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DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
HAMPSTEAD AT LOWRY

July 8, 2002

CERTIFICATION

The Clerk and Recorder for the
CITY AND COUNTY OF DENVER State
of Colorado does hereby certify this
document to be a full, true and
correct copy of the original
document recorded in my office.



Clerk and Recorder

by

Deputy County Clerk

Date

NOV 27 2002

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HAMPSTEAD
AT LOWRY**

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<u>Exhibit A</u> -	The Community
<u>Exhibit B</u> -	Common Elements
<u>Exhibit C</u> -	Certain Title Exceptions
<u>Exhibit D</u> -	Annexable Area
<u>Exhibit E</u> -	Dominant and Servient Lots

DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
HAMPSTEAD AT LOWRY

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF Hampstead ("Declaration") is made and entered into by Lowry Lifestyle LLC, a Colorado limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property situated in the City and County of Denver, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the Community is subject to that certain Master Declaration of Covenants, Conditions and Restrictions for the Lowry Community, recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado and the County of Arapahoe, Colorado, as supplemented and amended from time to time, and the covenants, restrictions, terms and other provisions contained therein, as more fully provided below; and

WHEREAS, Declarant, with the consent of the Master Declarant, desires to subject and place upon the property described on Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein; and

WHEREAS, a common interest community may be created pursuant to CCIOA (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

NOW, THEREFORE, Declarant hereby declares that a plat which includes the property described on the attached Exhibit A has been recorded and the Declarant further declares, with the consent of the Master Declarant, that all of the real property described on that attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which shall run with, the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

Section 1.1. *Agencies.*

"Agencies" mean the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development, including the Federal Housing Administration (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently

performed by any of such entities.

Section 1.2. *Allocated Interests.*

"Allocated Interests" means the share of Assessments and votes in the Association allocated to each Lot. The Allocated Interest for each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time.

Section 1.3. *Annexable Area.*

"Annexable Area" means the property described on Exhibit D attached hereto and incorporated herein by this reference, plus such additional real estate from such locations as the Declarant hereby reserves the right to elect in its sole discretion in an amount not to exceed the maximum permitted pursuant to CCIOA.

Section 1.4. *Assessment.*

"Assessment" means annual Assessments and special Assessments, which are provided for in this Declaration. For purposes of Sections 4.1, 4.4.2, 4.9 through 4.16, and 14.6 of this Declaration, "Assessment" means annual Assessments, special Assessments and late charges, fines, fees, interest, costs, expenses, reasonable attorneys' fees, and any other charges, which are provided for in this Declaration.

Section 1.5. *Association.*

"Association" means Hampstead at Lowry Homeowners Association, Inc., a community association as provided in CCIOA.

Section 1.6. *Board of Directors or Board.*

"Board of Directors" or "Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

Section 1.7. *CCIOA.*

"CCIOA" means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, et seq., as amended.

Section 1.8. *Common Elements.*

"Common Elements" means any property owned or leased by the Association other than a Lot subject to Section 15.7 (Conversions) of this Declaration) which exist for the common use of more than one of the Owners (except any Limited Common Elements). The Common Elements at the time of recordation of this Declaration are described on Exhibit B attached hereto and incorporated herein by this reference.

Section 1.9. *Community.*

"Community" means the real estate described on Exhibit A to this Declaration, as supplemented and amended from time to time, and with respect to which a Person, by virtue of such Person's ownership of a Lot, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in this Declaration. The Community is a planned community under CCIOA. The name of the Community is Hampstead at Lowry.

Section 1.10. *Declarant.*

"Declarant" means Lowry Lifestyle LLC, a Colorado limited liability company, and any other Person(s) acting in concert, to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds), and who:

1.10.1. As part of a common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Lot not previously disposed of to a purchaser; or

1.10.2 Reserves or succeeds to any Special Declarant Right.

Section 1.11. Declaration.

"Declaration" means this Declaration of Covenants, Conditions and Restrictions of Hampstead at Lowry and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, plats and maps.

Section 1.12. Design Review Committee or Committee.

"Design Review Committee" or "Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

Section 1.13. Development Rights.

"Development Rights" means the following rights or combination of rights hereby reserved by the Declarant, as such Development Rights may be further described in this Declaration, to:

1.13.1. add real estate to this Community, as provided in Section 15.5 of this Declaration (Annexation; Withdrawal);

1.13.2. subdivide or replat Lots, as provided in Section 15.8 of this Declaration (Subdivision or Replatting of Lots); or

1.13.3. withdraw real estate from this Community, as provided in Section 15.5 of this Declaration (Annexation; Withdrawal).

The Declarant may exercise its Development Rights in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any such development rights; further, the Declarant reserves the right to amend the Declaration, without the consent of any Owner, Security Interest Holder, or any other Person, to evidence the exercise of any Development Right. The Declarant's right to exercise Development Rights shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights).

Section 1.14. Dominant Lot

"Dominant Lot" means each Lot which has the right to use an Easement Area, as listed on Exhibit E attached hereto and incorporated herein by this reference (provided that said Exhibit E is subject to change as provided in Article 13 hereof). Each Dominant Lot has a perpetual easement for use of the Easement Area which is adjacent thereto, as provided in Article 13 hereof.

Section 1.15. Easement Area

"Easement Area" means the portion of each Servient Lot (as hereinafter defined) that is granted to or reserved for the perpetual use of the adjacent Dominant Lot, in accordance with and subject to the provisions of Article 13 hereof. An Easement Area shall generally and approximately consist of that portion of the Servient Lot which lies between the side property line and the nearest exterior sidewall of the dwelling unit on such Servient Lot, and which sidewall runs from a point on the front property line of such Servient Lot to a point on the rear property line of such Servient Lot, as if such sidewall were extended to the front and rear property lines. The Easement Area on each Servient Lot is adjacent to a Dominant Lot, as listed on the attached Exhibit E and as provided in a disclosure report given or to be given by the Declarant to the purchaser(s) of each Lot who purchase such Lot from the Declarant (both of which are subject to change as more fully provided in Article 13 hereof). Use of the Easement Area shall be exclusive to the Owner of the

appurtenant Dominant Lot for that portion of the Easement Area that is behind the front side yard fence of such Dominant Lot and non-exclusive for that portion that is in front of such front side yard fence.

Section 1.16. Improvements.

"Improvements" means all improvements, structures, and any appurtenances thereto or components thereof, of every type and kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, basketball hoops, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment. For purposes of Article 5 hereof and as used therein, the first sentence of this Section is modified to add the word "exterior" before the fourth word "improvements," such that Article 5 hereof only pertains to "exterior Improvements".

Section 1.17. Initially Unoccupied Lots.

"Initially Unoccupied Lots" means only those Lots which have not been conveyed to the initial Owner other than the Declarant.

Section 1.18. LDRC

"LDRC" means the Lowry Community Master Association Design Review Committee appointed to review plans for improvements on the property that is subject to the Master Declaration (as hereinafter defined), as more fully provided in the Master Declaration.

Section 1.19. Limited Common Elements.

"Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner(s) of a particular Lot or are limited to and reserved for the common use of the Owners or more than one, but less than all, of the Lots. The Limited Common Elements shall be used in connection with the applicable individual Lot to the exclusion of the use thereof by the other Owners, except by invitation. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance, or other instrument.

Section 1.20. Lot.

"Lot" means each platted lot included in the real property described on the attached Exhibit A, as the same may be resubdivided or replatted from time to time (subject to the restrictions contained in this Declaration), or any other real property as may hereafter be brought within the jurisdiction of the Association, with the exception of the Common Elements and any publicly dedicated property. Each Lot shall constitute a "unit" under CCIOA and it shall not be necessary to use the term "unit" as a part of a legally sufficient description of a Lot.

Section 1.21. Lots That May Be Included.

"Lots that May Be Included" means eighty (80) Lots, which shall be the maximum number of Lots that may be subject to this Declaration, including the Lots within the property described on the attached Exhibit A and those Lots which may be added if all of the Annexable Area is annexed to this Declaration. However, the aforesaid number of Lots that May Be Included is not a representation or a guarantee as to the actual number Lots that will ultimately be included in or constructed as part of the Community.

Section 1.22. Master Association.

"Master Association" means Lowry Community Master Association, Inc., a Colorado nonprofit corporation, as designated in the Master Declaration.

Section 1.23. Master Declarant.

"Master Declarant" means the Lowry Economic Redevelopment Authority, a separate legal entity established pursuant to C.R.S. Section 29-1-203 and an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado, dated August 1, 1994, and recorded at Filing No. 94-496A (also known as Auditor's No. XC4X040) in the office of the Clerk and Recorder of the City and County of Denver, as designated in writing by the United State of America, acting by and through the Secretary of the Air Force in accordance with Section 1.1.10 of the Master Declaration.

Section 1.24. Master Declaration.

"Master Declaration" means the document recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado and the County of Arapahoe, Colorado, entitled Master Declaration of Covenants, Conditions and Restrictions for the Lowry Community, as amended and supplemented from time to time.

Section 1.25. Member.

"Member" means all Owners of a Lot collectively or, following termination of the Community, of all former Owners entitled to distributions of proceeds under CCIOA or their heirs, personal representatives, successors or assigns. The Association shall have one (1) class of membership. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. Each Lot shall have one (1) membership in the Association and there is only one (1) Member per Lot, even if the Lot is owned by multiple Owners.

Section 1.26. Owner.

"Owner" means each fee simple title holder of a Lot, including without limitation, the Declarant or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation. There may be more than one (1) Owner of a Lot, but only one (1) Member for each Lot.

Section 1.27. Person.

"Person" means a natural person, a corporation, a partnership, an association, a trust, a limited liability company, a joint venture, or any other legal entity recognized under the laws of the State of Colorado.

Section 1.28. Security Interest.

"Security Interest" means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Section 4.11 of this Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of the County in which the property is located, show the Administrator as having the record title to the Lot.

Section 1.29. Security Interest Holder.

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Section 4.11 of this Declaration (Certificate

of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), the Administrator of Veterans Affairs, an Officer of the United States of America, and such Administrator's assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of the County in which the property is located, show the said Administrator as having the record title to the Lot), or any successor to the interest of any such Person under such Security Interest.

Section 1.30. *Servient Lot.*

"Servient Lot" means each Lot on which an Easement Area is located, as listed on the attached Exhibit E and as provided in a disclosure report given or to be given by the Declarant to the purchaser(s) of each Lot who purchase such Lot from the Declarant (both of which are subject to change as provided in Article 13 hereof). The Easement Area that is located on each Servient Lot is subject to a perpetual easement for use of such Easement Area by the adjacent Dominant Lot, as provided in Article 13 hereof.

Section 1.31. *75% Control Period.*

"75% Control Period" means a length of time expiring seven (7) years after initial recording of this Declaration in the City and County of Denver, Colorado. However, the 75% Control Period shall terminate earlier, upon the first to occur of the following events, if any, if any of the following occur within the time period that is specified in the first sentence of this Section: (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that May Be Included to Owners other than a Declarant; (b) two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business; or (c) two (2) years after any right to add new Lots to the Declaration was last exercised.

Section 1.32. *Special Declarant Rights.*

"Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements in the Community; to exercise any Development Right; to maintain sales offices, constructor offices, management offices, and signs advertising the Community and sale of Lots; to use, and to permit others to use, easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to merge or consolidate a Community of the same form of ownership; or to appoint or remove any officer of the Association or any Board of Directors member during any 75% Control Period. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically at such time as Declarant no longer owns any portion of the Property described on the attached Exhibits A and D.

ARTICLE 2. MEMBERSHIP AND VOTING RIGHTS

Section 2.1. *Association.*

The Association has been or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration and in its Articles of Incorporation and Bylaws. As more specifically set forth hereinafter, the Association shall have a Board of Directors to manage its affairs; except as hereinafter provided, the Board of Directors shall be elected by the Members.

Section 2.2. *Board of Directors.*

The number, term and qualifications of the Board of Directors shall be fixed in the Association's Articles of Incorporation and Bylaws. The Board of Directors may, by resolution, delegate portions of its

authority to an executive committee or to other committees, to officers of the Association or to agents and employees 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 the Members, except as otherwise specifically provided in this Declaration.

Section 2.3. *Voting Rights.*

Each Member shall be entitled to one (1) vote for each Lot owned except that no votes allocated to a Lot owned by the Association may be cast. The maximum number of votes which may be cast in connection with any matter shall be equal to the total number of Lots then existing within the Association.

ARTICLE 3. ASSOCIATION

Section 3.1. *Authority of Board of Directors.*

Except as provided in this Declaration, the Articles of Incorporation, or the Bylaws of the Association, the Board of Directors may act in all instances on behalf of the Association.

Section 3.2. *Election of Part of the Board of Directors During the 75% Control Period.*

No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that May Be Included to Owners other than a Declarant, at least one (1) director and not less than twenty-five percent (25%) of the directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that May Be Included to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board.

Section 3.3. *Authority of Declarant During 75% Control Period.*

Except as otherwise provided in this Article, during the 75% Control Period, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the 75% Control Period; but, in that event, the Declarant may require, for the duration of the 75% Control Period, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 3.4. *Termination of 75% Control Period.*

Not later than the termination of the 75% Control Period, the Members shall elect a Board of Directors, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers.

Section 3.5. *Delivery of Property by Declarant.*

After the Members other than the Declarant elect a majority of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by CCIOA.

Section 3.6. *Budget.*

Within thirty (30) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget

to all the Members and shall set a date for a meeting of the Members to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by the vote or agreement of Members to which at least sixty-seven percent (67%) of the votes in the Association are allocated, then the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members must be continued until such time as the Members ratify a subsequent budget proposed by the Board of Directors

Section 3.7. *Rules and Regulations.*

Rules and regulations affecting, concerning and governing the Lots, Common Elements, and/or this Community may be adopted, amended or repealed from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines (in accordance with Section 15.1 of the Declaration (Enforcement; Fines)) for the violation of any of such rules and regulations. The rules and regulations may state procedural requirements, interpretations and applications of the provisions of this Declaration, including without limitation, blanket requirements, blanket interpretations, and blanket applications. By way of example, and not by way of limitation, the Rules and Regulations may state that "reasonable" as used in Section 11.5 of this Declaration (Household Pets) means a specified number of pets. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration and all provisions hereof.

Section 3.8. *Association Books and Records.*

The Association shall make available to Owners, prospective purchasers, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of this Declaration, and the Articles of Incorporation, Bylaws, rules and regulations, books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

Section 3.9. *Information Regarding Security Interests.*

Each Member shall, within twenty (20) days of encumbering such Member's Lot with a Security Interest, and at other times upon request of the Association, provide the Association with the name and address of such Security Interest Holder, a copy of the instrument(s) creating the Security Interest(s), and the loan number(s) (or other identifying number of such Security Interest(s)). Within twenty (20) days after any change in the name or address of a Security Interest Holder on a Member's Lot, and at other times upon request of the Association, such Member shall provide the aforesaid information to the Association with respect to each Security Interest held by such Security Interest Holder.

Section 3.10. *Management Agreements and Other Contracts.*

Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the 75% Control Period shall be subject to review and approval by HUD or VA, if at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests (and if HUD or VA requires such approval), and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the 75% Control Period unless ratified by the Board of Directors that is elected subsequent to termination of the 75% Control Period.

Section 3.11. Cooperation with the Master Association, any Community Association(s) and/or any District(s).

The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with the Master Association, any community association(s) and/or any district(s), to share the costs and/or responsibility for any maintenance, repair, reconstruction, or other matters, to perform maintenance, repair or reconstruction for any Person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers, or others who may perform services for the Association and/or the Master Association and/or any community association(s) and/or any district(s), or to otherwise cooperate with the Master Association, any community association(s), or any district(s), in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or the Master Association and/or any community association(s) and/or any district(s), as the Board of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with the Master Association, one or more community association(s) and/or district(s) to collect Assessments, other charges, or other amounts which may be due to the Master Association, any community association(s) and/or district(s) and to permit the Master Association, any community association(s) and/or district(s) to collect Assessments, other charges, or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity(ies) of any amounts collected by the Association or to the Association of any amounts collected by such entity(ies).

Section 3.12. Merger.

The Declarant hereby reserves the right to merge the Association with one or more other common interest communities without the approval of any Owner or any other Person. This right shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights).

ARTICLE 4. ASSESSMENTS

Section 4.1. Personal Obligation for Assessments.

Each Owner of a Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association any and all Assessments as provided in this Declaration; with such Assessments to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all Assessments attributable to their Lot. Each Assessment shall be the personal obligation of the Owner of such Lot at the time when the amount became due. The personal obligation for delinquent amounts (including Assessments) shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 4.2. Purpose of Assessments.

The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements but may be used to maintain capital Improvements.

Section 4.3. *Initial Annual Assessment.*

Until the effective date of an Association budget ratified by the Members with a different amount for the annual Assessments, as provided above, the amount of the annual Assessment against each Lot shall not exceed Eighteen Hundred and no/100 Dollars (\$1,800.00) per annum, exclusive of any amounts due to the Master Association, any other community association and/or any other Person or entity. However, the rate of the Assessments paid by Initially Unoccupied Lots shall be less than those paid by the other Lots, as provided in the next Section.

Section 4.4. *Rate of Assessment.*

4.4.1. Annual and special Assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned among the Lots in accordance with their Allocated Interests. Notwithstanding the foregoing, however, the amount of the annual Assessments and special Assessments against the Initially Unoccupied Lots shall be set at a lower rate than that charged against other Lots, because the Initially Unoccupied Lots receive and benefit from fewer services funded by the Assessments than the other Lots. Colorado Revised Statutes §38-33.3-315(3)(b) states that "Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited." Based on this provision, the Initially Unoccupied Lots shall pay annual and special Assessments at the rate of forty percent (40%) of any annual Assessment or special Assessment charged to Lots other than the Initially Unoccupied Lots. The annual Assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired and replaced on a periodic basis, and for the payment of insurance deductibles.

4.4.2. During the 75% Control Period, the Declarant may in its discretion, but shall not be required to, cover certain costs of the Association by payment of any amount(s), which shall be treated as an advance against Assessments then or thereafter due from the Declarant; provided, however, that any such advances which have not been credited against Assessments due from the Declarant as of termination of the 75% Control Period shall then be repaid by the Association to the Declarant, without interest, to the extent that the Association has funds in excess of reserve funds and operating expenses to date for the calendar year in which the 75% Control Period terminates; and provided further, however, that any of such advances which are not repaid to the Declarant shall continue to constitute advances against Assessments then or thereafter due from the Declarant until automatic termination of the Special Declarant Rights as provided in Section 1.32 of this Declaration (Special Declarant Rights). If the Declarant elects in its discretion to pay any amounts as provided in this subsection, Declarant shall not, under any circumstances, be obligated to continue payment or funding of any such amount(s) in the future.

Section 4.5. *Date of Commencement of Annual Assessments.*

Annual Assessments shall commence at such time as the Board of Directors may determine in its discretion. After any annual Assessment has been made by the Association, annual Assessments shall initially not be greater than the amount set forth in Section 4.3 of this Declaration (Initial Annual Assessment), and thereafter shall be based on a budget adopted by the Association as provided in this Declaration. A budget shall be so adopted by the Association no less frequently than annually. The annual Assessments shall be due and payable in quarterly installments, in advance, or on such other dates, and with such frequency (which may be other than quarterly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time, provided that the first annual Assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

Section 4.6. *Special Assessments.*

In addition to the annual Assessments authorized in this Article, the Board of Directors may levy, in

any fiscal year, with the approval of the votes of sixty-seven percent (67%) of a quorum of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special Assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon the Common Elements or any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said Common Elements or real property, or for the funding of any deficit of the Association. Any such special Assessment shall be set against each Lot in accordance with the Allocated Interests set forth in this Declaration, except that the rate of special Assessments against Initially Unoccupied Lots shall be set as provided in Section 4.4.1 of this Declaration. A meeting of the Members called for the purpose of considering the establishment of a special Assessment shall be held in conformance with Section 4.7 of this Declaration (Notice and Quorum for Any Special Assessments). Notwithstanding the foregoing, special Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.

Section 4.7. *Notice and Quorum for Any Special Assessments.*

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6 of this Declaration (Special Assessments) shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the Association votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.8. *Assessments/Charges for Services to Less Than All Lots.*

The Association may, at any time from time to time, provide services to any other area(s) (containing less than all of the Lot(s)) in the Community. If such services are not funded by the Association's annual or special Assessments, then such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service is to be provided, with such agreement to include a statement and terms for payment of the costs, fees and expenses that are to be paid by such Owners for such services, and which amounts shall include overhead expenses of the Association. Services which may be provided by the Association pursuant to this Section (and which are not to be provided to all of the Lots) may include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to or for such area(s); (c) the payment of taxes or other amounts for Owners with funds provided by such Owners; (d) the procurement of insurance for such Owners; and (e) the appointment and supervision of a manager(s) for an area.

Section 4.9. *Lien for Assessments.*

4.9.1. The Association has a statutory lien on a Lot for Assessments levied against that Lot or the Owner thereof, including for fines imposed against the Lot's Owner (in accordance with Section 15.1 of this Declaration (Enforcement; Fines)). The terms, provisions and policies for fines, including without limitation the amount(s), due date(s) and levying thereof, may be established by the Board of Directors (in accordance with Section 15.1 of the Declaration (Enforcement; Fines)), at any time from time to time, by resolution or other action of the Board. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

4.9.2. Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the Assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Section 4.10. *Priority of Association Lien.*

4.10.1 A lien under this Article is prior to all other liens and encumbrances on a Lot except:

4.10.1.1. Liens and encumbrances recorded before the recordation of the Declaration;

4.10.1.2. A Security Interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the amount(s) due to the Association became delinquent; and

4.10.1.3. Liens for real estate taxes and other governmental assessments or charges against the Lot.

4.10.2. A lien under this Section is also prior to the Security Interests described in the preceding subsection 4.10.1.2 to the extent, if any, provided in CCIOA.

4.10.3. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association.

4.10.4. The Association's lien on a Lot for Assessments shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Association lien.

Section 4.11. *Certificate of Status of Assessments.*

The Association shall furnish to an Owner or such Owner's designee, or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally (including delivery by telefax) or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid Assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 4.12. *Effect of Non-Payment of Assessments; Remedies of the Association.*

Any Assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors, and the Board of Directors may assess thereon a monthly late charge in such amount as may be determined, from time to time, by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include reasonable attorney's fee to be fixed by the court, together with the costs of the action and interest (as provided above) and may include late charges. No Owner may be exempt

from liability for payment of any Assessment by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Lot against which the Assessments are made, or because of dissatisfaction with the Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

Section 4.13. *Surplus Funds.*

Any surplus funds of the Association remaining after payment of or provision for Assessments, and any prepayment of or provision for reserves, shall be retained by the Association and need not be paid to the Owners or credited to them to reduce their future Assessments.

Section 4.14. *Working Capital Fund.*

The Association shall require the first Owner (other than the Declarant) of any Lot who purchases that Lot from the Declarant to make a non-refundable contribution to the Association in an amount equal to Three Hundred and 00/100 Dollars (\$300.00) (regardless of whether or not Assessments have commenced as provided in Section 4.5 of this Declaration (Date of Commencement of Annual Assessments)). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall, until use, be maintained for the use and benefit of the Association, including, without limitation, to meet expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as the same become due.

Section 4.15. *Other Charges.*

The Association may levy and assess charges, costs and fees for matters such as, but not limited to, the following, in such reasonable amounts(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement of charges that are made to the Association by its managing agent or other Person: copying of Association or other documents; return check charges; charges for telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Lot; charges for notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s).

Section 4.16. *Charges for Misconduct.*

If any Association expense is caused by the misconduct of any Owner, as determined by the Board of Directors, the Association may assess that Association expense exclusively against such Owner and such Owner's Lot.

ARTICLE 5. DESIGN REVIEW COMMITTEE

Section 5.1. *Review and Approval by LDRC.*

Notwithstanding anything to the contrary contained herein and as more fully provided in the Master Declaration, no Improvement shall be constructed, erected, placed, planted, applied or installed on any Lot, until the same has been submitted to and approved by the LDRC, in accordance with all guidelines, rules, regulations and requirements for submission and processing of requests for approval promulgated, enacted, adopted, amended, interpreted, repealed and reenacted by the Board of Directors of the Master Association or the LDRC from time to time.

Section 5.2. *Delegation (and Acceptance) of Architectural Review and Approval.*

Whoever has the right to appoint the Design Review Committee may delegate any or all architectural review and/or approval functions pursuant to this Declaration to the LDRC and may accept from the LDRC delegation of any or all review and/or approval functions of the LDRC. However, the party with the right to

appoint the Design Review Committee may, at any time, determine to reclaim any delegated rights. To reclaim any delegated rights, written notice must be given to the Board of Directors of the Master Association that such right(s) are being reclaimed, and the reclamation shall be effective upon receipt of the notice by the Board of Directors of the Master Association. No delegation of architectural review and/or approval to the Master Association shall constitute a waiver of the Association's right of architectural review and/or approval as provided in this Declaration.

Section 5.3. *Composition of Committee; Appointment and Authority of Representative.*

5.3.1. The Design Review Committee shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until automatic termination of the Special Declarant Rights as provided in Section 1.32 of this Declaration (Special Declarant Rights), the Declarant may appoint the Design Review Committee. The power to "appoint" the Design Review Committee, as provided herein, shall include without limitation the power to: constitute the initial membership of the Design Review Committee; appoint member(s) to the Design Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Design Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

5.3.2. The Committee may at any time, from time to time, appoint a representative to act on its behalf. If the Committee does so, then the actions of such representative shall be the actions of the Committee, subject to the right of appeal as provided below. However, if such a representative is appointed by the Committee, then the Committee shall have full power over such representative, including without limitation the power to at any time withdraw from such representative any of such representative's authority to act on behalf of the Committee and the power to at any time remove or replace such representative.

Section 5.4. *Review and Approval by Committee; Reimbursement for Expenses; Requirement for Approval by Governmental Entities.*

Except as provided in Sections 5.14 (Variance) and 5.17 (Declarant's Exemption) of this Declaration, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved by the Design Review Committee.

5.4.1. The Design Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residence, landscaping and structures.

5.4.2. In its review of such plans, specifications and other materials and information, the Design Review Committee may require that the applicant(s) reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the Assessment against the Lot for which the request for Design Review Committee approval was made, but shall be subject to the Association's lien for Assessments and subject to all other rights of the Association for the collection of such Assessments, as more fully provided in this Declaration.

5.4.3. In addition to the required approvals by the Design Review Committee as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction

thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the City and County of Denver, Colorado and/or any other governmental entity having jurisdiction, if required, shall be a precondition to commencement of any construction or alteration of, addition to or change in any Improvement.

Section 5.5. *Procedures.*

The Design Review Committee shall decide each request for approval within forty-five (45) days after the complete submission of all plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Design Review Committee fails to decide any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then such request shall be deemed to have been denied by the Committee.

Section 5.6. *Design Guidelines.*

The Design Review Committee, with the advice of the Board of Directors, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce, a manual of Design Guidelines for the Community, or other design or architectural guidelines, to interpret and/or implement any provisions of this Article and the Declaration. Without limiting the generality of the foregoing, such provisions may contain guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the Committee, may state procedural requirements, or may specify acceptable Improvement(s) that may be installed without the prior approval of the Design Review Committee. Any architectural or design guidelines so adopted by the Committee shall be consistent, and not in conflict, with this Article, this Declaration and the Master Declaration.

Section 5.7. *Vote and Appeal.*

A majority vote of the Design Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Design Review Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Committee, upon a written request therefor submitted to the Committee within thirty (30) days after such decision by the Committee's representative.

Section 5.8. *Prosecution of Work After Approval.*

After approval of a request for architectural approval, the work to complete the same shall be accomplished as promptly and diligently as possible and in complete conformity with the approval. Failure to complete the proposed Improvement within (1) year after the date of approval of the application therefor, or to complete the Improvement in accordance with the description and materials furnished to the Committee and the conditions imposed with such approval, shall constitute a violation of this Article; provided, however, that the Design Review Committee, in its discretion, may grant extensions of time for completion of any proposed Improvements.

Section 5.9. *Notice of Completion.*

Upon completion of the Improvement, the applicant for approval of the same ("Applicant") shall give a written "Notice of Completion" to the Design Review Committee. Until the date of receipt of such Notice of Completion, the Committee shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

Section 5.10. *Inspection of Work.*

The Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement prior to, during or after completion of the same, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with this Article and any approval therefor granted by the Committee. However, unless the Committee expressly states, in a written document, that an Improvement is being completed or has been completed in conformance with the approval therefor, no such conformance shall be implied from inspection of the Improvement either during the work or after completion thereof.

Section 5.11. *Notice of Noncompliance.*

If, as a result of inspections or otherwise, the Design Review Committee finds that any Improvement has been done without obtaining the approval of the Committee, or was not done in substantial compliance with the approval that was granted by the Committee, or was not completed within the time frame that is provided for in Section 5.8 (Prosecution of Work After Approval), the Committee shall notify the Applicant in writing of the noncompliance; which notice shall be given ("Notice of Noncompliance"), in any event, within sixty (60) days after the Committee receives a Notice of Completion from the Applicant. The notice shall specify the particulars of the noncompliance.

Section 5.12. *Correction of Noncompliance.*

If the Design Review Committee determines that a noncompliance exists, the Applicant shall remedy or remove the same, and return the subject property or structure to its original condition within a period of not more than forty-five (45) days from the date of receipt of the Notice of Noncompliance. If the Applicant does not comply with the Committee's ruling within such period, the Committee may, at its option and with the prior approval of the Board of Directors, record a Notice of Noncompliance against the property on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand by the Board, for all costs and expenses incurred with respect thereto.

Section 5.13. *Records.*

The Design Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 5.14. *Variance.*

The Design Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 11 of this Declaration (Restrictions), in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 5.15. *Waivers; No Precedent.*

The approval or consent of the Design Review Committee or any representative thereof to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee or any representative thereof as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 5.16. *Liability.*

The Design Review Committee, and any members thereof, shall not be liable in equity or damages

to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within their jurisdiction hereunder. In reviewing any matter, the Design Review Committee shall not be responsible for the safety, whether structural or otherwise, of the Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor any other matters, and any approval of an Improvement by the Design Review Committee shall not be deemed an approval of any of the same. No Member or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Design Review Committee.

Section 5.17. *Declarant's Exemption.*

Notwithstanding anything herein to the contrary, until automatic termination of the Special Declarant Rights as provided in Section 1.32 of this Declaration (Special Declarant Rights), the Declarant shall be exempt from the provisions of this Article except for the requirements to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 5.4.3 hereof).

ARTICLE 6. INSURANCE

Section 6.1. *Insurance.*

The Association shall maintain insurance in connection with the Common Elements. The Association shall maintain insurance as required by applicable law or applicable regulation, including CCIOA, which insurance shall include, without limitation, property insurance, commercial general liability insurance, and fidelity coverage. In addition, the Association may maintain insurance on such other property and/or against such other risks as the Board of Directors may elect in its discretion from time to time, including, but not limited to: property insurance covering the structure located on each Lot; personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association; and worker's compensation insurance.

Section 6.2. *General Provisions of Insurance Policies.*

All policies of insurance carried by the Association shall comply with this Section. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until at least thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation by the insurer against any Owner or member of such Owner's household. Further, all policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

Section 6.3. *Deductibles.*

The Association may adopt and establish written non-discriminatory policies and procedures relating to the responsibility for deductibles. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association, may be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, may be apportioned among the Persons sharing in a joint duty of repair and maintenance, and/or may be partly or wholly borne by the

Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question in such amount(s) as the Board of Directors deems appropriate.

Section 6.4. *Payment of Insurance Proceeds.*

Any loss covered by an insurance policy described in Section 6.1 of this Declaration (Insurance) must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to Section 8.1 of this Declaration (Damage or Destruction), the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored and any budget or reserve deficit funded, or unless the Community is terminated.

Section 6.5. *Association Insurance as Primary Coverage.*

If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. Any such Owner's policy shall also contain waivers of subrogation. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner.

Section 6.6. *Acceptable Insurance Companies.*

Each insurance policy purchased by the Association must be written by an insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

Section 6.7. *Insurance to be Maintained by Owners.*

An insurance policy issued to the Association does not eliminate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Owner's Lot and the Improvements thereon, as well as on all the furnishings and personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot. Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Lot other than the purchase by the initial Owner(s) from the Declarant. In the event the insurance policies underwritten by different insurers are held by Owners or are held by one or more Owners and the Association, then the Owner shall be responsible for ensuring that such Owner's insurer agrees, in the event damage occurs to the covered property, to facilitate payment of the insurance proceeds of such Owner's policies such that the insurer will pay all undisputed proceeds and, as to disputed proceeds, a fraction equal to one divided by the total number of damaged Lots (up to the amount of coverage provided by such insurance), subject to the right of each insurer to recover from the other insurer(s) any such sums for which the other insurer(s) are found to be liable.

ARTICLE 7. PARTY WALLS

Section 7.1. *Definition.*

For purposes of this Article, "Party Wall" means any wall which is part of the original construction of the structures located on Lots as such wall(s) may be repaired or reconstructed from time to time, is placed on or immediately adjacent to a Lot line, and separates two (2) or more structures as a common wall. "Party Wall" includes any two walls which meet the foregoing criteria and which are separated by a small amount of air space.

Section 7.2. *General Rules of Law to Apply.*

To the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 7.3. *Sharing of Repair and Maintenance.*

The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the Party Wall in proportion to such use.

Section 7.4. *Destruction by Fire or Other Casualty.*

If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall may restore it, and if any other Owner thereafter makes use of the Party Wall, each such Owner shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from one or more others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 7.5. *Weatherproofing.*

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

Section 7.6. *Right to Contribution Runs with Land.*

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

Section 7.7. *Arbitration.*

In the event any dispute arises concerning a Party Wall, under the provisions of this Article, such dispute shall be resolved as follows unless such dispute is subject to Article 14 of this Declaration (Dispute Resolution): each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators; should any party fail or refuse to appoint an arbitrator within ten (10) days after written request therefor by the Owner with whom such party shares a Party Wall, the Board of Directors shall select an arbitrator for the refusing party. The parties to the arbitration shall share the costs thereof, but each party shall pay its own attorneys' fees.

ARTICLE 8. DAMAGE OR DESTRUCTION

Section 8.1. *Damage or Destruction.*

8.1.1. Any portion of the Community for which casualty insurance is required to be carried by the Association under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless;

8.1.1.1. The Community is terminated;

8.1.1.2. Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

8.1.1.3. The Members casting sixty-seven percent (67%) of the Association votes, in person or by proxy, including every Member whose residence will not be rebuilt, vote not to rebuild; or

8.1.1.4. Prior to conveyance of any Lot to a Person other than the Declarant, a Security Interest Holder rightfully demands all or a substantial part of the insurance proceeds;

8.1.2. The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is an Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Assessment liability of all the Lots.

Section 8.2. *Use or Distribution of Insurance Proceeds as to Common Elements.*

In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed area(s), the Association shall levy a special Assessment in the aggregate amount of such insufficiency pursuant to Section 4.6 of this Declaration (Special Assessments), but without approval of the Members, and shall proceed to make such repairs or reconstruction. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and any Security Interest Holders of their respective Lots. The Assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Lot and the Improvements thereon.

Section 8.3. *Use or Distribution of Insurance Proceeds as to Lots.*

Except as otherwise provided in Section 8.1 of this Declaration (Damage or Destruction), any damage to or destruction of any structure located on a Lot shall be promptly repaired and reconstructed by the Owner(s) thereof. "Repaired and reconstructed," as used in this Section, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. If the Owner(s) of a Lot do not commence repair or reconstruction activities within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Design Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Section 9.2 of this Declaration (Association's Right to Repair, Maintain and Reconstruct), enter upon the Lot and complete such repair or reconstruction. If the Members vote not to rebuild any Lot, that Lot's Allocated Interests are automatically reallocated upon the vote as if the Lot had been condemned as provided in Section 15.15 of this Declaration (Eminent Domain), and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting such reallocation.

ARTICLE 9. EXTERIOR MAINTENANCE

Section 9.1. *General.*

9.1.1. Maintenance, repair or replacement of the Common Elements and all Improvements located thereon, and of any drainage structure or facilities, pedestrian and vehicular access and

roadways, or other public Improvements required by the local governmental entity as a condition of development of the Community or any part thereof, shall be the responsibility of the Association, unless such Improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Without limiting the generality of the foregoing, the Association shall maintain and repair the Common Elements and the Improvements thereon, and any drainage structure or facilities pedestrian and vehicular access, alleys and roadways. Further, the Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated property and Improvements located thereon. The costs to be expended for such maintenance and repair shall, subject to Section 9.4 of this Declaration (Owner's Acts or Omissions), be collected by the Association as Assessments as provided in Article 4 of this Declaration (Assessments).

9.1.2. The Association shall provide the following maintenance (but not repair or replacement) services to each Lot: maintenance of standard landscaping (i.e., standard landscaping installed by Declarant but not upgrades or Owner installed), to include trees, shrubs, rock/mulch areas and sprinkler systems; and limited snow removal (as determined by the Board of Directors in its discretion from time to time) from private walks and driveways, and front porch to entry door; maintenance of landscaping in the Landscaping Easement; and maintenance of perimeter fencing that is located on or adjacent to the Landscaping Easement. The Owner of each Lot shall provide and pay for the water for irrigation of landscaping on the Lot, and the Association may attach an electric clock for landscaping irrigation to the electric meter of any Lot, with the cost thereof, being nominal, to be the cost of the Owner of that Lot, without the obligation of the Association to reimburse such Owner for electrical or other utility charges. The setting of the electric clock for the landscaping on each Lot, the time(s) for watering of such landscaping and the amount(s) of water to be used shall be determined solely by the Board in its discretion, from time to time.

9.1.3. Notwithstanding Section 9.1.2 hereof, the Members of the Association, with the approval of sixty-seven percent (67%) of a quorum of Members voting in person or by proxy at a duly held meeting of the Association at which a motion to provide for such vote has been announced in the notice of the meeting, may decide to have the Owners, rather than the Association, perform any or all of the maintenance that is provided for in Section 9.1.2 hereof or may decide to have the Association perform maintenance, repair and/or replacement that is in addition to the maintenance that is provided for in Section 9.1.2 hereof. The Association or Owners may thereafter be designated to perform such maintenance by the same percentage vote, and in the same manner, as is provided for in this Section 9.1.3.

9.1.4. Except as provided in subsections 9.1.1, 9.1.2 and 9.1.3 above, the maintenance, repair and replacement of each Lot, and the Improvements thereon, shall be performed by the Owner(s) thereof at such Owner's sole cost and expense. However, the foregoing is subject to the provisions of Section 9.4 of this Declaration (Owner's Acts or Omissions).

Section 9.2. Association's Right to Repair, Maintain and Reconstruct.

In the event any Owner shall fail to perform the maintenance, repair and/or reconstruction obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owner by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or reconstruction. The cost of such maintenance, repair or reconstruction shall be the personal obligation of the Owner of the Lot on which such work is performed.

Section 9.3. *Non-Interference with Grade and Drainage; Irrigation Recommendations Around Foundations and Slabs.*

Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way change, interfere with or obstruct the established drainage pattern over any real property, from adjoining or other real property. Any change in established drainage must have the prior, written approval of the Design Review Committee and shall also be made in accordance with all laws, regulations and resolutions of all applicable governmental entities.

9.3.1. The occupant of a Lot, including the Owner thereof, should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within four (4) feet of the foundation of the residence or any slab on the Lot. If evergreen shrubbery is located within four (4) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within four (4) feet of foundation walls and slabs.

9.3.2. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading by the Declarant is completed.

Section 9.4. *Owner's Acts or Omissions.*

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, a Lot, or any Improvements located thereon, is caused by the act or omission of any Owner, or by the act or omission of any member of such Owner's family or by a tenant, guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado. A determination of the act or omission of any Owner, or any member of an Owner's family or a tenant, guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be made by the Association at a hearing after notice to the Owner.

ARTICLE 10. EASEMENTS

Section 10.1. *Easements.*

In addition to any other easements which may be granted or reserved elsewhere in this Declaration, the following Sections describe easements to which the Community is or may be subject.

Section 10.2. *Maintenance, Repair and Replacement, Right of Access and Easement.*

Each Owner hereby grants to the Association and the other Owners, and to their agents and employees and contractors, a right and easement on, over, across and through such Owner's Lot for maintenance, repair and replacement as provided in this Declaration, including without limitation as provided in Article 9 of this Declaration (Exterior Maintenance). If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Lot, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot; except that no such notice shall be required in connection with any exterior, non-intrusive maintenance, repair and/or replacement; and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants of each affected Lot shall be warned of impending emergency entry as early as is reasonably possible.

Section 10.3. *Utilities and Drainage Easement.*

10.3.1. Declarant hereby reserves a blanket easement upon, across, over and under the Common Elements for utilities and the installation, use, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect, use, and maintain the necessary facilities equipment and appurtenances on the Common Elements and to affix, use, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Section 1.32 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

10.3.2. In addition to the easements described in Section 10.3.1 above and those easements shown on the plat(s) of the Community, Declarant hereby reserves, to itself and to the Association, easements for drainage and drainage facilities across the five (5) rear and five (5) side feet of each Lot. No Improvements (except fencing or landscaping with the prior written approval of the Design Review Committee) shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each five foot rear and side yard drainage easements, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Section 1.32 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest solely in the Association.

Section 10.4. *Easement for Encroachments.*

To the extent that any Lot or Common Elements encroaches on any other Lot or Common Elements, a valid easement for the encroachment exists.

Section 10.5. *Fence and Landscaping.*

The Declarant has granted to the Association an easement as more fully provided in that certain Fence and Landscaping Easement recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado.

Section 10.6. *Use Easements*

Article 13 of this Declaration (Use Easements) provides for an Easement Area that is located on specified Lots for the benefit of specified Lots. The terms and provisions of such easements are more fully provided in said Article 13.

Section 10.7. *Easement for Unannexed Property.*

The Declarant hereby reserves, for the use and benefit of the Annexable Area, a non-exclusive, perpetual easement and right-of-way on, over, across and under the Common Elements for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use

of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for utilities services to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community pursuant to Section 15.5 of this Declaration (Annexation; Withdrawal). Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE 11. RESTRICTIONS

Section 11.1. *General Plan.*

It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots.

Section 11.2. *Restrictions Imposed.*

This Community is subject to the recorded easements, licenses and other matters listed on Exhibit C, attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 11.3. *Compliance with Master Declaration and LDRC.*

All Owners and any other Persons who reside upon or use any portion of the Community shall comply with all terms and provisions of the Master Declaration, Articles of Incorporation, Bylaws and rules and regulations of the Master Association, as the same may be promulgated, enacted, adopted, amended, interpreted, repealed, reenacted, and enforced, from time to time. Without limiting the generality of the foregoing, all Persons shall comply with all submission, processing, and other requirements of the LDRC.

Section 11.4. *Residential Use.*

Subject to Section 15.9 of this Declaration (Declarant's Use), Lots shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that the following conditions are satisfied

11.4.1. The business conducted is clearly secondary to the residential use of the home and is conducted entirely within the home;

11.4.2. The existence or operation of the business is not detectable from outside of the home by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

11.4.3. The business does not result in an undue volume of traffic or parking within the Community, which determination may be made by the Board of Directors in its sole discretion from time to time;

11.4.4. The business conforms to all zoning requirements and is lawful in nature; and

11.4.5. The business conforms to any rules and regulations that may be imposed by the Board of Directors from time to time on a uniform basis to protect the peace, tranquility and quality of the Community.

Section 11.5. *Household Pets.*

No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Lots. The Association shall have, and is hereby given, the right and authority to: set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine in its sole discretion that any dog(s), cat(s) or other household pet(s) are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; determine that an Owner is in violation of the leash laws of the applicable jurisdiction and other applicable governmental laws, ordinances, or other provisions related to pets; or determine that an Owner is otherwise in violation of the provisions of this Section. In any of the foregoing instances, the Association may take such action or actions as it deems appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets.

Section 11.6. *Temporary Structures; Unsightly Conditions.*

Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a street or from any other Lot.

Section 11.7. *Miscellaneous Improvements.*

11.7.1. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent" or security sign(s) of not more than a total of five (5) square feet. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Lots, or otherwise in connection with development of or construction on the Lots, shall be permissible.

11.7.2. No wood piles or storage areas shall be so located on any Lot as to be visible from a street or from the ground level of any other Lot.

11.7.3. No types of refrigerating, cooling or heating apparatus shall be permitted on a roof. No such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Design Review Committee subject to any provisions of the Design Guidelines.

11.7.4. Except as may otherwise be permitted by the Design Review Committee, no exterior radio antennae, television antennae, or other antennae, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction upon the Lots; and provided further, however, that the requirements of this subsection shall not apply to those "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended from time to time. As to "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended, the Association shall be empowered to adopt rules and regulations governing

the types of "antennae" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

11.7.5. No fences shall be permitted except, subject to any provisions of the Design Guidelines, with the prior, written approval of the Design Review Committee and except such fences as may be constructed, installed or located by the Declarant in its development of, or construction of Improvements in, the Community.

11.7.6. No wind generators, clotheslines, drying yards, or service yards, shall be constructed, installed, erected or maintained on any Lot.

11.7.7. Dog runs shall be permitted only with the prior approval of the Design Review Committee, subject to any provisions of the Design Guidelines.

Section 11.8. *Vehicular Parking, Storage and Repairs.*

11.8.1. No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (excluding pickup trucks that are 1 ton or less), self-contained motorized recreational vehicle, jet ski, or other type of recreational or commercial vehicle or equipment, may be parked or stored on the Lots, or parked or stored on any property visible from the ground level of any other Lot, unless such parking or storage is entirely within the garage area of any Lot or will be suitably screened from view by a fence in accordance with the requirements, and prior written approval of, the Design Review Committee subject to any provisions of the Design Guidelines, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

11.8.2. No recreation vehicles or disassembled or partially disassembled vehicles of any type shall be parked, stored, maintained, or used in the front yard or driveway of any Lot, or parked or stored on any property visible from the ground level of any other Lot, but may only be stored within the fully enclosed garage of that Lot. However, recreation vehicles and motor homes may be temporarily parked for a maximum of three (3) consecutive days in the driveway. Recreation vehicles shall include, but not be limited to, motor homes, pick-up trucks with camper shells, trailers, motorcycles, motorbikes, snowmobiles, jet skis, all terrain vehicles, and other apparatus intended for use on land, water, or the air, and the trailers used for their transportation.

11.8.3. Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community, or parked or stored on any property visible from the ground level of any other Lot. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of forty-eight (48) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently registered and licensed; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

11.8.4. In the event the Association shall determine that a vehicle is parked or stored on any Lot in violation of subsections 11.8.1, 11.8.2 or 11.8.3 above, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

11.8.5. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

Section 11.9. *Nuisances.*

No nuisance shall be permitted in the Community nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs the resident of any Lot or which interferes with the peaceful enjoyment or possession and proper use of any Lot, or any portion thereof, by its residents. As used herein, the term "nuisance" shall include each violation of this Declaration, the Articles of Incorporation, Bylaws, rules and regulations, standards and/or guidelines of the Association or the Board of Directors, but shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Community. No noxious or offensive activity shall be carried on in the Community nor shall anything be done or placed in the Community which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no immoral, improper, offensive or unlawful use shall be permitted in the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community, or any portion thereof, shall be observed.

Section 11.10. *No Hazardous Activities; No Hazardous Materials or Chemicals.*

No activities shall be conducted on any Lot or within Improvements constructed on any Lot which are 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 Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace, or except such campfires or picnic fires on property which may be designated for such use by the Association. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 11.11. *No Annoying Light, Sounds or Odors.*

No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others. Any exterior lighting installed or maintained on a Lot or Improvements(s) shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby property.

Section 11.12. *Restrictions on Trash and Materials.*

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence on any Lot nor shall any such items be deposited on a street, unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 11.13. *Lots to Be Maintained.*

Each Lot shall at all times be kept in a clean, sightly and wholesome condition by the Owner of the

Lot. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Section 11.12 of this Declaration (Restrictions on Trash and Materials).

Section 11.14. Leases.

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease such Owner's Lot, or any portion thereof, under the following conditions:

11.14.1. All leases shall be in writing and notice of the lease (including the name of tenant(s) and the duration of the lease) if such notices are requested by the Board of Directors in its discretion from time to time by resolution or otherwise, shall be delivered to the Board of Directors or the Association's managing agent, if any, within thirty (30) days after such lease has been signed by the lessor and the lessee; and

11.14.2. All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

ARTICLE 12. PROPERTY RIGHTS IN THE COMMON ELEMENTS

Section 12.1. Owners' Easements of Enjoyment.

Subject to this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Lots and for use for all other purposes, in and to the Common Elements, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 12.2. Extent of Owners' Easements.

Subject to the other provisions of this Article, the rights and easements of enjoyment created hereby are subject to the following: the Common Elements may not be used in any manner which violates the statutes, rules, or regulations of any governmental authority with jurisdiction over the Common Elements; and no Owner may place any structure on the Common Elements. In addition, such rights and easements are subject to the following rights of the Association:

12.2.1. The right of the Association to borrow money for any purpose and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest except in accordance with CCIOA; and

12.2.2. The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure; and

12.2.3. The right of the Association to enact, issue, promulgate, amend, repeal, re-enact and publish standards, guidelines, rules and regulations, with which each Member shall strictly comply; and

12.2.4. The right of the Association to suspend the voting rights of a Member for any period during which any Assessment against such Member's Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Association Bylaws or the rules and regulations of the Association; and

12.2.5. The right of the Association to dedicate or transfer all or any part of the Common Elements owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or

transfer shall be effective unless the same is done in accordance with CCIOA. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection; and

12.2.6. The right of the Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Board of Directors may deem to be useful, beneficial or otherwise appropriate; and

12.2.7. The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

Section 12.3. *Use of Common Elements by Declarant.*

An easement is hereby reserved by the Declarant on, over, under and through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights or other rights of the Declarant, and no Owner shall engage in any activity which will temporarily or permanently interfere with the Declarant's easements through the Common Elements.

Section 12.4. *Delegation of Use.*

Any Owner may delegate the right of enjoyment to the Common Elements and facilities to the members of such Owner's family, tenants, or contract purchasers who reside on such Owner's Lot.

Section 12.5. *Limited Common Elements.*

Subject to the terms and provisions of this Declaration, every Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Lot, and such right shall be exclusive except as to those Owners with a right to use such Limited Common Elements as provided elsewhere in this Declaration.

Section 12.6. *Payment of Taxes or Insurance by Security Interest Holders.*

Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or Assessments which are in default and which may be or have become a lien against the Common Elements and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Elements, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

Section 12.7. *Conveyance or Encumbrance of Common Elements.*

Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only in accordance with CCIOA and this Declaration.

Section 12.8. *Designation of Common Elements.*

Declarant in recording this Declaration has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Declaration and other applicable documents. The Common Elements owned by the Association is not dedicated hereby for use by the general public.

Section 12.9. *Duty to Accept Property and Facilities Transferred by Declarant.*

The Association shall accept title to any Common Elements, including Improvements thereon, as well as personal property, equipment, and easements, transferred to the Association by the Declarant,

together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association. As of the date of recording of this Declaration, interests which are planned to be transferred by the Declarant to the Association are planned to consist only of fee simple title to Common Elements to be located in the property described on the attached Exhibit A and/or the Annexable Area and/or easements.

ARTICLE 13. USE EASEMENTS.

Section 13.1. *General Description of Use Easements.*

Each Lot may be a Dominant Lot and a Servient Lot. If a Lot is a Servient Lot, then such Servient Lot will be subject to a use easement as provided in this Article for the benefit of the Dominant Lot that is adjacent to the Easement Area that is located on such Servient Lot. That is, the Declarant intends to expand the general area for use and enjoyment of each Dominant Lot by providing an Easement Area for such Dominant Lot so that the useable area of such Dominant Lot will essentially be expanded to include the useable area which is the Easement Area adjacent to the Dominant Lot. As a result, the Dominant Lots will have an expanded use area for their general use, enjoyment, and improvement, all as provided in this Article.

Section 13.2. *Reservation and Grant of Use Easements.*

13.2.1. Declarant hereby reserves a perpetual easement in accordance with this Article, on, over and across each Easement Area for the benefit of the Dominant Lot adjacent to such Easement Area. Not all Lots will be granted the benefit of an Easement Area as provided herein, nor will all Lots be burdened by having an Easement Area located thereon. The listing provided on the attached Exhibit E and the disclosure report given or to be given by the Declarant to the purchaser(s) of each Lot who purchase such Lot from the Declarant constitute the plans for the Lots in (or which are planned to be annexed into) the Community, but the Declarant may change any of such designations as to Lots owned by the Declarant which are listed on the attached Exhibit E and/or any of such disclosure reports.

13.2.2. Declarant grants a perpetual easement on, over and across each Easement Area to the Owner of the Dominant Lot that benefits from such Easement Area as provided on the attached Exhibit E and in accordance with the disclosure report given or to be given by the Declarant to the purchaser(s) of each Lot who purchase such Lot from the Declarant (both of which are subject to modification in accordance with the preceding subsection). Such grant of easement for each Dominant Lot shall be effective upon conveyance of each such Dominant Lot by the Declarant to the first non-Declarant Owner thereof. Such easement and use of the Easement Area are expressly subject to this Declaration.

13.2.3. The actual location of each Easement Area will be as provided in one or more deeds by which the Declarant conveys any portion of the Community or any other document(s) recorded by the Declarant at any time(s).

Section 13.3. *Purpose of Easement Area.*

The Owner of the Dominant Lot that is immediately adjacent to an Easement Area, and also the family members, tenants, guests and invitees of such Owner, shall have the right to use the adjacent Easement Area in a manner that is consistent with this Declaration, to the exclusion of the Owner (and such Owner's family members, tenants, guests, and invitees) of the Servient Lot on which such Easement Area is located, except as otherwise provided in this Article. Subject to compliance with all terms and provisions of this Declaration, including without limitation obtaining the prior written approval of the Design Review Committee as required, such permitted uses of the Easement Area include those uses permitted by applicable zoning such as grass, shrubs, plants, flowers, vegetables and trees, construction, location, and use

of hot tubs, patios, dog houses, trellises, chairs and tables, and similar Improvements. The Easement Area may be used as a general recreational, picnic, social and garden area, as though such Easement Area were owned by the Owner of the Dominant Lot with a right to use such Easement Area; provided that such Easement Area shall not be used in any manner, at any time, to unreasonably disturb the Owner of the Servient Lot on which the Easement Area is located or such Owner's family members, tenants, guests and invitees, and nothing shall be attached to the exterior wall of the dwelling unit on the Servient Lot on which the Easement Area is located.

Section 13.4. *Side Yard Fencing.*

Side yard fencing is not allowed on the side lot line between structures on Lots due to the use easements provided for in this Article.

Section 13.5. *Right of Entry.*

The Owner of the Servient Lot on which an Easement Area is located shall have the right at all reasonable times to enter upon the Easement Area for the purpose of performing work related to construction and/or maintenance of the dwelling unit located on the Servient Lot on which the Easement Area is located.

Section 13.6. *Right of Drainage.*

The Servient Lot shall have the right of drainage over, across and upon the Easement Area for normal precipitation upon and irrigation of the Servient Lot on which the Easement Area is located, as long as such is done in accordance with the approved drainage plan, and the Owner of the Dominant Lot adjacent to such Easement Area shall not do or permit to be done any act which interferes with such drainage.

Section 13.7. *Right of Support.*

The Servient Lot on which the Easement Area is located shall have the right of lateral and subjacent support for the dwelling unit and all Improvements now or hereafter constructed upon such Servient Lot, and no use of the Easement Area shall adversely affect such right of support.

Section 13.8. *Indemnity of Owner of Dominant Lot.*

The Owner of the Servient Lot shall indemnify and hold the Owner of the Dominant Lot harmless from damage to any Improvements, shrubs, plants, flowers, vegetables, trees and other landscaping, to the extent the damages result from the right of access reserved to the Owner of the Servient Lot onto the Easement Area.

Section 13.9. *Indemnity of Owner of Servient Lot.*

The Owner of the Dominant Lot shall indemnify and hold the Owner of the Servient Lot harmless from damage to any Improvements now or hereafter constructed, located or erected on the Servient Lot on which is located the Easement Area that such Dominant Lot has a right to use, and from any personal injury (including death), to the extent that any such damage or injury is caused by use of the Easement Area by the Owner of the adjacent Dominant Lot or by such Owner's family members, tenants, guests and invitees. The Owner of the Dominant Lot shall acquire and keep in force adequate hazard and liability insurance covering the Easement Area that such Dominant Lot has a right to use as provided in this Article.

Section 13.10. *Maintenance of Easement Area.*

The Owner of the Dominant Lot which has the right to use an Easement Area, as provided in this Article, shall be responsible for maintenance, repair and replacement of such Easement Area, and, except as otherwise provided in Article 9 hereof, of all Improvements that are located thereon by or for the benefit of such Dominant Lot, to the same extent as if the Easement Area were a portion of such Dominant Lot and

owned by the Owner of such Dominant Lot.

ARTICLE 14. DISPUTE RESOLUTION

Section 14.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

14.1.1. Each Party (as defined below) agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims (as defined below) each alleges to have to the procedures set forth in this Article and not to a court of law and acknowledges that it is giving up rights to have such Claims tried before a court or jury.

14.1.2. By acceptance of a deed for a Lot, each Owner agrees to abide by the terms of this Article.

14.1.3. No Claim (as defined below) may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose.

Section 14.2. *Definitions Applicable to this Article.*

For purposes of this Article only, the following terms have the meanings set forth in this Section:

14.2.1. "AAA" means the American Arbitration Association.

14.2.2. "Claimant" means any Party having a Claim.

14.2.3. "Claim" means, except as excluded or exempted by the terms of this Article, any claim, grievance or dispute between one Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation those arising out of or related to (i) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations and duties of any Party under any of the Governing Documents; (ii) the design or construction of Improvements; (iii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party.

14.2.4. "Governing Documents" means this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, and any rules and regulations or design guidelines adopted by the Board of Directors.

14.2.5. "Inspecting Party" means a Party causing an inspection of the Subject Property to be made.

14.2.6. "Party" means each of the following: Declarant, its officers, directors, partners, members, employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration; any builder, its officers, directors, partners, members, employees and agents; and any Person not otherwise subject to this Declaration who agrees to submit to this Article.

14.2.7. "Respondent" means any Party against whom a Claimant asserts a Claim

14.2.8. "Subject Property" means the property being inspected pursuant to the inspection right provided in Section 14.7 of this Declaration (Right to Inspect).

14.2.9. "Termination of Mediation" means a period of time expiring thirty (30) days after a mediator has been agreed upon by the parties (however, a mediator shall be selected no later than forty-five (45) days after the Claimant has given notice to the Respondent of the Claim and if the parties are unable to agree on a mediator, one shall be chosen by the AAA) and the matter has been submitted to

mediation (or within such other time as determined by the mediator or agreed to by the Claimant and Respondent) and upon the expiration of which the Claimant and Respondent have not settled the Claim.

Section 14.3. *Approval Required for Association Actions.*

Except as provided in Section 14.6 of this Declaration (Exclusions from "Claim"), the approval of seventy-five percent (75%) of a quorum (as provided in Section 14.4 of this Declaration (Notice and Quorum for Association Actions)) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot, must be obtained before the Association shall have the power to institute action on any Claim pursuant to this Article, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 14.4 of this Declaration (Notice and Quorum for Association Actions).

Section 14.4. *Notice and Quorum for Association Actions.*

Written notice of any meeting of Members which includes a vote pursuant to Section 14.3 of this Declaration (Approval Required for Association Actions) shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information:

14.4.1. A statement regarding the nature of the Claim. Such statement shall include, without limitation, the name(s) of the proposed Respondent(s), the basis and reason for the Claim, and any other information necessary to adequately explain the nature of the proposed Claim; and

14.4.2. A good-faith estimate of the costs and fees, including the fees of consultants, expert witnesses and attorneys, reasonably anticipated to be incurred by or for the Association in prosecuting the Claim, with such estimate prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

14.4.3. A statement advising Members that the costs and fees of prosecuting any Claim may substantially increase the amount of assessments payable by the Owners to the Association; and

14.4.4. A good-faith estimate of the manner in which any moneys reasonably anticipated to be recovered from the Claim will be distributed or paid to consultants, expert witnesses, the Association, its attorney(s) and any others, prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

14.4.5. A good faith estimate of the projected time frame for resolution of the Claim; and

14.4.6. All terms and provisions of the agreement between the Association and the attorney(s) the Board proposes to have prosecute the Claim.

The presence of Members, or if by ballot then receipt by the Association of written ballots, entitled to cast seventy-five percent (75%) of all of the Association votes, shall constitute a quorum at any meeting at which the Members vote on approval of any Claim the Association wishes to bring.

Section 14.5. *Required Form of Proxy or Ballot.*

Each written proxy, and each ballot, which purports to vote on, or authorize a vote on, approval of the Association bringing a Claim shall contain the following statement:

Despite the fact that my annual assessments may be significantly increased by the costs and fees associated with the proposed claim, I/we APPROVE the authority of the Association to bring such claim.

Section 14.6. *Exclusions from "Claim".*

Unless specifically exempted by this Article, all Claims between any of the Parties shall be subject to the provisions of this Article. Notwithstanding the foregoing, unless all Parties thereto otherwise agree, "Claim" does not include the following, whether such are brought by lawsuit, counterclaim or cross-claim and the same shall not be subject to the provisions of this Article

14.6.1. An action by the Association to enforce any provision of Article 4 of this Declaration (Assessments); and

14.6.2. An action by the Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enforce any of the provisions of Article 11 of this Declaration (Restrictions) or of Article 5 of this Declaration (Design Review Committee); and

14.6.3. any suit between or among Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

14.6.4. any suit in which any indispensable party is not a Party.

Section 14.7. *Right to Inspect.*

Prior to any Party commencing any proceeding to which another Party is a party, including but not limited to an alleged defect of any Improvement, the Respondent shall have the right to be heard by the Claimant and, if any Claimant is the Association, by the Members, and to access, inspect, correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged or otherwise correct the alleged dispute; provided, however, any correction to, or redesign of, an Improvement shall be made upon terms and conditions acceptable to all affected Parties. In the exercise of the inspection rights contained herein, the Inspecting Party shall:

14.7.1. Be careful to avoid unreasonable intrusion upon, or harm, damage or costs to the affected Party including, without limitation, using its best efforts to avoid causing any damage to, or interference with, any Improvements to the Subject Property;

14.7.2. Minimize any disruption or inconvenience to any person who occupies the Subject Property;

14.7.3. Remove daily all debris caused by the inspection and located on the Subject Property; and

14.7.4. In a reasonable and timely manner, at the sole cost and expense of the Inspecting Party, promptly remove all equipment and materials from the Subject Property and repair and replace all damage, and restore the Subject Property to the condition of the Subject Property as of the date of the inspection unless the Subject Property is to be immediately repaired.

The Inspecting Party shall not permit any lien, claim or other encumbrance arising from the exercise of its right to inspect to accrue against or attach to the Subject Property. The Inspecting Party shall indemnify, defend, and hold harmless the affected Owners and their tenants, guests, employees and agents, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and attorneys' fees, resulting from any breach of this Section by the Inspecting Party.

Section 14.8. *Mandatory Procedures.*

14.8.1. *Good Faith Negotiations.* The Parties shall make every reasonable effort to meet in person and confer for the purposes of resolving the Claim by good faith negotiation. Any Party may be represented by attorneys and independent consultants to assist such Party in negotiations and to attend meetings.

14.8.2. *Notice.* Prior to proceeding with any claim against a Respondent, each Claimant shall give a notice to each Respondent, which notice shall state plainly and concisely:

14.8.2.1. the nature of the Claim, including all Persons involved and Respondent's role in the Claim;

14.8.2.2. the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises); and

14.8.2.3. the specific relief and/or proposed remedy sought.

14.8.3. *Mediation.*

14.8.3.1. If the Parties do not resolve the Claim through negotiations within thirty days after submission of the Claim to the Respondent(s), Claimant shall have an additional thirty (30) days to submit the Claim to mediation under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.

14.8.3.2. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant.

14.8.3.3. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator shall issue a notice of Termination of Mediation. The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

14.8.3.4. Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

14.8.3.5. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 14.8.3 (Mediation) and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 14.8 of this Declaration (Mandatory Procedures). In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

14.8.4. *Binding Arbitration.*

14.8.4.1. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the Claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved. The arbitrator(s) shall apply applicable substantive law consistent with the Colorado Revised Statutes and applicable Statutes of Limitations and shall honor claims of privilege recognized at law, and at the timely request of either party shall provide a written explanation for the basis for the award. In conducting the arbitration

proceeding, the arbitrator(s) need not apply federal or any state rules of civil procedure or rules of evidence at their discretion. Either party may submit a request to the arbitrator(s), with a copy of a request provided to the other party, to seek discovery by way of written Interrogatories and/or Requests for Production of Documents. The objecting party may submit objections to the arbitrators with a copy of the objections provided to the requesting party within fifteen (15) days of the requesting party's notice. The granting or denial of either party's request will be in the sole discretion of the arbitrator(s) who shall notify the parties of their decision within twenty (20) days of the objecting party's submission. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

14.8.4.2. Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the arbitrator or the court shall award reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial or on appeal, to the non-contesting Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

14.8.4.3. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all parties to the Claim.

14.8.4.4. The arbitrator's decision will be final and binding, except if the amount of the award exceeds \$10,000.00 any party to such arbitration can appeal the award to a three arbitrator panel administered by the National Arbitration Forum (NAF) which shall reconsider de novo any aspect of the initial award requested by the appealing party. The appealing party shall have thirty (30) days from the date of entry of the written arbitration award to notify the NAF that it is exercising the right of appeal. The appeal shall be filed with NAF in the form of a dated writing. The NAF will then notify the other party that the award has been appealed. The NAF will appoint a three arbitrator panel who will conduct an arbitration pursuant to the NAF Code and issue its decision within one hundred twenty (120) days of the date of the appellant's written notice. The decision of the panel shall be by majority vote and shall be final and binding. The cost of such an appeal will be borne by the appealing party regardless of the outcome of the appeal.

Section 14.9. *Liability for Failure of Association to Maintain an Action.*

No director or officer of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (i) the director or officer was acting within the scope of such director or officer's duties; (ii) the director or officer was acting in good faith; and (iii) the act or omission was not willful, wanton or grossly negligent.

Section 14.10. *Severability.*

All provisions of this Article are severable. Invalidity of any of the provisions of this Article, by judgment, court order or otherwise, shall in no way affect or limit any other provisions of this Article which shall remain in full force and effect.

Section 14.11. *Amendment.*

Notwithstanding anything to the contrary contained in this Declaration, this Article 13 shall not be amended unless such amendment is approved by Members to which at least eighty percent (80%) of the votes in the Association are allocated.

ARTICLE 15. GENERAL PROVISIONS

Section 15.1. *Enforcement; Fines.*

15.1.1. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Except as otherwise provided in this Declaration, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings subject to Article 14 of this Declaration (Dispute Resolution). For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of CCIOA or of the Declaration, Articles of Incorporation, Bylaws or rules and regulations of the Association, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

15.1.2. Subject to the following sentence, the Association shall have the right to levy and collect fines (as provided in Article 4 of this Declaration (Assessments)) for the violation of any provision of any of the aforesaid documents. Prior to collection of any fines, the Association, the Board of Directors, or an authorized management company of the Association, shall mail a notice of violation to the Person(s) alleged to be in violation of any such provision and such notified Person(s) has a right to a hearing upon submission to the Board of Directors of a written request for hearing, which is properly signed by such Person(s) and dated, within ten (10) days after the notice of violation has been mailed or such other time as the Board of Directors may decide in its discretion from time to time; failure of a notified Person to request for hearing in writing within the required time period shall constitute a waiver of such right to a hearing.

Section 15.2. *Severability.*

All provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, are severable. Invalidity of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 15.3. *Conflict of Provisions.*

In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 15.4. *Conflict with CCIOA.*

In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with CCIOA, the terms or provisions of CCIOA shall control and govern. In case of any such conflict or inconsistency, the applicable terms and provisions contained in this Declaration shall, to the extent possible, be construed in accordance with CCIOA, and any conflict with or violation of CCIOA by any terms or provisions of this Declaration shall not affect, void, or render unenforceable any other term or provision of this Declaration (which shall be in full force and effect in accordance with their terms.).

Section 15.5. *Annexation; Withdrawal.*

15.5.1. Additional property may be annexed to this Declaration with the consent, at the time such annexation is to be effective, of Members casting sixty-seven percent (67%) of the Association

votes and with the consent, at the time such annexation is to be effective, of the owner of the property to be annexed.

15.5.2. Notwithstanding the foregoing, the Declarant may annex to this Declaration the Annexable Area or any portion(s) thereof, until termination of this right as provided below, without consent of any other Owners, Security Interest Holders, or any other Person. The Declarant's right to annex the Annexable Area without approval shall terminate automatically at the time of termination of the Special Declarant Rights as provided in Section 1.32 of this Declaration (Special Declarant Rights). Each such annexation shall be effected, if at all, by recording an Annexation of Additional Land in the County where the annexed property is located, which document:

15.5.2.1. shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land;

15.5.2.2. shall state that the Declarant (or other Person(s)) is the owner of the Lots thereby created, if any;

15.5.2.3. shall assign an identifying number to each new Lot, if any;

15.5.2.4. shall describe any Common Elements within the property being annexed;

15.5.2.5. shall, if the annexed property includes one (1) or more Lots, reallocate the Allocated Interests among all Lots; and

15.5.2.6. may include such other provisions as the Declarant deems appropriate. Other provisions that may be included in an Annexation of Additional Land include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions that apply or will apply to some or all of the property that is thereby being annexed to this Declaration, different assessment rates for any or all of the property that is being annexed and/or different Allocated Interests for any or all of the lots that are being annexed; provided that the Declarant may amend this Declaration, as provided in Section 15.10.6 hereof, to incorporate any such provisions and to revise this Declaration to provide for such changes (including without limitation) the resulting changes in existing provisions of this Declaration. Any of such other provisions referenced in the preceding sentence may be amended with the consent of the Owners of sixty-seven percent (67%) of the Lots to which such other provisions apply.

15.5.3. Immediately upon the effective date of the Annexation of Additional Land (which shall constitute the date of recording of the Annexation of Additional Land unless otherwise stated therein), the annexed property which is the subject of such Annexation of Additional Land shall be automatically annexed and subjected to the Disclosure of Dispute Resolution recorded or to be recorded in the records of the Clerk and Recorder of the City and County of Denver, Colorado.

15.5.4. Except as otherwise specifically stated in the Annexation of Additional Land, all provisions of this Declaration, including without limitation (as to Lots) those provisions regarding obligations to pay Assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon the effective date of the Annexation of Additional Land (which shall constitute the date of recording of the Annexation of Additional Land unless otherwise stated therein).

15.5.5. Subsequent to the date of recording hereof, each Person who purchases from the Declarant any portion of the property described on the attached Exhibit D ("Parcel"), will have agreed pursuant to applicable documents that such Parcel will be governed by this Declaration. The Declarant, therefore, reserves the right (but not the obligation) during the time period set forth in Section 1.32 of this Declaration (Special Declarant Rights) to annex the Parcel to the Declaration without further authorization from the Person who has purchased such Parcel, even if such annexation occurs subsequent to conveyance of the Parcel by Declarant.

15.5.6. The property which is described on the attached Exhibit A and each portion of the Community which is annexed to this Declaration by the Declarant shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with CCIOA. However, the Declarant's right to withdraw each such portion of the Community shall expire and terminate, as to each portion of the Community, upon the first conveyance of any Lot in such portion of the Community to any Person other than the Declarant, but in any event, no later than the automatic termination provided in Section 1.32 of this Declaration (Special Declarant Rights).

Section 15.6. *Minor Violations of Setback Restrictions.*

If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the Lot on which is located the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation," for the purpose of this Section, is a violation of not more than four (4) feet beyond the required setback lines or Lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 15.7. *Conversions.*

For the duration of the 75% Control Period, Declarant reserves the unilateral right to convert any Lot into Common Elements or Limited Common Elements, so long as such Lot is owned by Declarant or by an Owner who has agreed to the conversion with Declarant. In addition, for the duration of the 75% Control Period, Declarant reserves the unilateral right to convert any Common Elements into Limited Common Elements and to allocate such Limited Common Elements among particular Lots as Declarant, in its discretion, deems appropriate.

Section 15.8. *Subdivision or Replatting of Lots.*

The Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Declarant in the Community. Without limiting the generality of the foregoing, the Declarant reserves the right to move any Lot line(s) on Lot(s) owned by the Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed; provided that such Lot line adjustments, if any, shall not change the number of Lots in the Community at the time each such Lot line adjustment is approved by the applicable governmental entity. The rights provided for in this Section shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights). No Lot may be further subdivided from that existing at the time such Lot becomes subject to this Declaration, except by Declarant.

Section 15.9. *Declarant's Use.*

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Lots and the Common Elements such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, locating, maintaining and relocating management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its discretion from time to time. Further, nothing contained in this Declaration shall limit the rights of Declarant or require the Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements; (b) to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office in connection with the development, construction or sale of any property; and/or (c) to require Declarant to

seek or obtain Design Review Committee approval or any other approvals under this Declaration for any such activity. Any real estate used as a sales office, management office, or a model, shall be a Lot or Common Elements, as designated in this Declaration or any Annexation of Additional Land.

Section 15.10. Duration, Revocation, and Amendment.

15.10.1. Each and every provision of this Declaration shall run with and bind the land perpetually from the date of recording of this Declaration. Except as otherwise provided in this Declaration (including, without limitation, Sections 14.11 (Amendment), Sections 15.10.2, 15.10.4, 15.10.7, and 15.10.6 of this Declaration), this Declaration may be amended by a vote or agreement of Members who hold at least sixty-seven percent (67%) of the Allocated Interests.

15.10.2. Notwithstanding anything to the contrary contained in this Declaration, while Declarant owns any portion of the property described on the attached Exhibits A and D, no amendment may be made to this Declaration except with the affirmative vote or agreement of Members holding ninety percent (90%) of the Allocated Interests.

15.10.3. Every amendment, if any, to the Declaration must be done in compliance with CCIOA.

15.10.4. Notwithstanding anything to the contrary contained in this Declaration, the Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirements, standards, or guidelines of any of the Agencies or of recognized secondary mortgage markets. Such right of amendment shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights).

15.10.5. Notwithstanding anything to the contrary contained in this Declaration, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct clerical, typographical, or technical errors. Such right of amendment shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights).

15.10.6. Notwithstanding anything to the contrary contained in this Declaration, this Declaration may be amended, in whole or in part, from time to time, by Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct any changes made in the Assessment obligations, Allocated Interests, or any other provisions of this Declaration, that may be affected by an Annexation of Additional Land as provided in Section 15.5.2.6 hereof. This right of amendment shall terminate automatically as provided in Section 1.32 of this Declaration (Special Declarant Rights).

15.10.7. Except as to amendments which may be made by the Declarant, amendments to the Declaration may be prepared, executed, recorded, and certified by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Such certification shall, in the case of an amendment requiring the approval of Owners, certify that the Association has received the required Lot approvals. Amendments to this Declaration which may be made by the Declarant pursuant to this Declaration or as permitted by CCIOA, may be signed by the Declarant and shall require no other signatory.

Section 15.11. Registration of Mailing Address.

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his/her/its mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner

fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the 75% Control Period shall be sent by registered or certified mail, postage prepaid, c/o Lowry Lifestyle LLC, 3650 South Yosemite Street, Suite 410, Denver, Colorado 80237, unless such address is changed by the Association during the 75% Control Period; subsequent to termination of the 75% Control Period, the Association shall notify the Owners of a different address for notices.

Section 15.12. *HUD or VA Approval.*

During the 75% Control Period, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more Security Interests and HUD or VA require such approval: amendment of this Declaration (except as provided in Sections 15.5, 15.10.4, 15.10.7, and 15.10.6 of this Declaration); termination of this Community; or merger or consolidation of the Association (except as provided in Section 3.12 (Merger)).

Section 15.13. *Termination of Community.*

The Community may be terminated only in accordance with CCIOA.

Section 15.14. *Transfer of Special Declarant Rights.*

A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Community is located, and in accordance with CCIOA.

Section 15.15. *Eminent Domain.*

The taking by eminent domain of a Lot(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation CCIOA.

Section 15.16. *No Further Authorization Needed*

The consent or approval of Owners, Security Interest Holders, or any other Person, shall not be required for the exercise of any rights granted to or reserved by the Declarant in this Declaration.

Section 15.17. *Limitation on Liability.*

The Association, the Board of Directors, the Design Review Committee, the Declarant, and the officers, directors, members, partners, agents and employees of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice.

Section 15.18. *No Representations, Guaranties or Warranties.*

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, the Association, the Board of Directors, the Design Review Committee, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, 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.

Section 15.19. *Disclaimer Regarding Safety.*

DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE

SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS OR RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

Section 15.20. Headings.

The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

Section 15.21. Gender.

Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

Section 15.22. Run with Land; Binding Upon Successors.

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon this Community and all real property and Improvements which are now or hereafter become a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

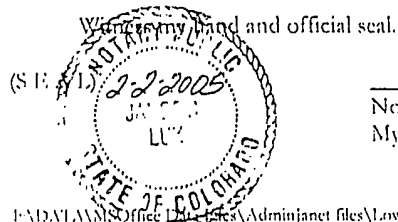
IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal to this Declaration of Covenants, Conditions and Restrictions of Hampstead at Lowry this 30th day of July, 2002.

LOWRY LIFESTYLE, LLC, a Colorado limited liability company

By: Edwin H. Arnold
Its: Manager

STATE OF COLORADO)
COUNTY OF Denver) ss.)

The foregoing instrument was acknowledged before me this 30th day of July, 2002, by Edwin H. Arnold as Manager of Lowry Lifestyle LLC, a Colorado limited liability company.



Janet C. Lux
Notary Public
My Commission Expires: 2-2-2005

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HAMPSTEAD AT LOWRY

Lots 19 and 20, as shown on the Final Plat of Lowry Filing No. 12, recorded on September 25, 2001, at Reception No. 2001161667, in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado, as amended and supplemented from time to time.

EXHIBIT B
TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
HAMPSTEAD AT LOWKY

(Common Elements)

There are no Common Elements at the time of recording of this Declaration.

EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HAMPSTEAD AT LOWRY

(Certain Title Exceptions)

If recorded, the following documents are recorded in the office of the Clerk and Recorder of the City and County of Denver, Colorado:

1. Real property taxes and assessments for the year of recording of this Declaration and for subsequent years, not yet due and payable.
2. Building, zoning and other applicable ordinances and regulations of the City and County of Denver, State of Colorado as of the date thereof.
3. All oil, gas, and other minerals appurtenant to the property, all of which are reserved by the Authority, subject to the terms of the Relinquishment of Surface Rights and Nondisturbance Agreement.
4. All water rights appurtenant to the Property, including all existing surface water rights and tributary ground water rights, if any, and all non-tributary and not non-tributary ground water underlying the Property, all of which are reserved by the Authority, subject to the terms of Relinquishment of Surface Rights and Nondisturbance Agreement.
5. Terms, conditions, provisions, restrictions, burdens and obligations as set forth in Grant of Right of Way recorded January 8, 1997 at receptions No. 9700003186.
6. Master Declaration of Covenants, Conditions and Restrictions for the Lowry Community recorded June 23, 1997 under Reception No. 97000080387 and as amended in instrument recorded November 16, 1998 under Reception No. 9800191642 and as amended in instrument recorded August 2, 2000 under Reception No. 2000110158, and as amended in instrument recorded August 24, 2001 under Reception No. 2001144055 and as amended in instrument recorded January 4, 2002 under Reception No. 2002003310 and as amended in instrument recorded February 7, 2002 under Reception No. 2002026915 and as amended in instrument recorded February 28, 2002 under Reception No. 2002040648.
7. Covenants, conditions and restrictions as contained in instrument recorded July 24, 1998 under Reception No. 9800119584.
8. Reservations as contained in Deeds by the United States of America recorded February 17, 1999 under Reception No. 9900027505, October 21, 1999 under Reception No. 9900183842, December 28, 2000 under Reception No. 2000187599 and January 31, 2001 under Reception No. 2001013154.
9. Reservation as contained in Deed recorded November 15, 1876 in Book 90 at Page 205.

10. Easements, conditions, covenants, restrictions, reservation and notes on the recorded plans of Lowry Filing No. 6 and Lowry Filing No. 12.
11. The effect of Planned Building Group recorded September 25, 2001 under Reception No. 2001161670.
12. Terms, conditions, provisions, burdens and obligations as set forth in Easement Agreements recorded October 1, 2001 under Reception No. 2001165317 and at Reception No. 2001165318.
13. Terms, conditions, provisions, burdens, obligations and easements as set forth and granted in Easement and Indemnity Agreement recorded September 25, 2001 under Reception No. 2001161668.
14. Terms, conditions, provisions, burdens, obligations and easements as set forth and granted in declaration of access easement recorded December 20, 2001 under Reception No. 2001215844.
15. Covenants, conditions and restrictions set forth in the Special Warranty Deed by and between Lowry Economic Redevelopment Authority and Lowry Lifestyle, LLC, a Colorado corporation, recorded October 18, 2001 at Reception No. 2001177783.
16. Terms, conditions and provisions of repurchase option set forth in Special Warranty Deed, by and between Lowry Economic Redevelopment Authority, Arnold Homes, Inc. and Harvard Communities, Inc, a Colorado corporation, recorded October 18, 2001 at Reception No. 2001177783.

EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HAMPSTEAD AT LOWRY

(Annexable Area)

All of the property as shown on the Final Plat of Lowry Filing No. 12, recorded on September 25, 2001, at Reception No. 2001161667, in the office of the Clerk and Recorder of the City and County of Denver, State of Colorado, as amended and supplemented from time to time;

AND

Any property within the N 1/2 of Section 9, Township 4 South, Range 67 West, of the 6th P. M., City and County of Denver, State of Colorado,

EXCEPT AND EXCLUDING all of the property described on Exhibit A to this Declaration and any publicly dedicated property.

EXHIBIT E
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HAMPSTEAD AT LOWRY

(List of Dominant and Servient Lots)

DOMINANT LOTS		SERVIENT LOTS	
LOT	BLOCK	LOT	BLOCK
2	1	1	1
3	1	2	1
5	1	4	1
7	1	6	1
8	1	7	1
9	1	8	1
10	1	11	1
11	1	12	1
12	1	13	1
15	1	14	1
16	1	15	1
17	1	16	1
18	1	19	1
19	1	20	1
20	1	21	1
1	2	2	2
2	2	3	2
3	2	4	2
6	2	5	2
7	2	6	2
8	2	7	2
9	2	10	2
10	2	11	2
11	2	12	2
14	2	13	2
15	2	14	2



12/19/2017 02:35 PM

R \$28.00

D \$0.00

City & County of Denver

AMD

Electronically Recorded

**LIMITED AMENDMENT
TO THE
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS OF HAMPSTEAD AT LOWRY**

THIS AMENDMENT is made this 24 day of OCTOBER, 2017.

RECITALS

A. Lowry Lifestyle LLC, a Colorado limited liability company ("Declarant") prepared and recorded the Declaration of Covenants, Conditions, and Restrictions of Hampstead at Lowry in the records of the office of the Clerk and Recorder of Denver County, Colorado on September 23, 2002 at Reception No. 2002167992 (the "Original Declaration");

B. The Original Declaration provides for and allows for this Amendment in Article 15, Section 15.10.1, which provides in pertinent part as follows:

Each and every provision of this Declaration shall run with and bind the land perpetually from the date of recording of this Declaration . . . this Declaration may be amended by a vote or agreement of Members who hold at least sixty-seven percent (67%) of the Allocated Interests.

C. All Owners are aware of the provisions of the Original Declaration allowing for this amendment by virtue of it being recorded;

D. This Amendment has been prepared and determined by the Association and by the Owners who have approved this Amendment to be reasonable and not burdensome;

E. The purpose of this Amendment is to update the insurance obligations; and

F. The undersigned, being the President and Secretary of the Association, hereby certify that Owners representing at least 67% of the Allocated Interests of the Association have consented and agreed to this Amendment. Alternatively, the Association has obtained approval of this Amendment pursuant to the terms and conditions of the Colorado Common Interest Ownership Act.

NOW THEREFORE,

I. Amendments. The Original Declaration is hereby amended as follows:

(a) **Repeal and Restatement.** The Sections 6.1 through 6.7, in Article 6, are hereby repealed in their entirety and the following Sections are substituted:

Section 6.1. Duty to Insure Lots and Residences. Each Owner of a Lot shall obtain adequate hazard and liability insurance covering loss, damage, or destruction by fire or other casualty to the Lot and his/her residence constructed upon such Lot and/or any improvements installed on such Lot, including fences. Any damage to a Lot or improvement thereon must be immediately repaired and/or reconstructed by the Owner. Failure to do so, will be a violation of the Declaration.

Section 6.2. Insurance Carried by the Association. The Association shall obtain and maintain, in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein, which insurance coverage shall include the terms as provided below, and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 6.3. Hazard Insurance on Common Elements

(a) The Association shall obtain and maintain hazard insurance providing all risk coverage on all Common Elements and improvements thereon for full insurable replacement cost less applicable deductibles, exclusive of land, excavations, foundations, and other items normally excluded from hazard policies.

(b) The Association may also obtain any endorsements the Board of Directors deems advisable and in the best interests of the community.

(c) The Association's hazard policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(d) Deductibles shall be considered "uninsured amounts" and shall be assessed against negligent parties causing the losses, or if no negligence exists, to the party with the maintenance and repair obligation for the damaged components absent insurance.

Section 6.4. Association Liability Insurance. The Association shall obtain adequate public liability and property damage liability insurance covering any Common Areas, in such limits as the Board may determine from time to time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries and operation of automobiles on behalf of the Association.

Section 6.5. Association Fidelity Insurance. The Association shall obtain adequate fidelity coverage to protect against dishonest acts on the parts of its officers, directors, trustees, managers, agents, and employees and on the part of all others who handle, or are responsible for handling, the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees, and employees.

Section 6.6. Officers' and Directors' Personal Liability Insurance. The Association shall obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 6.7. Miscellaneous Terms Governing Insurance Carried by the Association. The Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

- (a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.
- (b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his/her household.
- (c) All liability insurance shall name the Association, the Board, the manager or managing agent, if any, the officers of the Association, and Owners as insureds.
- (d) Except as assessed in proportion to risk, insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.
- (e) If, at the time of a loss under the insurance policy, there is other insurance in the name of a unit owner covering the same risk covered by the Association's policy, the Association's policy will be primary.

Section 6.8 Insurance Deductibles: 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 pursuant to CRS 38-33.3-313.

(b) Repeal. Article 8, Section 8.3 of the Original Declaration is hereby repealed in its entirety.

II. No Other Amendments. Except as amended by the terms of this Amendment and previous Amendments, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by the undersigned.

HAMPSTEAD AT LOWRY HOMEOWNERS
ASSOCIATION, INC., a Colorado nonprofit
corporation

By:

Harry L. Graberz
President

By:

Penny M. Rice
Secretary

STATE OF COLORADO)

COUNTY OF Denver)

) ss.

The foregoing was acknowledged before me this 24th day of October,
2017, by Harry L. Graberz, as President, and Penny M. Rice, as Secretary of
Hampstead at Lowry Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: March 27, 2021.

CHRISTOPHER A. DRESSMAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20134020140
MY COMMISSION EXPIRES MARCH 27, 2021

Christopher A. Dressman
Notary Public



09/25/2020 11:41 AM
City & County of Denver
Electronically Recorded

R \$43.00

COV

D \$0.00

AFTER RECORDING RETURN TO:

Altitude Community Law P.C.
555 Zang St., Suite 100
Lakewood, CO 80228

**AMENDMENT
TO THE
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
HAMPSTEAD AT LOWRY**

THIS AMENDMENT is made this 24th day of September, 2020.

RECITALS

A. Lowry Lifestyle, LLC, a Colorado limited liability corporation, created the Hampstead at Lowry community ("Community") by recording a Declaration of Covenants, Conditions, and Restrictions of Hampstead at Lowry in the real property records of the City and County of Denver, State of Colorado, at Reception No. 2002167882 on August 23, 2002, as amended and supplemented by multiple documents of record (collectively referred to as the "Original Declaration").

B. The Original Declaration provides for and allows for this Amendment to the Declaration of Covenants, Conditions, and Restrictions of Hampstead at Lowry (the "Amendment") in Section 15.10.1, which provides as follows:

Each and every provision of this Declaration shall run with and bind the land perpetually from the date of recording of this Declaration. Except as otherwise provided in this Declaration (including, without limitation, Sections 14.11 (Amendment), Sections 15.10.2, 15.10.4, 15.10.7, and 15.10.6 of this Declaration), this Declaration may be amended by a vote or agreement of Members who hold at least sixty-seven percent (67%) of the Allocated Interests.

C. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means.

D. This Amendment has been prepared and determined by the Association and by the Owners that have approved this Amendment to be reasonable and not burdensome.

E. The purpose of this Amendment is to prohibit leasing in the Community except in cases of hardship.

F. The undersigned, being the President and Secretary of the Association, hereby certify this Amendment has received the affirmative vote or agreement of Members who hold at least 67% of the Allocated Interests. Alternatively, the Association has obtained approval for this proposed Amendment pursuant to the terms and conditions of the Colorado Common Interest Ownership Act.

G. As amended by this Amendment, the Original Declaration is referred to as the "Declaration."

NOW THEREFORE,

I. Amendments. The Original Declaration is hereby amended as follows:

(a) **Repeal and Restatement**. Section 11.14 is hereby repealed in its entirety and the following Section 11.14 is substituted:

Section 11.14 Leasing and Occupancy.

In order to preserve the character of the Community as Owner-occupied, and to comply with the eligibility requirements for financing in the secondary mortgage market, the leasing of Lots shall be governed by the restrictions imposed by this Section. **Except as provided herein, the leasing of Lots shall be prohibited.**

"Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person other than the Owner; provided, however, for the purposes of this Declaration, leasing shall not include the occupancy of the Lot by the child or parent of an Owner. For purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary residence shall not constitute leasing under this Declaration.

(a) General. If an Owner has owned and occupied his/her Lot for a minimum of two years and a hardship is found to exist after the two-year period, such Owner may apply for a Hardship Leasing Permit. Such permit, upon its issuance, will allow the Owner to Lease his or her Lot provided that such leasing is in strict accordance with the terms of the permit and this Section. The Association shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All Leasing Permits shall be valid only as to specific Owners and Lots and shall not be transferable between either Lots or Owners; provided, however if a valid Lease is in place at the date of transfer of the Lot, that Lease may continue until the expiration of the Lease term or for a maximum of one year, whichever is earlier.

(b) Applicability. Those Owners who are leasing their Lots upon the recording date of this Amendment shall be entitled to continue leasing their Lots until the end of the current Lease, notwithstanding the limitations set forth herein. However, upon the end of the current Lease term, the pertinent Owners shall become subject to the provisions of this Amendment and may only lease in the case of hardship and the grant of a Hardship Leasing Permit by the Board.

(c) Hardship Leasing Permits. An Owner's request for a Hardship Leasing Permit shall be approved if current, outstanding Hardship Leasing Permits have not been issued for more than five Lots in the Community. However, if the Board determined, in its sole discretion, that more than five Lot Owners are experiencing hardships and require Hardship Leasing Permits, the Board shall have authority to grant additional Hardship Leasing Permits as it deems appropriate.

A Hardship Leasing Permit shall be automatically revoked upon the happening of either of the following events:

- sale or transfer of the Lot to a person or entity other than the Owner (excluding sales or transfers to (a) an Owner's spouse, (b) a person cohabitating with the Owner, and (c) a corporation, partnership, company, or legal entity in which the Owner is a principal); or
- the voluntary surrender of the Hardship Leasing Permit by the Owner; or
- one year after the Hardship Leasing Permit has been issued;

Owners may apply for an additional Hardship Leasing Permits after one year under the terms of this Section.

(d) Hardship Standards. The Board may base its decision on whether to approve a request for a Hardship Leasing Permit on the following:

- the nature, degree, and likely duration of the hardship,
- the harm, if any, which will result to the Community if the permit is approved,
- the number of current Leasing Permits which have been issued to other Owners,
- the Owner's ability to cure the hardship, and

- whether previous Leasing Permits have been issued to the Owner.

Examples of “hardships” include, but are not be limited to the following situations: (1) an Owner must relocate his or her residence outside the greater Denver metropolitan area and cannot, within six months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or her estate; (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot; or (4) the Board has determined that other circumstances presented by the Owner constituted a hardship for which there is no other alternative but to grant the Leasing Permit, in the Board’s sole discretion.

The Board may further adopt rules and regulations further clarifying situations constituting “hardship.”

(e) Leasing Provisions. Leasing which is authorized, pursuant to permit, hereunder shall be governed by the following provisions:

(i) Copy of Agreement. If approved for a Hardship Leasing Permit, the Owner shall provide a copy of the proposed Lease agreement to the Board. The Board shall approve or disapprove the form of said Lease. If the Board approves the form of Lease, the Owner agrees not to change the Lease form without submitting the new Lease form to the Board for approval. In the event a Lease form is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the Lease in compliance with the Declaration and any Rules and Regulations adopted pursuant thereto.

(ii) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of Leases. All leases must be for a term of not less than six months. Within 10 days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the Lease and the name of the lessee(s) and all other people occupying the Lot. The Owner may redact financial, and other privileged, terms of the lease. The Owner must provide the lessee copies of the Declaration, Bylaws, and the Rules and Regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a

proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Compliance with Declaration, Bylaws and Rules and Regulations and Use of Common Elements. Each Owner covenants and agrees that any Lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease.

(A) Compliance with Articles of Incorporation, Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Articles of Incorporation, the Declaration, the Bylaws, and the Rules and Regulations (collectively, the "Governing Documents") adopted pursuant thereto and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all occupants of his or her Lot to comply with the Governing Documents adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Governing Documents for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee. The fine may be assessed against the Owner after both parties are provided notice and an opportunity for hearing. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Governing Documents adopted pursuant thereto by the lessee, any occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Colorado law. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration and the Owner fails to commence such action within 30 days of the date of the Association's notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner hereby delegates and assigns to the Association, acting through the Board, the power and

authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner for breaches resulting from the violation of the Governing Documents adopted pursuant thereto. If the Association evicts the lessee, any costs, including but not limited to reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Lot.

(B) Use of Common Elements. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including but not limited to, the use of any and all recreational facilities and other amenities.

II. No Other Amendments. Except as amended by the terms of this Amendment and previous amendments, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed by the undersigned.

**Hampstead at Lowry Homeowners
Association, Inc.,**
a Colorado nonprofit corporation

By: _____

President

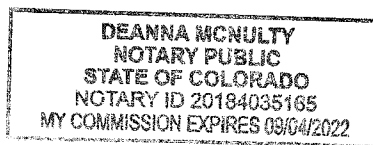
By: _____

Secretary

STATE OF COLORADO)

) ss.

COUNTY OF Denver)



The foregoing was acknowledged before me this 24th day of September, 2020, by Harry Grabarz, as President of Hampstead at Lowry Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 09/04/2022.

Notary Public

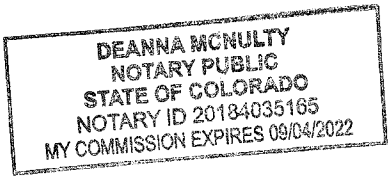
STATE OF COLORADO

)

) ss.

)

COUNTY OF Denver



The foregoing was acknowledged before me this 24th day of September, 2020, by Penny Rice, as Secretary of Hampstead at Lowry Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 09/04/2022

[Signature]
Notary Public