TO BE COMPLETED PRIOR TO RECORDING.

EXHIBIT B
LEGAL DESCRIPTION
OF
POTENTIAL FUTURE ANNEXED PROPERTY

TO BE COMPLETED PRIOR TO RECORDING

EXHIBIT C

RECORDED EASEMENTS, LICENSES, AND OTHER DOCUMENTS

TO BE COMPLETED PRIOR TO RECORDING