

Indexing Notes:

Index in:

- The grantee's index under "Uplands" (the name of the Community) and "Uplands Residential Community Association, Inc." (the name of the Association)
- The grantor's index under "Westminster Neighborhood Mixed Use, LLC" (the name of the Declarant executing this declaration)
- The grantor's index for each of any other persons executing this declaration.

RESIDENTIAL COMMUNITY DECLARATION

FOR

UPLANDS

THIS DECLARATION CONTAINS MANDATORY ALTERNATIVE DISPUTE RESOLUTION PROVISIONS, IN LIEU OF LITIGATION, THAT CANNOT BE AMENDED OR DELETED WITHOUT DECLARANT CONSENT

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**RESIDENTIAL COMMUNITY DECLARATION
FOR
UPLANDS**

THIS RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS ("Declaration") is made and entered into this _____ day of _____ 202__, by Westminster Neighborhood Mixed Use, LLC, a Florida limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property situated in the City of Westminster, County of Adams, State of Colorado, which is described in Exhibit A-1 (the "Property"); and

WHEREAS, Declarant is the owner of the real property which is described in Exhibit B (the "Community Annexable Area"); and

WHEREAS, Declarant desires to subject and place upon the real property described on the attached Exhibit A-1 certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said real property and for the purpose of furthering a plan for the improvement, sale and ownership of said real property, to the end that a harmonious and attractive development of said real property may be accomplished and the health, comfort, safety, convenience and general welfare of owners in said real property, or any portion thereof, may be promoted and safeguarded; and

WHEREAS, Declarant desires to create a common interest community pursuant to the Act (as hereinafter defined) by recording this Declaration in every county in which any portion of the common interest community is located, and to be indexed in the grantee's index in the name of the common interest community and in the name of the Association (as hereinafter defined), and in the grantor's index in the name of the Declarant; and

WHEREAS, this common interest community is a residential planned community and Declarant has caused or will cause the "Uplands Residential Community Association, Inc.," a Colorado nonprofit corporation, to be incorporated under the laws of the State of Colorado, in accordance with the Act and the Colorado Revised Nonprofit Corporation Act, as a unit owners' association for the Community, for the purpose of exercising the functions set forth in this Declaration.

NOW, THEREFORE, Declarant hereby submits the Property, and such additional real estate as may be subsequently added and made subject to this Declaration pursuant to the provisions of the Act and Article 14 of this Declaration, to the terms and conditions of this Declaration. Declarant, for itself and its successors and assigns, hereby declares that all of the Property shall, from and after the date hereof, constitute a planned community and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the covenants, conditions, restrictions, reservations, easements, equitable servitudes and other provisions set forth in this Declaration, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Property and to enhance the value, desirability and attractiveness of the Property. This Declaration shall: (i) run with the Property at law and as an equitable servitude; (ii) bind any Person (as defined herein) having or acquiring any right, title or interest in any portion of the Property; (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein; and (iv) inure to the benefit of, be binding upon and be enforceable by Declarant and its successors in interest and assigns, each Owner (as defined below) and its heirs, successors in interest and assigns, and the Association (as defined below) and its successors in interest.

ARTICLE 1. PREAMBLE

Section 1.1 The Uplands Ethos. Welcome to the Uplands community, where we hope you will feel right at home.

Our vision for Uplands is reminiscent of early 20th century neighborhoods that encouraged walking and connecting with neighbors, thanks to front porches and stoops, tree-lined sidewalks and trails, and plentiful parks and open spaces.

We balanced this vision with the needs of today's families and individuals to include a diversity of housing choices that emphasize quality of design and attainability for a range of budgets. And we intend to build a thriving and resilient 21st century community through environmental sustainability and water conservation.

It is with this in mind that we share the guiding principles that make up the ethos and spirit of Uplands. These guiding principles have held us accountable to our promises to the great people of Westminster.

(a) **Encouraging Connectivity + Mobility** — Uplands will be anchored by a thriving Village Center with neighborhood shops and businesses and connected by an active network of sidewalks, trails, and bikeways. These thoughtful public spaces serve as important spokes and hubs for community activation, discovery, and collaboration.

(b) **Providing a Diversity of Housing** — When it comes to housing options, Uplands will meet the needs of individuals and families of a variety of income levels. This includes deed-restricted affordable and market-rate rentals; dedicated senior housing; townhomes for first-time buyers or older adults looking to downsize; and paired and detached homes for those who need more space.

(c) **Celebrating Views + Creating Shared Spaces for All** — Every Uplands resident will be within a ¼ mile (or 5-minute walk) from a park, a protected view corridor, or a public plaza. With a total of 47 acres of large city parks, neighborhood parks, tree lawns, and more, time spent outdoors will be a priority for all ages and abilities.

(d) **Leading On Sustainability** — All homes within Uplands will be water-wise and energy-efficient with the use of smart meters and EPA-approved fixtures. These devices, in combination with an abundance of native permaculture habitats and drought-resistant landscaping, will help Uplands meet its goal of using significantly less water annually than what the City of Westminster allocated.

(e) **Cultivating Community Agriculture** — Paying tribute to the site's farmsteading past, Uplands will make available community gardens throughout the 7 acres of pocket parks to serve as metaphorical tables where people will cultivate and connect in the shared interest of nourishing minds and bodies.

ARTICLE 2. DEFINITIONS

Section 2.1 General. Terms used in these Governing Documents, as defined below, have their normal, generally accepted meanings or the meanings given in the Colorado Common Interest Ownership Act or the Colorado Revised Nonprofit Corporation Act, unless the context requires otherwise.

(a) “Act” means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 *et. seq.* as the same has been and may hereafter be amended from time to time, and any statute that may from time to time replace the same.

(b) “Agencies” collectively means the Government National Mortgage Association

(GNMA), Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (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.

(c) "Allocated Interest" means the Common Expense Liability and votes in the Association allocated to each Unit in this Declaration, as allowed for in the Act. The Common Expense Liability and votes allocated to each Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Community from time to time. The Allocated Interest for each Unit is subject to decrease with the annexation of additional property, if any, to this Community as provided in Article 14 hereof.

(d) "Annual Assessment" is defined in Section 7.2.

(e) "Architectural Review Committee" or "ARC" 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.

(f) "Articles of Incorporation" means the Articles of Incorporation of the Uplands Residential Community Association, Inc., a Colorado nonprofit corporation, filed in the office of the Secretary of State of the State of Colorado.

(g) "Assessments" means all monies due to the Association from Owners and all amounts which are duly assessed by the Board as Annual Assessments, Special Assessments, Reimbursement Assessments, Service Area Assessments, and reasonable attorney's fees for collection.

(h) "Association" means Uplands Residential Community Association, Inc., a unit owners' association organized as a Colorado non-profit corporation pursuant to the Act. The Association is a master association as that term is defined under the Act.

(i) "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.

(j) "Builder" means any Person who acquires from Declarant one or more Lots for the purpose of constructing on each a Dwelling and selling such Lot and Dwelling to any member of the general public, and any Person who acquires from Declarant one or more Condominium Sites for the purpose of constructing Condominiums thereon and selling such Condominiums to any member of the general public.

(k) "Bylaws" means the Bylaws of the Association which have been or will be adopted by the Board of Directors of the Association, as the same may be amended from time to time.

(l) "City" means the City of Westminster.

(m) "Common Elements" means all real property interests including Improvements, now or hereafter owned or leased by the Association or which the Association has a contractual right to use, or which constitutes the easement area under any easement that names the Association as grantee, or which the Association Maintains and Repairs, holds or uses for the common benefit, use and enjoyment of the Owners. The Common Elements, if any, at the time of recordation of this Declaration which are or must become Common Elements are described on Exhibit C-1 attached hereto and incorporated herein by this reference. The Limited Common Elements, if any, within the real property at the time of recordation of this Declaration are also described on Exhibit C-1 attached hereto. The Common Elements and Limited Common Elements that may become Common Elements if and when deeded from the Declarant to the Association and recorded in the Records are described on Exhibit C-2

attached hereto.

(n) "Common Expense Liability" means the liability for Common Expenses allocated to each Unit. The Common Expense Liability for each Unit shall be equal to the Allocated Interest of such Unit.

(o) "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(p) "Community" means the Property, together with any portion of the Community Annexable Area or other real property that is added to the Community and becomes subject to this Declaration, as supplemented and amended from time to time, pursuant to Article 14 of this Declaration. The Community is a planned community under the Act.

(q) "Community Annexable Area" means the real property described in Exhibit B attached hereto and incorporated herein by this reference, all or any portion of which may from time to time be added to the Community and made subject to this Declaration as provided in Article 14 of this Declaration.

(r) "Community Budget" is defined in Section 4.6(a).

(s) "Condominium" means an individual air space unit that has been included in the Community together with the interest in the common elements appurtenant to such unit as set forth in any Neighborhood Declaration that creates a condominium community under the Act. Each Condominium constitutes a "unit" under the Act, however it shall not be necessary to use the term "unit" as part of a legally sufficient description of a Condominium.

(t) "Condominium Site" means a platted parcel of land shown upon any recorded Plat or condominium map on which Condominium units will be constructed.

(u) "County" means Adams County, Colorado.

(v) "Declarant" means Westminster Neighborhood Mixed Use, LLC, a Florida limited liability company, and any other Person(s) acting in concert, to whom the Declarant, by recorded document executed by Declarant and by the successor or assignee (as required by the applicable provisions of the Act), 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: (i) as part of a common promotional plan, offers to dispose of to a purchaser such Declarant's interest in a Unit not previously disposed of to a purchaser; or (ii) reserves or succeeds to any Special Declarant Right.

(w) "Declaration" means this Residential Community Declaration for Uplands and any other recorded instruments, however denominated, that create this Community, including any Supplemental Declarations and also including, but not limited to, Plats and maps.

(x) "Design Guidelines" means "Uplands Residential Design Guidelines" which are guidelines and rules relating to the procedures, materials, fees and construction of any proposed Improvements within the Community as the same may be adopted and amended from time to time by the ARC.

(y) "Development Period" means the time period commencing on the date this Declaration is recorded in the Records and terminating on the date that is thirty (30) years after the date that this Declaration is recorded in the Records.

(z) "Development Rights" means any right or combination of rights hereby reserved

by Declarant to:

(i) add real property (including without limitation any of the Community Annexable Area or other property to the maximum extent permitted by the Act) to the Community, create Units, Condominium Sites, Common Elements, or Limited Common Elements within the Community, and subdivide or combine Units or Condominium Sites or convert Units into Common Elements; and

(ii) withdraw real property from the Community and thereby decrease the number of Units, Condominium Sites and/or Common Elements.

(aa) "Dwelling" means a residential unit together with any attached or detached garage, porch, deck or patio constructed upon a Lot which is a Unit, but not including a Condominium.

(bb) "First Security Interest" means a Security Interest that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and assessments).

(cc) "General Common Element" means any portion of the Common Elements for the common use and enjoyment by all of the Members and for other purposes as may be permitted by this Declaration. The General Common Elements, if any, at the time of recordation of this Declaration which are or must become Common Elements are described on Exhibit C-1 attached hereto and incorporated herein by this reference.

(dd) "Governance Policies" means those governing and operating policies of the Association, as required by the Act and as adopted by the Association.

(ee) "Governing Documents" means this Declaration and any Supplemental Declarations, the Plat(s), the Articles of Incorporation, the Bylaws, the Governance Policies, the Rules and Regulations and the Design Guidelines, if any.

(ff) "Governmental Authority" means the County, the City, the State of Colorado, the Metro District, if any, or any other governmental or quasi-governmental entity having jurisdiction over the Community.

(gg) "Improvements" means all exterior improvements, structures (including Dwellings and Condominiums), and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, fixtures, utilities, mail boxes, swimming pools, tennis courts, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, parking areas, driveways, dog houses, fences, screening walls, retaining walls, stairs, decks, drainage facilities, pumps, tanks, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas electricity, solar energy, telephone or other utilities, hardscape, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball hoops, signs, and exterior air conditioning, cooling, heating and water softening equipment, and including excavation, grading and construction work necessary to install, operate, or Maintain and Repair any of the foregoing.

(hh) "Limited Common Element" means any portion of the Common Elements designated as a Limited Common Element in Sections 202(1)(b) and 202(1)(d) of the Act, if any, or designated as a Limited Common Element from time to time by Declarant or by the Association for the exclusive use and benefit of certain Owners of Units within the Community, but less than all of such Units.

(ii) "Lot" means each platted lot, tract, or parcel of land that has been included in the Community and is intended for the construction of a Dwelling thereon and which is shown upon any recorded Plat of the Property as the same may be amended from time to time, as well as each platted lot, tract, or parcel of land intended for the construction of a Dwelling thereon and which is shown upon any

recorded Plat of other real property that is added to and made subject to this Declaration in the future, but not including a Condominium or any lots, tracts, or parcels that are designated as Common Elements. Each Lot constitutes a "unit" under the Act, however it shall not be necessary to use the term "unit" as part of a legally sufficient description of a Lot.

(jj) "Maintain and Repair" or "Maintenance and Repair" means maintenance, repair, improvement, alteration, operation, renovation, restoration, re-construction and/or replacement.

(kk) "Managing Agent" means any one or more Persons employed by the Association and engaged to perform any of the duties, powers or functions of the Association.

(ll) "Member" means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit.

(mm) "Metro District" means any Metropolitan District duly established pursuant to the laws of the State of Colorado that includes any portion of the Property.

(nn) "Neighborhood Declaration" means any other declaration creating a planned community or condominium community and a unit owners association under the Act acting as a Subassociation for any portion of the Property, the Community Annexable Area or other real property added to the Community.

(oo) "Owner" means the Declarant, a Builder or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation.

(pp) "Period of Declarant Control" means the time period commencing on the date this Declaration is recorded in the Records and terminating thirty (30) years later; provided, that the Period of Declarant Control shall terminate no later than the earlier of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Total Units to Owners other than Declarant; (ii) two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business; or (iii) two (2) years after any right to add new Units to the Community was last exercised or such shorter period as may be required by the Act.

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

(rr) "Plat" means a subdivision plat or condominium map for any portion of the Community which may be recorded in the Records, as the same may be amended or supplemented from time to time.

(ss) "Property" means the real property described in Exhibit A-1 attached hereto and incorporated herein by this reference, together with any portion of the Community Annexable Area or other real property that is added to the Community and becomes subject to this Declaration, as supplemented and amended from time to time, pursuant to Article 14 of this Declaration.

(tt) "Records" means the real estate records maintained in the office of the Clerk and Recorder of the County.

(uu) "Reimbursement Assessment" is defined in Section 7.5.

(vv) "Related User" means: (a) any person who resides with an Owner within a Dwelling or Condominium; (b) a guest, licensee or invitee of an Owner or of a person described in (a) above; (c) an occupant or tenant of a Dwelling or Condominium and any members of his or her

household, invitee or cohabitant of any such person; or (d) a contract purchaser of a Unit.

(ww) "Rules and Regulations" means rules and regulations adopted from time to time by the Board of Directors, as amended.

(xx) "Security Interest" means an interest in a Unit created by contract or conveyance which secures payment or performance of an 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 this Declaration and, with respect to notice of cancellation or substantial modification of certain 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 administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the Records show the administrator as having the record title to the Unit.

(yy) "Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any First Security Interest including, for purposes of this Declaration, and, with respect to notice of cancellation or substantial modification of certain insurance policies, the administrator of Veterans Affairs, an Officer of the United States of America, and his 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 Records show the said administrator as having the record title to the Unit, or any successor to the interest of any such Person under such Security Interest.

(zz) "Service Area" means a group of Units (whether or not contiguous) that share certain designated Limited Common Elements and/or receive special benefits or services from the Association that it does not provide to all Units within the Community and that have been designated as a Service Area in this Declaration or a Supplemental Declaration. Service Areas may or may not be governed by a Subassociation. The Service Area, if any, at the time of recordation of this Declaration are described on Exhibit C-1 attached hereto and incorporated herein by this reference.

(aaa) "Service Area Assessment" means an assessment levied against a Unit within a particular Service Area representing a portion of the Association costs to provide the special benefits or services to the Units.

(bbb) "Service Area Expenses" means all expenses the Association incurs or expects to incur in connection with ownership, maintenance and operation of Limited Common Elements within a particular Service Area, or in providing special benefits or services to a Service Area, including any operating and reserves for ongoing repair and replacement of capital items maintained for the benefit of the Service Area. Service Area Expenses may include an administrative charge reasonably determined by the Board, provided that any such administrative charge is applied uniformly among all Service Areas receiving the same special benefit or service.

(ccc) "Special Assessment" means a charge against an Owner and such Owner's Unit representing a portion of the costs of the Association for the purpose of funding such functions as the Association may determine, including without limitation, major capital repairs, maintenance, correction of Budget deficits, and construction, re-construction, renovation or replacement of Common Elements and Improvements.

(ddd) "Special Declarant Rights" means rights hereby reserved for the benefit of Declarant to perform the following acts during the Development Period: to build and complete Improvements in the Community; to exercise any Development Rights; to maintain sales offices/trailers, construction offices/trailers, management offices/trailer, and signs advertising the Community and sale of Units; to store and stage construction materials; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real property which may be added to

the Community, and to grant or create easements for access, utilities, drainage, water, parks and open space, and other purposes incidental to development and sale of the Community located in or across Units owned by Declarant or Common Elements without the need for consent or approval of the Association; to appoint or remove any officer of the Association or any Board of Directors member during any Period of Declarant Control; to allocate any of the Common Elements or portions thereof as Limited Common Elements and to allocate such Limited Common Elements among particular Units; to establish Service Areas; or to perform any other Special Declarant Right set forth in this Declaration or in the Act. Declarant also reserves the Special Declarant Right to convert any Unit or other portion of the Community which is owned by Declarant into Common Elements. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter included within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time in any order that Declarant deems appropriate. Notwithstanding the foregoing, Special Declarant Rights with respect to the appointment of officers and directors, may only be exercised in accordance with Article 4 hereof.

(eee) "Subassociation" means any unit owners association and its successors and assigns, organized and established or authorized pursuant to, or in connection with, one or more Neighborhood Declarations, the membership of which is composed of Owners of Units within the area subject to the Neighborhood Declaration.

(fff) "Supplemental Declaration" means a written recorded instrument amending or supplementing this Declaration, containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, annexations, or any combination thereof, which affects any portion of the Property, the Community Annexable Area or other property made subject to this Declaration.

(ggg) "Total Units" means two thousand three hundred fifty (2,350) Units, which shall be the maximum number of Units that may be created subject to this Declaration. However, the number of Units is not a representation or a guarantee as to the actual number of Units that will ultimately be included in the Community.

(hhh) "Unit" means a physical portion of the Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from this Declaration or Neighborhood Declaration, inclusive of any Lot and any Condominium, and each constitutes a "Unit" under the Act.

ARTICLE 3. ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 3.1 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, in its Articles of Incorporation and Bylaws and as provided in the Act or otherwise by Colorado law.

Section 3.2 Membership in the Association. Each Owner of a Unit shall be a Member of the Association, including Declarant and Builders, but excluding the Association or a Subassociation. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Unit, and the membership shall automatically pass with fee simple title to the Unit. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit, except that an Owner may assign some or all of the Owner's rights as an Owner and as a Member of the Association to a tenant or Security Interest Holder, and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but no such delegation or assignment shall relieve an Owner from the responsibility for fulfillment of the obligations of Owners under this Declaration, nor shall a tenant exercise an Owner's right to attend Association meetings or exercise an Owner's right to vote. The rights acquired by any such tenant or Security Interest Holder shall be extinguished automatically upon termination of the tenancy or Security Interest. The assignment of rights by an Owner pursuant to this Section are not subject to any present or future statutory time limit for the duration of proxy rights.

Section 3.3 **One Class of Membership.** The Association shall have one class of voting membership. Each Unit shall be entitled to one (1) vote in the Association, except that no vote allocated to a Unit owned by the Association or a Subassociation may be cast.

(a) The total number of votes which may be cast in connection with any matter that comes before the Owners shall be equal to the total number of Units then existing within the Community, less the votes of Units owned by the Association or a Subassociation.

(b) Except as otherwise provided in Article 4 of this Declaration, during the Period of Declarant Control, 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 Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, 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 **Voting Rights.** Votes allocated to Units shall be cast either by the Owners of such Units or their agents appointed in accordance with the Bylaws. When more than one Person holds an ownership interest in any Unit, the vote for the Unit will be exercised as those Owners determine among themselves, otherwise the Unit's vote will be suspended if more than one Person seeks to exercise it.

ARTICLE 4. BOARD OF DIRECTORS, MEMBERS AND OFFICERS

Section 4.1 **Authority of Board of Directors.** The affairs of the Association shall be managed by its Board of Directors. Except as specifically provided in the Governing Documents, the Board of Directors may act in all instances on behalf of the Association.

Section 4.2 **Election of Part of Board of Directors During Period of Declarant Control.** No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Total Units to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than Declarant. No later than sixty (60) days after conveyance of fifty percent (50%) of the Total Units to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by Owners other than Declarant.

Section 4.3 **Authority of Declarant During Period of Declarant Control.** Except as otherwise provided in this Article, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and may remove all officers and directors of the Board of Directors appointed by it.

Section 4.4 **Termination of Period of Declarant Control.** Within sixty (60) days after the termination of the Period of Declarant Control, the Owners including Declarant and Builders, shall elect a Board of Directors (with the exact number of members of the Board of Directors to be set forth in the Bylaws of the Association), 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. Such Board of Directors and officers shall take office upon election.

Section 4.5 **Delivery of Documents by Declarant.** After the termination of the Period of Declarant Control, 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 the Act.

Section 4.6 **Budget.**

(a) **Community Budget.** The Declarant, as the sole Owner of the Property shall adopt the first budget for the Community ("Community Budget"). Within ninety (90) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, electronic mail, or otherwise deliver, a summary of the Community Budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the Community Budget. The meeting must occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The budget proposed by the Board of Directors does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by sixty-seven percent (67%) of the votes in the Association, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board of Directors and not vetoed by the Owners must be continued until such time as a subsequent budget proposed by the Board of Directors is not vetoed by the Owners.

(b) **Neighborhood Budget.** Any Neighborhood Budget for a Subassociation shall be established in accordance with the Act and Neighborhood Declaration related to such Subassociation.

(c) **Service Area Budget.** Within ninety (90) days after adoption of any proposed budget of the Service Area Expenses for a particular Service Area ("Service Area Budget"), the Board of Directors shall mail, by ordinary first-class mail, electronic mail, or otherwise deliver, a summary of the Service Area Budget to the Owners located within that Service Area and shall set a date for a meeting of the Owners to consider ratification of the Service Area Budget. Such meeting may be held on the same date and in the same manner as the Community Budget meeting. The meeting must occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Service Area Budget proposed by the Board of Directors does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by seventy-five percent (75%) of the votes in the Service Area, whether or not a quorum is present. In the event that the proposed Service Area Budget is vetoed by the Owners within any Service Area, the Association shall not be obligated to provide the services anticipated to be funded by such budget. If the Board of Directors fails for any reason to determine a Service Area Budget for any fiscal year, then the periodic budget last proposed by the Board of Directors and not vetoed by the Owners must be continued until such time as a subsequent Service Area Budget proposed by the Board of Directors is not vetoed by the Owners.

Section 4.7 **Notice.** Notice of a matter affecting the Community shall be given in accordance with the Act and may be given by the Association to each Owner in writing delivered personally or by U.S. mail or by electronic mail to all Owners at such address as appears in the records of the Association, or notice may be published in a newsletter, electronic newsletter, or similar publication which is routinely circulated to all Owners or in any other manner permitted by law.

ARTICLE 5. **DUTIES AND POWERS OF ASSOCIATION**

Section 5.1 **General Duties and Powers of Association.** The Association has been formed to further the common interests of the Members. The Association, acting through the Board or Persons to whom the Board has delegated such powers, and subject to any limitations set forth in this Declaration or other Governing Documents, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of

the Members, to Maintain and Repair the Common Elements, and to improve and enhance the attractiveness and desirability of the Community.

Section 5.2 **Duty to Accept Property and Facilities Transferred by Declarant.** The Association shall accept ownership and/or title to any real property, including any Common Elements and any Improvements thereon, and personal property, equipment, and easements, transferred to the Association by Declarant, together with the responsibility to operate and Maintain and Repair such property and to perform all duties and functions incidental to ownership or beneficial use of such property, Improvements, personal property, equipment and easements. Property interests transferred to the Association by Declarant and which the Association shall accept may include fee simple interest, easements, leasehold interests and contractual rights or licenses to use property. The Association shall accept such transfer upon the tender of transfer of ownership or title by the Declarant to the Association. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and any Supplemental Declarations or any Neighborhood Declaration. At any time thereafter that the Declarant makes written request, the Association shall promptly furnish to Declarant a written confirmation of transfer that includes the Association's acknowledgement that the Association has accepted the transferred property for all ownership, operation, maintenance and repair purposes.

Section 5.3 **Duty to Manage and Care For Property.**

(a) The Association shall Maintain and Repair all Common Elements, Improvements located thereon, and any drainage structure or facilities, or other public Improvements or publicly dedicated or publicly owned property that is required by a Governmental Authority to be maintained by the Association as a condition of development of the Community or any part thereof, unless such Improvements or property have been dedicated to and accepted by a Governmental Authority for the purpose of such Maintenance and Repair, or unless such Maintenance and Repair has been authorized by law to be performed and has been accepted by a Metro District, another special district or other municipal or quasi-municipal entity, or such Maintenance and Repair is performed by a Subassociation. Maintenance and Repair of General Common Elements shall include without limitation:

(i) all landscaping and other flora, parks, open space, ditches and gullies and other Improvements, including any streets, alleyways, and bike and pedestrian pathways/trails, situated upon the Common Elements;

(ii) landscaping within public rights-of-way that abut or provide access to the Property if required by Governmental Authorities;

(iii) all ponds (including irrigation ponds), streams and wetlands which serve as part of the drainage and storm water retention system for the Property, including any retaining walls, ditches, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits and similar equipment installed therein or used in connection therewith and located on the Common Elements or required to be maintained by Governmental Authorities;

(iv) all conservation and open space areas owned by the Association or for which the Association has undertaken Maintenance and Repair obligations under any agreement with any other party;

(v) such fencing, if any, located on or adjacent to the Property for which the Association undertakes maintenance responsibility from time to time; and

(vi) such amenities, clubhouses, swimming pools or other structures as may be part of the Common Elements.

(vii) snow removal from Common Elements if required by law or pursuant to other written agreement.

(b) Further, the Association is authorized and may provide such other Maintenance and Repair as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated or publicly-owned property and the Improvements located thereon, except that the Association may not undertake or provide Maintenance and Repair of individual Dwellings or Condominiums except as provided in Section 11.2 of this Declaration or in accordance with a Supplemental Declaration or Neighborhood Declaration. The costs, expenses, fees and other amounts to be expended for the Maintenance and Repair provided for in this subsection shall be collected by the Association as Assessments (or, to the extent permitted by law through use fees).

(c) The Association has the right, but not the obligation, to delegate its powers and duties to manage, operate, care for, and Maintain and Repair any General Common Elements, Limited Common Elements, or portions thereof, or any other property, to a Metro District, another special district or to any Subassociation within all or part of the Community. Any delegation to a Subassociation shall be limited to those General Common Elements or Limited Common Elements within or adjacent to any Subassociation or operated primarily for the benefit thereof as determined by the Board. Those General Common Elements and Limited Common Elements subject to delegation shall include, without limitation, the following: entry feature landscaping; peripheral landscaping along streets, connector roadways and arterial roadways; open space buffers; bike and pedestrian pathways; community amenities; and community monumentation. Any Subassociation shall be obligated to accept any such delegation and, upon such delegation, to manage, operate, care for, and Maintain and Repair the same in the manner as required of the Association as elsewhere provided in this Declaration or any Supplemental Declaration. The costs, expenses, fees and other amounts to be expended for the obligations delegated to a Subassociation as provided for in this subsection shall be collected by the Subassociation as a Subassociation assessment.

(d) The Association may manage, operate, care for, and Maintain and Repair any real property and improvements thereon, or portions thereof, that is owned by a Metro District, another special district, or any other governmental entity. The Association shall also have the right, but not the obligation, to accept a delegation of obligations to manage, operate, care for, and Maintain and Repair any property that is owned by a Metro District, another governmental entity or a Subassociation within all or part of the Community.

Section 5.4 **Duty to Pay Taxes.** The Association shall pay any taxes and assessments levied upon the Common Elements and any other real property owned by the Association and all other taxes and assessments payable by the Association. The Association shall have the right to contest any

such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful. The Association may maintain a tax reserve fund for payment of any taxes, including additional taxes which could be incurred as a result of an adverse ruling on any reporting position taken by the Association.

Section 5.5 **Duty to Prepare Budgets.** The Association shall prepare budgets for the Association as required by and provided for in this Declaration and by the Act.

Section 5.6 **Duty to Maintain Insurance.** The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration and as required by the Act.

Section 5.7 **Duty to Levy and Collect Assessments.** The Association shall levy and collect Assessments as provided in this Declaration. For convenience, the Association may bill for and collect Assessments or other debts due jointly with one or more Subassociations.

Section 5.8 **Duty to Provide Annual Report.** The Association shall provide an unaudited financial statement for the immediately preceding fiscal year within a reasonable time after written request by any Security Interest Holder or insurer or guarantor of a First Security Interest. Security Interest Holders shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available.

Section 5.9 **Duties with Respect to Architectural Approvals.** The Association shall perform functions to assist the ARC as requested by the ARC.

Section 5.10 **Power to Acquire and Maintain Property and Construct Improvements.** The Association may acquire property or interests in property as a Common Element for the common benefit of Owners, including Improvements and personal property. The Association may construct Improvements on property and may demolish existing Improvements. Subject to any limitation set forth in this Declaration or a Supplemental Declaration, the Association shall have the power to Maintain and Repair public or private rights of way and other public or private properties and the power to perform Maintenance and Repair work on any portion of the Community, whether or not owned by the Association.

Section 5.11 **Power to Adopt Rules and Regulations, Policies, Procedures and Guidelines.** The Association may, from time to time, adopt, amend, repeal and enforce Rules and Regulations Governance Policies, policies, procedures, and guidelines as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Common Elements and the use of any other property within the Community, including Units. Any such Rules and Regulations, policies, procedures, and guidelines shall be reasonable and uniformly applied. Copies of the currently effective Rules and Regulations, policies, procedures, and guidelines shall be made available to each Owner upon request and payment of the reasonable expense of copying the same or without cost if posted electronically. Each Owner shall comply with the Rules and Regulations, policies, procedures, and guidelines and shall see that Related Users of such Owner comply with the Rules and Regulations and other Governing Documents. The Board of Directors may establish and enforce penalties for the infraction thereof, including, without

limitation, the levying and collecting of fines. In the event of a conflict between the Rules and Regulations, policies, procedures, and guidelines, and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 5.12 Power to Enforce Declaration and Governing Documents. The Association shall have the power to enforce the provisions of this Declaration and of the other Governing Documents, and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and the Related Users of each Member (including without limitation foreclosure of liens as provided by applicable law). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of the other Governing Documents, by any one or more of the following means: (a) by entry upon any property within the Community after notice and a reasonable hearing (unless a bona fide emergency exists), without liability to the Owner or occupants thereof, for the purpose of enforcement of or causing compliance with this Declaration or the other Governing Documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the other Governing Documents, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the other Governing Documents (including without limitation, non-payment of Assessments); (d) by automatic suspension of the Member's voting rights and the Member or Related User's use rights of any Community facilities, and without further notice and hearing, during any period in which the Member is in default in the payment of any Assessment levied by the Association; (e) by suspension of the Member's voting rights and the Member or Related User's use rights of any Community facilities, after notice and hearing, for violations of any other provision of the Governing Documents (except payment delinquency violations), for a period not to exceed 60 days or during any period of violation, whichever is greater; (f) by levying and collecting, after notice and hearing, a Reimbursement Assessment against any Member for breach by a Member or Related User of such Member of this Declaration or the other Governing Documents; and (g) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in the other Governing Documents from any Member, for breach by such Member or such Member's Related User of this Declaration or of the other Governing Documents.

Section 5.13 Power to Provide Services to Subassociations. The Association shall have the power to provide services to Subassociations pursuant to an agreement in writing between the Association and such Subassociation or otherwise which provides for the payment by such Subassociation to the Association of the expenses which the Association incurs in providing such services to the Subassociation, including a fair share of the overhead expenses of the Association. Services which may be provided to a Subassociation may include, without limitation, (a) the construction, care, operation, management, and Maintenance and Repair of Improvements (but not Dwellings or Condominiums) located within a Subassociation or owned by the Subassociation; (b) the provision of any or all of the services or functions of the Association under this Declaration to the area covered by the Subassociation; (c) the enforcement of the provisions of any Supplemental Declaration for, on behalf of, and in the name of the Subassociation; (d) the collection of Assessments for, in the name of, and on behalf of the Subassociation; (e) the payment of taxes for a Subassociation with funds of the Subassociation; (f) the procurement of insurance for a Subassociation; (g) the collection of charges for use of facilities of a Subassociation; and (h) the appointment and supervision of a Managing Agent or Agents for a Subassociation.

Section 5.14 Power to Provide and Charge for Public Functions. The Association shall have the power to acquire, construct, operate, manage, and Maintain and Repair public facilities and to provide public functions, including without limitation, receiving and distribution; trash collection and recycling; snow removal; and water and sewer taps to the extent such actions are not provided by a Metro District or other Governmental Authority. The Association may establish reasonable charges for the provision of such public functions.

Section 5.15 **Power to Provide Services to Metropolitan Districts.** A Metro District or the Association may use the services of the other in furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation. The Association or Metro District may establish reasonable charges for the provision of such services.

Section 5.16 **Power to Provide Special Services for Members.** The Association shall have the power to provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Association by such Member or group of Members of the costs and expenses which the Association incurs in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members, and that the payment for such services shall be secured by a lien on the Units or sites of the Member or group of Members and may be collected in the same manner as a Reimbursement Assessment, or, if the written agreement or Supplemental Declaration so provides, in installments as part of the Annual Assessments.

Section 5.17 **Power to Operate and Charge for Facilities and Services.** The Association shall have the power to acquire, create, construct, own and operate any and all such facilities and services as it deems appropriate, including without limitation, clubhouse and swimming pool amenities, landscape maintenance and refuse collection, or any other similar or dissimilar function, and to establish charges for the use of facilities and services. The charges may include admission, rental or other fees and charges for any use of property, facilities or services of the Association. Such charges or fees shall be determined from time to time by the Board of Directors.

Section 5.18 **Power to Grant Easements, Leases, Licenses, and Concessions.** The Association shall have the power to grant easements, leases, licenses, and concessions in, on, over or under the Common Elements for any lawful purpose. The Association may establish reasonable charges for granting such easements, leases, licenses, and concessions.

Section 5.19 **Power to Convey and Dedicate Property.** The Association, with the approval of the Owners representing at least 67% of the Members of the Association, and the Declarant during the Period of Declarant Control, shall have the power to grant, convey, dedicate or transfer any Common Elements or facilities owned by the Association and subject to such terms and conditions as the Association shall deem appropriate, subject to the provisions located elsewhere in this Declaration for approval of the same by the Agencies, by Security Interest Holders and by Declarant.

Section 5.20 **Power to Borrow Money and Mortgage Property.** The Association shall have the power to borrow money and assign its right to future income, including the right to assign its right to receive Assessments or a portion of an Assessment, by action of the Board of Directors, and to execute all instruments necessary to evidence the debt. Notwithstanding the foregoing, no part of the Common Elements may be subjected to a security interest by the Association unless Members entitled to cast at least sixty-seven percent of the votes in the Association, including sixty-seven percent of the votes allocated to Units not owned by a Declarant, agree to that action (except that all Owners of Units to which any Limited Common Element is allocated must agree in order to subject it to a security interest) and the Association otherwise complies with applicable requirements of the Act pertaining to the conveyance or encumbrance of common elements.

Section 5.21 **Power to Employ Managing Agents.** The Association shall have the power

to retain and pay for the services of a Managing Agent or Managing Agents to undertake any of the management or functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the Managing Agent. Any contract or agreement with a Managing Agent shall be terminable by the Association for cause on no more than 30 days' prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than 90 days' prior written notice. No such contract or agreement shall be for a term of more than five years and may be renewable in succeeding terms of no more than one year each. Notwithstanding any delegation to a Managing Agent of any duties, powers or functions of the Association, the Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, powers and functions.

Section 5.22 **Power to Engage Employees, Agents and Consultants.** The Association shall have the power to hire and discharge employees and agents and to retain and pay for such legal, accounting and other professional services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

Section 5.23 **Powers as to Trash Collection.** To the extent not provided and/or regulated by a Governmental Authority, the Association shall have the power to regulate the days and hours during which trash, solid waste and recyclables may be collected or put out for collection in any portion of the Community. The Association shall also have the power to provide services for the collection of trash and solid waste within all or any portions of the Community. In the event the Association provides for such services, each Owner within any area served by such services shall, whether or not such Owner utilizes the service, be obligated to pay Assessments levied by the Association to cover the cost for providing such function. The areas to be served and the amount of Assessments shall be determined by the Board of Directors as part of the Community Budget or applicable Neighborhood Budget. The amount of the Assessments shall be reasonable and shall represent a fair allocation of the costs of providing such services, including a fair allocation of administration and overhead costs of the Association.

Section 5.24 **Power to Assume Responsibilities of Deficient Subassociation.** In instances of deficient Maintenance and Repair, the Association may, in the discretion of the Board, assume the Maintenance and Repair responsibilities set out in any Supplemental Declaration for any Subassociation located within the Association, after giving the responsible Subassociation reasonable notice and an opportunity to correct its deficient Maintenance and Repair. In such event, all costs of such Maintenance and Repair shall be assessed only against those Members of the Subassociation.

Section 5.25 **Cooperation with Other Associations and Districts.** The Association shall have the right and authority at any time and from time to time, to enter into agreements and otherwise cooperate with other community association(s), any Metro District and/or any other special district(s), and other governmental entities, to share the costs and/or responsibility for any Maintenance and Repair or other matters, to perform Maintenance and Repair for any Person(s) in consideration of payment or reimbursement therefor or otherwise, to utilize the same contractors, subcontractors, managers or others who may perform services for the Association, any other community association(s), any Metro Districts and/or any other district(s) or governmental entities, or to otherwise cooperate with any other community association(s), any Metro District and/or any district(s) or other governmental entities 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, may be shared or apportioned between the Association and/or any other community associations, Metro District and/or any district(s) or other governmental entities, 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 any other community associations, Metro District and/or any district(s) or other governmental entities to collect assessments, other charges, or other amounts which may be due to such entity and to permit any such entity 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 of any amounts collected by the Association or to the Association of any amounts collected by such entity.

Section 5.26 **Power to Appoint Committees.** The Association shall have the right and authority to appoint committees as desired or as required in the Declaration, which will have authority to act only to the extent designated in the Governing Documents or delegated by the Board and pursuant to Colorado law

Section 5.27 **General Corporate Powers.** Subject to the terms, conditions and limitations set forth herein and in any other Governing Document, the Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act.

ARTICLE 6. COMMON ELEMENTS

Section 6.1 **Owner's Rights of Use and Enjoyment Generally.** Subject to the right of the Association to regulate, manage, convey and encumber the Common Elements, all Owners may use the General Common Elements for the purpose of such General Common Elements.

Section 6.2 **Right of Association to Regulate Use.** The Association, acting through the Board, shall have the power to regulate use of Common Elements by Members to enhance further the overall rights of use and enjoyment of all Members, including without limitation imposing reasonable limits on the times of use and numbers of guests permitted to use Common Elements.

Section 6.3 **Right of Association to Allow Public Use.** The Association, acting through the Board, shall have the right to allow members of the general public to use Common Elements, including any recreation facilities, provided that use by the general public does not unreasonably interfere with or impair the rights of use and enjoyment of Owners. Public use of recreational facilities may include the sale by the Association of monthly, annual or other periodic memberships for a fee as determined by the Board.

Section 6.4 **No Partition of Common Elements.** No Owner shall have the right to partition or seek partition of the Common Elements or any part thereof.

Section 6.5 **Liability of Owners for Damage.** Each Owner shall be liable to the Association for any damage to Common Elements or for any expense or liability incurred by the Association which may be sustained by reason of the negligence or willful misconduct of such Owner or a Related User of the Owner, and for any violation by such Owner or Related User of this Declaration or any other Governing Document. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Reimbursement Assessment against a Member to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of this Declaration or of any other Governing Document, including interest and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 6.6 **Damage to Common Elements.** In the event of damage to or destruction of 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 damage or destruction, the Association may levy a Special Assessment in the aggregate amount of such insufficiency, and proceed to make such repairs or reconstruction, unless the Owners and Security Interest Holders agree not to repair and reconstruct such damage in accordance with the terms and provisions of Article 10 hereof. No distributions of insurance proceeds shall be made to the Owners, unless made jointly payable to Owners and their respective Security Interest Holders, if any. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction or replacement, the Association must use the excess for future Maintenance and Repair and operation of and improvements to Common Elements.

Section 6.7 **Delegation of Use.** Any Owner may delegate his right of enjoyment to the Common Elements to family members residing with such Owner or to tenant(s) and family members residing with such tenants, or contract purchasers of such Owner and family members residing with such contract purchasers, in every case, who reside on the Unit.

Section 6.8 **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 the Act and this Declaration.

Section 6.9 **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 which are in default and which may 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 6.10 **Limited Common Elements.** Subject to the terms and provisions of this Declaration, every Owner or group of Owners shall have the right to use and enjoy the Limited Common Elements appurtenant to such Owner's Unit, and such right shall be exclusive except as to those other Owners with a right to use such Limited Common Elements; and Declarant hereby reserves to itself and the Association the right to create and designate Limited Common Elements, convert General Common Elements to Limited Common Element and to allocate Limited Common Elements to the exclusive use of one or more Units by Supplemental Declaration, and to assign or convey, as Limited Common Elements appurtenant to a particular Unit, with or without consideration, the exclusive right to use any area of the General Common Elements as a Limited Common Element. Upon such designation or disposition, the area shall be appurtenant to the Unit and shall pass with title thereto, regardless of whether or not specifically referenced in the deed or other instrument of conveyance of a Unit.

ARTICLE 7. COVENANT FOR ASSESSMENTS

Section 7.1 **Creation of the Lien and Personal Obligation for Assessments.** Each Owner shall be personally obligated to pay the following Assessments imposed by the Association against that Owner's Unit for Common Expenses: Annual Assessments; Special Assessments; Reimbursement Assessments; Service Area Assessments; and other charges, fines, fees, interest, late charges, costs of collection, attorney's fees and other amounts included in the definition of Assessments, all as provided in this Declaration, with such Assessments to be established and collected as hereinafter

provided. The Assessments shall be a charge on the land and shall be a continuing lien upon the Unit against which each such Assessment is made. 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 Unit shall be jointly and severally liable to the Association for the payment of all Assessments attributable to their Unit during their ownership of such Unit. Each Assessment shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Unit 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 property subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

Section 7.2 Annual Assessments

(a) The Annual Assessments levied by the Association shall be used to pay the Common Expenses, including without limitation for Maintenance and Repair of the General Common Elements, as provided in this Declaration, together with any allocations to reserves; an allocated portion of the annual costs of operating the Association; and for fulfilling 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 other Governing Documents, or by law, further including without limitation, operation and Maintenance and Repair of drainage facilities, publicly dedicated or owned property and easements, insurance, taxes, trash removal, management fees, and recreational and social activities and events; provided, however, that such Annual Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

(b) The total Annual Assessments shall be sufficient to meet the expected Common Expense needs of the Association. The Annual Assessments shall include an adequate reserve fund for the Maintenance and Repair of those items that must be Maintained and Repaired on a periodic basis (including without limitation, any drainage facilities owned or maintained by the Association). If the Common Expense Liability is reallocated, Annual Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

(c) In addition to the levy of Assessments as provided in Section 7.2(a) and (b) above, if any other Common Expense or portion thereof benefits fewer than all of the Units, or if any Common Expense disproportionately benefits any Owner or group of Owners, then the Board may, by approval of a majority of the voting Directors, assess the Common Expense or portion thereof exclusively against the Units benefited or adjust the assessment for such Common Expense in such proportion and may be equitable and appropriate.

Section 7.3 Date of Commencement of Annual Assessments. Until Annual Assessments have commenced and are levied against the Units, the Declarant shall pay all Common Expenses. The levy of Annual Assessments as to Units shall commence on the date that the first Unit is conveyed by Declarant to a third-party purchaser other than a Declarant. Each Unit will be assessed in accordance with the Allocated Interests, provided, however until the construction of a Dwelling on a Lot and conveyance of the Lot with a completed Dwelling thereon to any member of the general public, or occupancy of the Dwelling on such Lot, whichever first occurs, such Lot shall be assessed at a rate equal to one-third (33.3%) of the regular Annual Assessment in recognition of the reduced services needed or used by the Owners of such Lots. Annual Assessments shall be based on a Community Budget adopted by the Association as provided in this Declaration. A Community 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 Unit between installment due dates shall pay a pro rata share of the last payment due.

Section 7.4 **Special Assessments.** In addition to the Annual Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, a Special Assessment. Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements. Any such Special Assessment shall be levied against each Unit in accordance with the Allocated Interests in the same manner as Annual Assessments as provided in this Declaration; provided that if any Special Assessment disproportionately benefits any Owner or group of Owners, then the Board may, by approval of a majority of the voting Directors, assess the Special Assessment or portion thereof exclusively against the Units benefited or adjust the assessment in such proportion as may be equitable and appropriate.

Section 7.5 **Reimbursement Assessments.** Any Common Expenses or portion thereof benefiting fewer than all of the Units in the Community may be assessed by the Board exclusively against the Units benefited as a "Reimbursement Assessment." Additionally, the Board may assess as a Reimbursement Assessment the cost of insurance to be allocated in proportion to risk. The Board of Directors shall also have the right to levy a Reimbursement Assessment against any individual Owner to reimburse the Association for any Common Expense arising from the negligence, misconduct or failure to comply with this Declaration by such Owner or such Owner's Related Users. The Board in its sole and reasonable discretion shall make the determination if an Assessment shall be a Reimbursement Assessment levied against fewer than all of the Owners.

Section 7.6 **Service Area Assessments.** The Board of Directors may levy, in any fiscal year, a Service Area Assessment against those Units that make up a particular Service Area. Any such Service Area Assessment shall be levied equally among all Units located within the Service Area(s) benefited; provided that if any Service Area Assessment disproportionately benefits any Owner or group of Owners, then the Board may, by approval of a majority of the voting Directors, assess the Service Area Assessment or portion thereof exclusively against the Units benefited or adjust the assessment in such proportion as may be equitable and appropriate. The Service Area 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 Service Area Assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Unit between installment due dates shall pay a pro rata share of the last payment due.

Section 7.7 **Lien for Assessments.**

(a) The Association has a statutory lien on a Unit for any Assessment levied against that Unit and any late charges, attorney fees, and interest thereon charged pursuant to this Declaration or the Act are enforceable as Assessments under this Article. Subject to any limitations in the Act, 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 Association acceleration of installment obligations.

(b) 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 Association has the

authority to prepare, and record in the Records, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Unit, and a description of the Unit. If a notice of lien is filed, the costs and expenses thereof shall be added to the Assessment for the Unit against which it is filed and collected. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Section 7.8 **Priority of Association Lien.**

(a) A lien under this Article 7 is prior to all other liens and encumbrances on a Unit except:

(i) Liens and encumbrances recorded before the recordation of the Declaration;

(ii) First Security Interest on the Unit, which was recorded or perfected before the date on which the Assessment sought to be enforced became delinquent (subject to (b) below); and

(iii) Liens for real estate taxes and other governmental assessments or charges against the Unit.

(b) A lien under this Section is also prior to the First Security Interests described in the preceding subsection (a)(ii) to the extent, if any, provided in the Act.

Section 7.9 **Receiver.** In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments and if the Unit is leased, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments.

Section 7.10 **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 (or to such other party as the Board may establish by rule), a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. 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 as to the person or persons to whom the statement is issued and who rely on it in good faith. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally, 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 Unit 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, which may incorporate any fees imposed by a Managing Agent.

Section 7.11 **Effect of Non-Payment of Assessments: Remedies of the Association.** Any Assessment not paid within fifteen days (15) days after the due date thereof may bear interest from the due date at the rate specified in the Association's collection policy which may be imposed without further notice or warning. Additionally, the Board of Directors may charge a late charge specified in the

Association's collection policy which may be imposed without further notice or warning to be sufficient to cover the extra costs and expenses involved in handling such delinquent payment in accordance with applicable law. Upon 30 days written notice, the Association may accelerate and declare immediately due all of that Owner's unpaid installments. Upon acceleration, that Owner loses the privilege of paying assessments and charges in installments for that fiscal year, unless the Association, in its sole discretion reinstates the privilege. 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 Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and shall include interest and late charges as above provided. No Owner may be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the Assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

Section 7.12 **Surplus Funds and Common Profits.** Common profits from whatever source will be applied to the payment of Common Expenses. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves may be retained by the Association as reserves or in other such funds as the Board may direct or may be, but need not be, paid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments.

Section 7.13 **Working Capital Fund.** Declarant or Builder, as applicable, on behalf of the Association shall require the first Owner (other than Declarant or a Builder) of any Unit who purchases that Unit from Declarant or a Builder to make a non-refundable contribution to the Association in an amount equal to one sixth of the Annual Assessment. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant or a Builder of each Unit and shall, until used, be maintained in an Association account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase equipment, property or services. Such contribution of working capital shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the transfer of a Unit, the transferee shall pay the non-refundable contribution to the working capital fund, and the Owner shall not be entitled to a credit from his transferee or from the Association for such Owner's original contribution to working capital fund.

Section 7.14 **Reserve Capital Contribution.** Except as provided below, each Owner, upon transfer of a Unit to that Owner, must pay to the Association at the time of the closing of the transfer, a reserve capital contribution in an amount equal to one sixth (1/6) the Annual Assessment at the time of the transfer. The certificate of status of assessments prepared in accordance with this Article may include the amount of this reserve capital contribution to be due and payable to the Association from the Owner acquiring the Unit at the time of the transfer. The Association will deposit the reserve capital contribution into its reserve account. This reserve capital contribution is a lien on the Unit and, if not paid at the time of transfer, may be collected in accordance with the terms of this Declaration. This reserve capital contribution does not apply to the following transfers:

- (a) a transfer from Declarant to an affiliate of Declarant;
- (b) a transfer from an affiliate of Declarant to Declarant;
- (c) a transfer from Declarant to a Builder;
- (d) a transfer by a co-Owner to another co-Owner;
- (e) a transfer to the estate of an Owner, a transfer to the surviving spouse of an

Owner or a transfer to child of an Owner following the Owner's death;

(f) a transfer to an entity wholly owned by the grantor, provided that, upon any subsequent transfer of an ownership interest in the entity, the reserve capital contribution will become due;

(g) a transfer to a trust of which the Owner is the beneficiary; provided that upon any subsequent transfer of the Unit, the reserve capital contribution will become due;

(h) a transfer in lieu of foreclosure or foreclosure of a Security Interest; provided that upon the subsequent transfer to a third party, the reserve capital contribution will become due.

Section 7.15 **Other Charges.** The Association may levy and assess charges, costs and fees for the following matters, among others, in such reasonable amount(s) as the Board of Directors may determine in its discretion at any time and from time to time, including charges 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 Unit (if allowed by law); charges for notices and demand letters; user fees or other charges related to the operation or use of recreational amenities (such as pools or clubhouses); and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the Assessments levied by the Association.

Section 7.16 **Real Estate Transfer Assessment.**

(a) In addition to the Assessments, a Builder is required to pay a non-refundable real estate transfer assessment in the amount of \$500.00 per Unit ("Foundation Fee") to be collected at the time of building permit issuance for the Unit under construction.

(b) It is contemplated that any such real estate transfer assessment shall be utilized to fund or contribute to certain educational, arts, cultural and/or recreational events and activities, economic development, and to support health equity or operations in the greater Westminster metropolitan community. The Association will cause delivery of the Foundation Fee proceeds to the Westminster Legacy Foundation (\$150.00), the Westminster Public Schools Foundation (\$250.00), and the Westminster Chamber of Commerce (\$100.00) to oversee and administer such charitable funds. In the event the one or more of the foregoing entities should cease to exist, the Association may cause delivery of the Foundation Fee proceeds to other nonprofit entities for such purposes.

(c) Any such real estate transfer assessment may be made pursuant to certain uniform procedures, limitations and exclusions as adopted by the Board.

(d) The real estate transfer assessment will remain uniform and shall not exceed three percent (3%) of the fair market value of the property being transferred in accordance with C.R.S. 38-33.3-207(4)(a)(IV).

Section 7.17 **Borrowing.** The Association has the power to borrow money and assign future income, including the right to assign its right to receive Assessments.

ARTICLE 8. **ARCHITECTURAL REVIEW COMMITTEE**

Section 8.1 **Composition of Architectural Review Committee.** The Architectural Review Committee ("ARC") shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until the termination of the Development Period, Declarant may appoint

the ARC (unless Declarant transfers such power of appointment to the Board of Directors prior to expiration of the Development Period). The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the ARC; appoint member(s) to the ARC on the occurrence of any vacancy therein, for whatever reason; and remove any member of the ARC, 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 appointer.

Section 8.2 Review by ARC; Requirement for Approval by Governmental Authorities.

(a) No Dwellings or other Improvements shall be constructed, erected, placed, planted, applied, installed, removed, destroyed or re-constructed upon any Unit unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, fencing, walls, and grading plan, as well as such other materials and information as may be required by the ARC), shall have been first submitted to and approved in writing by the ARC; provided, however, that the Declarant and Builders whose plans and specifications have received Declarant's prior written approval are exempt from this Article 8, including any requirement to seek or obtain ARC approval during such party's development of or construction on any Common Elements or Unit or sales of Dwellings on any Unit, except for the requirements to obtain approval of governmental entities with jurisdiction there over as provided in Section 8.2(b) of this Article. The ARC shall exercise its reasonable judgment to the end that all Improvements comply with the Design Guidelines promulgated and adopted by the ARC (as the same may be amended or supplemented from time to time) and conform to and harmonize with the existing surroundings, residences, landscaping and structures. The ARC may require that the applicant(s) of each submission pay a reasonable fee(s) to the ARC for the review and approval process, with such fee(s) to be in such amount(s) as may be set by the ARC in its discretion from time to time; provided that such fee(s) shall be uniform for submissions of a similar nature or cost. Such amounts, if any, shall be payable upon submission of an application for review and may be levied in addition to the Assessments against the Unit for which the request for ARC approval was made, and 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.

(b) In addition to the required approvals by the ARC, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements on any Unit shall also require the applicant to obtain the approval of all Governmental Authorities with jurisdiction over such work, and issuance of all required permits, licenses and approvals by all such entities to the extent required by law. Without limiting the generality of the preceding sentence, issuance of building permits by the Governmental Authority having jurisdiction shall be a precondition to commencement of any construction or alteration of any Improvements on each Unit.

Section 8.3 Procedures. The ARC shall approve, approve with conditions or disapprove all requests for approval within forty five (45) days after the complete submission of the plans, specifications and other materials and information which the ARC may require in conjunction therewith. If the ARC fails to approve or disapprove any request within forty five (45) days after the complete submission to the ARC of the plans, specifications, materials and other information with respect thereto, approval shall not be required and the requirement to obtain approval shall be deemed to have been fully complied with as to the items specifically identified in the application; provided, however, even if the requirements of this Article are satisfied, nothing herein authorizes anyone to construct or maintain any Improvement to Property that is otherwise in violation of the Governing Documents or of any applicable zoning or other laws.

Section 8.4 **Vote and Appeal.** A majority vote of the ARC is required to approve a request for approval, unless the ARC 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 ARC approves with conditions or denies a request for architectural approval, any Owner shall have the right to an appeal of such decision to the full ARC, upon a request therefor submitted to the ARC within thirty (30) days after such approval with conditions or denial by the ARC's representative. Following the termination of the Development Period, if the ARC approves with conditions or denies a request for architectural approval (whether by original decision or an appeal) and the Board is not acting as the ARC, then any Owner shall have the right to an appeal of such decision to the Board of Directors, upon a written request therefor submitted to the Board of Directors within thirty (30) days after such decision by the ARC.

Section 8.5 **Architectural Standards.** The ARC may, at any time and from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce the Design Guidelines for the Community, or other standards, to interpret and implement the provisions of this Article and the Declaration, including, without limitation, those relating to procedures, materials to be submitted, specifications of items, types or kinds of Improvements, and other matters. Any standards so adopted by the ARC shall be consistent, and not in conflict with this Article and the Declaration. Following the Development Period or at such earlier time as the Declarant transfers its power of appointment to the Board of Directors, the ARC may enact, issue, promulgate, modify, amend, repeal and re-enact the Design Guidelines only with the consent of the Board of Directors.

Section 8.6 **Authority of Association to Engage Consultants.** The ARC has the authority to select and engage professional consultants to assist in reviewing applications and/or to inspect any of the work performed. The cost of any consultants are to be paid by the submitting Owner, whether or not the application is approved. Prior to incurring consultant costs, the ARC will notify the Owner of its belief that review and/or inspections by consultants are necessary. The Owner will then have the right to withdraw the submission. The Association may require payment of costs prior to review..

Section 8.7 **Liability.** Neither the Association, its Board of Directors or officers, nor the ARC, its members, nor any representative of the ARC appointed to act on its behalf, shall be liable in damages to any Owner or other Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder and will not bear any responsibility for the design, quality, structural integrity or soundness of approved construction or modifications, nor for compliance with building codes, zoning regulations, and other governmental requirements.

Section 8.8 **Variance.** The ARC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 12 hereof, 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 conflict with the general intent and purpose hereof.

Section 8.9 **Waivers; No Precedent.** The approval or consent of the ARC or any representative thereof, or of the Board of Directors, 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 ARC or any representative thereof, or by the Board of Directors, 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.

ARTICLE 9. INSURANCE

Section 9.1 Insurance. The Association shall maintain insurance as required by the Act and other applicable law, including the following types of insurance on the Common Elements, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a Common Expense. In addition, the Association may maintain such insurance on such other property as the Board of Directors may determine in its discretion from time to time, or as may be hereinafter required. Notwithstanding any of the specific insurance requirements specified in this Article, the Association shall also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

(a) Property insurance for broad form covered causes of loss; except that the total amount of insurance must not be less than the full insurable replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundations, excavations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, insuring the Association in an amount the Board determines from time to time, insuring the Board of Directors, the Association, any Managing Agent, and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board of Directors. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Community and/or any Owner who disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate Annual Assessments on the Units, plus such reserve funds as calculated from the current Budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Community to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a Managing Agent, the Association may require the Managing Agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subsection.

(d) If any Common Elements are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of: (i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or (ii) one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including, but not limited to, 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.

Section 9.2 **General Provisions of Insurance Policies.** 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 of a Security Interest encumbering the Common Elements, if any. Unless otherwise provided by statute, and to the extent available, the policy will include a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest encumbering the Common Elements, except in instances of nonpayment of premiums, which will require at least ten (10) days' prior written notice. 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 such Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. 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 9.3 **Deductibles.** The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment.

(a) To the extent the Association settles a claim for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association.

(b) Any loss to any Common Elements which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the Maintenance and Repair of the property which is damaged or destroyed. In the event of a joint duty of Maintenance and Repair of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty 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 an Owner, his tenants, family members, guests or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any Assessment. In other cases, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

Section 9.4 **Payment of Insurance Proceeds.** Any loss covered by an insurance policy described in this Article 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 holder, beneficiary or mortgagee under a Security Interest. 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 the provisions of Section 6.6 of this Declaration, 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 or the Community is terminated.

Section 9.5 **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, the Association policy shall be primary insurance not contributing with any of such other insurance. 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, and the Association may collect the amount from said Owner in the same manner as any Assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 9.6 **Acceptable Insurance Companies.** Each insurance policy purchased by the Association must be written by a hazard 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; (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 9.7 **Insurance to be Maintained by Owners.** Insurance coverage on each Unit and the Improvements (including without limitation all Dwellings) thereon, including but not limited to flood insurance, and the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Unit, shall be the sole responsibility of the Owner of such Unit, unless otherwise provided in a Neighborhood Declaration.

Section 9.8 **Annual Review of Insurance Policies.** All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies reasonably covers those risks intended to be insured by the Association. In making the aforesaid determination, the Board of Directors or the Managing Agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

Section 9.9 **Notice of Cancellation.** If the insurance described in Section 9.1. of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners.

ARTICLE 10. DAMAGE OR DESTRUCTION

Section 10.1 Damage or Destruction.

(a) Any portion of the Community which is covered by a policy of insurance which is required to be carried by the Association under this Declaration and which is damaged or destroyed must

be repaired or replaced promptly by the Association unless:

- (i) The Community is terminated;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Sixty-Seven percent (67%) of the Owners, including every Owner of a Unit that will not be rebuilt, vote not to rebuild; or
- (iv) Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

(b) 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 a Common 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 may be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability of all the Units or applied as provided in Section 6.6.

Section 10.2 Units. Any damage to or destruction of any structure located on a Unit shall, except as provided in a Neighborhood Declaration, be promptly repaired and reconstructed by the Owner thereof using such Owner's insurance policy proceeds (subject to the rights of First Security Interest holders) and personal funds of such Owner. "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. However, if a Dwelling located on a Unit is destroyed or so damaged that the Dwelling is no longer habitable, then the Owner of such Unit shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction of the Dwelling or demolish the same unless otherwise provided in a Neighborhood Declaration. Demolition of a Dwelling shall include removal of any foundation slab, basement walls and floors, re-grading of the Unit to a level condition, and the installation of such landscaping as may be required by the ARC pursuant to a plan submitted to said ARC by the Owner of said Unit. If the Owner of a Unit does not commence repair, reconstruction or demolition activities within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the ARC, then the Association may, in its reasonable discretion, after notice and hearing, enter upon the Unit for the purpose of demolishing the Dwelling and then landscaping the Unit in conformance with approved plans. The cost related to such demolition and landscaping shall be the personal obligation of the Owner of the Unit on which such work is performed as a Reimbursement Assessment and shall be subject to all the terms and provisions applicable to Assessments.

ARTICLE 11. OWNERS MAINTENANCE OBLIGATIONS

Section 11.1 Owner's Obligations. The Maintenance and Repair of each Unit and the Improvements thereon shall be the sole responsibility of the Owner of such Unit, except as may be otherwise provided in a Neighborhood Declaration. The Association and any applicable Subassociation

(but only as to the Units subject to such Subassociation) and their respective agents and contractors are hereby granted an easement for the purpose of maintenance and repair of the Owner's Unit on, over, across, under and through any adjacent Unit upon reasonable notice to the Owner thereof. Any damage occurring to such adjacent Unit or the Improvements thereon in performing such Maintenance and Repair shall be the responsibility of the party performing or authorizing such repairs or maintenance.

Section 11.2 **Association's Right to Maintain and Repair and Demolish.** In the event any Owner shall fail to perform the Owner's Maintenance and Repair obligations in a manner reasonably satisfactory to the Board of Directors or installs nonconforming Improvements, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Unit subsequent to the expiration of said thirty (30) day time period and after notice and hearing to perform any or all of such Maintenance and Repair or removal of nonconforming Improvements on the exterior portions of any Improvements located upon such Unit. The cost of such Maintenance and Repair shall be the personal obligation of the Owner of the Unit on which such work is performed as a Reimbursement Assessment.

Section 11.3 **Owner's Negligence.** Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for Maintenance and Repair of or within: (a) any property for which the Association has an obligation to Maintain and Repair; (b) any Unit; or (c) any Improvements located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any Related Party of such Owner, the cost of such Maintenance and Repair 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; and any costs, expenses and fees incurred by the Association for such Maintenance and Repair shall be added to the Assessment to which such Owner's Unit is subject and shall be subject to all of the terms and provisions of Article 7 of this Declaration. A determination of the negligence or willful act or omission of any Owner or Related Party of any Owner and the amount of the Owner's liability therefor, shall be determined by the Board at a hearing after thirty (30) days prior notice to the Owner.

Section 11.4 **Neighborhood Declaration.** The Owners' respective Maintenance and Repair obligations set forth in this Article may be changed as to Units within a Neighborhood to the extent a Neighborhood Declaration sets forth additional or different obligations, such as under a condominium plan or "maintenance free" townhome or patio home development; provided that no Neighborhood Declaration may reduce the Owners' Maintenance and Repair obligations set out in this Declaration, except to the extent that a Subassociation assumes or provides such Maintenance and Repair obligations.

ARTICLE 12. RESTRICTIONS

Section 12.1 **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 Units, all in order to enhance the value and attractiveness of the Units and serve and promote the sale thereof.

Section 12.2 **Restrictions Imposed.** This Community is subject to the recorded easements, licenses and other matters listed on Exhibit D attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Units 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 12.3 **Residential Use.** Subject to Declarant's rights under Article 14, Lots and Condominiums 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; provided, however, that an Owner may use his Lot or Condominium (i) that is zoned for residential use for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Units is created thereby, and (ii) for a live/work use so long as the applicable zoning permits a business, professional or commercial use in a portion of the Unit and residential use in the remainder of the Unit. This Section shall not apply to any activity conducted by Declarant or a Builder with respect to the development, marketing or sale of Units, nor to the Declarant or Association as it relates to the performance of its rights or obligations under this Declaration.

Section 12.4 **Household Pets.** Unless approved by the Board in writing, no animals, livestock, poultry, fowl, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Owners of each Unit 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 Units. A reasonable number shall mean an aggregate number of dogs, cats or other domestic animals not to exceed the number permitted by the ordinances of the City. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets 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, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action(s) as it may deem 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, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments. Any pet that disturbs any person by barking, howling, yelping, or other audible sound that is unreasonably loud and persistent in violation of City ordinances 6-7-7(A) is also deemed a violation of this Declaration.

Section 12.5 **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 Unit; provided, however, that during the actual construction, alteration, repair or remodeling of a Dwelling or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by a Person doing such work; and provided, further, that storage sheds may be permitted, with the prior, written approval of the ARC or as otherwise permitted in guidelines, rules or regulations promulgated by the Association. The work of constructing, altering or remodeling any Dwelling 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 Unit as to be visible from a street or from any other Unit or Common Elements. This Section shall not apply to any activity conducted by Declarant or a Builder with respect to the development, marketing or sale of Units, nor to the Declarant or Association as it relates to the performance of its rights or obligations under this Declaration.

Section 12.6 **Signs and Flags.**

(a) **Commercial Signs and Flags.** Except as may be provided for in this Declaration, or as may be required by state law or legal proceedings, no commercial signs or flags, including but not limited to, trade, marketing, or business advertising posters or flags of any kind may be erected, placed, or permitted within the Community without the prior written consent of the Board or its designee. Notwithstanding the foregoing, flags, banners, signs, advertising, or billboards used by the Declarant or a

Builder in connection with the marketing, sale or rental of the Units, or otherwise in connection with development of the Community or construction of the Units, shall be permissible. Owners, other than the Declarant or a Builder, are permitted to display the following commercial signs on Units:

(i) one "For Sale," "Open House" or "For Rent" sign of not more than six (6) square feet;

(ii) two professional security signs not to exceed one hundred (100) square inches each may be displayed on the Unit and a reasonable number of professional security decals not larger than eight inches may be displayed within the windows of the Unit; and

(iii) signs otherwise permitted by the Rules and Regulations of the Association or approved by the Board or the ARC.

(b) Non-Commercial Signs and Flags. The Association may establish reasonable, content-neutral sign and flag rules and regulations concerning the number, placement, size or other objective factors for non-commercial signs or flags, as may be allowed under applicable law.

Section 12.7 Miscellaneous Improvements.

(a) No service yards, wood piles or storage areas shall be so located on any Unit as to be visible from a street or from the ground level of any other Unit or Common Elements.

(b) Except as may otherwise be permitted by the ARC, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit, except inside a Dwelling or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction in the Community. Notwithstanding the foregoing, neither the restrictions nor the requirements of this Section shall apply to those antennas (which may include some satellite dishes and other devices) that are specifically covered by the Telecommunications Act of 1996, as amended from time to time. As to antenna which are specifically covered by the Telecommunications Act of 1996, as amended, the Association shall be empowered to adopt Rules and Regulations governing the types of antenna that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

(c) The ARC may at any time and from time to time, promulgate and publish guidelines, rules or regulations regarding the permitted types, locations, materials, and other matters having to do with fences or other Improvements.

(d) No wind generators of any kind shall be constructed, installed, erected or maintained in the Community except for a wind-electric generator that meets the interconnection standards established in rules promulgated by the Public Utilities Commission, and which conforms with any guidelines, rules or regulations adopted by the Association or ARC.

(e) All exterior lighting shall be of a down lit or low wattage design, minimizing light spill onto adjacent properties. The use of "flood lights" is prohibited unless specifically activated by a

security monitoring system. Non-glare landscape lighting is strongly encouraged, if applicable. However, the ARC reserves the right to prohibit any lighting it deems a nuisance to adjacent properties.

Section 12.8 Vehicular Parking, Storage and Repairs.

(a) Vehicles may be parked on Units only in the garages, parking lots or on driveways, if any, serving the Units or in appropriate spaces or areas designated by the Board. Vehicle parking on Lots and private roads shall be subject to such reasonable rules and regulations as the Board may adopt from time to time.

(b) Except as required to be permitted under C.R.S. 38-33.3-106.5(1)(d), no house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment may be parked or stored in the Community unless such parking or storage is within the garage area of any Unit, except that any such vehicle may be otherwise parked as a temporary expedient for loading and unloading and making deliveries or pickups. The Board may regulate the parking of commercial vehicles on a Lot and other portions of the Community through the adoption and enforcement of reasonable Rules. A "commercial vehicle" means a vehicle (excluding passenger cars, pickup trucks and vans that are rated at 1 ton capacity or less) that meets any of the following: is used to transport cargo for profit or hire; or may (but is not required to) contain signage, advertising, or written information on the vehicle or extending from the vehicle; or is any vehicle registered with the State Motor Vehicles Department as a "commercial vehicle".

(c) Except as hereinabove provided, no abandoned, stored or inoperable automobiles or vehicles of any kind shall be stored or parked on a Unit within the Community in such a manner as to be visible from any other Unit or Common Elements. An "abandoned, stored or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which is up on blocks or covered with a tarpaulin and remains on blocks or so covered for ten (10) consecutive days or which does not have an operable propulsion system installed therein, has one or more flat tires, or has another condition preventing the regular and normal operation and movement of the vehicle; provided, however, that otherwise drivable vehicles parked by Owners while on vacation or during a period of illness shall not be deemed to be abandoned.

(d) In the event the Association shall determine that a vehicle is parked, abandoned or stored on a Unit or the Common Elements in violation of subsections (a), (b), or (c) of this Section or in violation of the Rules and Regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after 24 hours the vehicle may be towed. The notice will include the name and telephone number of the person or entity that will do the towing. If 24 hours after such notice is placed on the vehicle the violation continues, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle located in the Community is blocking or effectively obstructing a designated and marked fire lane, a resident's driveway or garage, or roadway enough to effectively obstruct a Person's access thereto; or fails to display the proper permit in the parking lot marked for the exclusive use of residents; or fails to display an identifying placard or license plate in a handicapped space; or the vehicle owner or operator has received two previous notices for parking inappropriately in the same manner; then the vehicle can be towed immediately at the vehicle owner's expense in accordance with the governmental regulations. No additional notice needs to be given.

If a vehicle is towed in accordance with this Section, neither the Association nor its directors, officers or agents will be liable to any person for any claim of damage resulting from the towing. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(e) 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, on a Unit, 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.

(f) Vehicles parked within the public right-of-way that are noncompliant with City ordinances are deemed a violation of this Declaration.

Section 12.9 **Limited Use of Emergency Vehicle Access Alley.** Certain streets within the Community may not be wide enough to accommodate the turnaround of large-scale moving vehicles. In the event the street has an Emergency Vehicle Access Alley ("EVA Alley") roadway connection, gate access shall be granted to residents for large-scale moving vehicles for move-in and move-out use of such EVA Alley roadway connection upon request to the Association. Access shall be granted by the Association for a 24-hour period, to be coordinated between the Association and the incoming/outgoing residents. This access shall only be for use of moving trucks that are unable to use the turnaround provided, and other non-regular / non-recurring uses which merit use of this EVA Alley roadway connection. In accordance with Section 6.5, the Owner is liable for any damage to the EVA Alley roadway connection, gate, or related improvements caused by the Owner or the Owner's Related User, which includes but is not limited to the Owner's moving company contractor, subcontractor, and/or agent.

Section 12.10 **Nuisances.** No nuisance shall be permitted in the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of the Community or any portion thereof. As used herein, the term "nuisance" shall not include any activities of Declarant or a Builder which are reasonably necessary to the development and construction of, and sales activities in, the Community; provided, however, that such activities shall not unreasonably interfere with any Owner's ingress and egress to or from his Unit and a public right of way.

Section 12.11 **No Hazardous Activities; No Hazardous Materials or Chemicals.** No activities shall be conducted on any Unit, Common Element, Limited Common Element or within Improvements constructed on any Unit or Common Elements which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any part of the Community and no open fires shall be lighted or permitted on any part of the Community except in a contained barbecue unit on a Unit while attended and in use for cooking purposes, or within an interior fireplace, or within a propane or gas fire pit on a Unit. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit 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 12.12 **Restrictions on Trash and Materials; Trash Collection.**

(a) 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 Dwelling on any Unit nor shall any such items be deposited on a street, unless placed in a suitable, covered container that is suitably located solely for the purpose of garbage pickup. No garbage

or trash cans or receptacles shall be maintained in an exposed or unsightly manner. Notwithstanding the foregoing, compost bins do not violate this subsection.

(b) The Board of Directors, to the extent not provided by Governmental Authorities, shall have the right to contract with a private trash collection company to provide regular residential trash service to the Units within the Community and to pay the cost of such trash collection services as part of the Common Expenses, whether or not an Owner elects to use such services. Unless the Board of Directors determines that the cost of trash collection shall be paid by the Association as part of the Common Expenses, the cost of trash collection shall be paid by each Owner directly to the trash collection company and the Association shall not have any duty to pay the costs of trash collection or to assess the costs thereof to the Owners as Assessments.

Section 12.13 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 of setback lines shall be deemed waived by the Association and the Owners of each Unit immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. A "minor violation," for the purpose of this Section, is a violation of not more than one (1) foot beyond the required setback lines. This provision shall apply only to the original structures and shall not be applicable to any alterations of any of such structures. This provision does not affect the rights of the City under its zoning and land use regulations.

Section 12.14 Units to be Maintained. Each Unit, including the landscaping thereon, shall at all times be kept in a clean and slightly condition. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Unit except as necessary during the period of construction.

Section 12.15 Landscape. All portions of each Unit not used for structural improvements or "native area" growth as may be approved by the ARC, shall be landscaped utilizing primarily perennial and similarly "long-lived" ground cover, sod, shrubs, trees, gardens, xeriscape, and similar plantings and rock, bark, mulch and similar materials. Annual and other short lived plantings and landscape materials may be used to supplement long-lived elements. The landscaping of each Unit shall be maintained in a good and well-kept condition. Minimum landscape maintenance requirements include adequate watering (subject to municipal or county water use restrictions), periodic lawn mowing, periodic edging and pruning, removal and replacement of dead or dying plant material and elimination of weeds. Subject to any governmental requirements or restrictions, the landscaping of each Unit shall be completed by the later of nine months after the date of the Unit's annexation into the Community and substantial completion of a Dwelling constructed thereon, or the end of the next growing season after the date of the Unit's annexation into the Community. Landscaping plans must be approved in advance by the ARC. This Section shall not apply to any activity conducted by Declarant or a Builder with respect to the development, marketing or sale of Units, nor to the Declarant or Association as it relates to the performance of its rights or obligations under this Declaration.

Section 12.16 Bodies of Water. All wetlands, lakes, ponds and streams, if any, located on or within the Common Elements, shall be aesthetic amenities to be used for irrigation (if so intended by the Board) and water storage only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing or use of personal flotation devices, shall be permitted without the prior approval of the Board. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of any lakes, ponds or streams on the Property.

Section 12.17 Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, but all leases shall be in writing and 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 other Governing Documents. All leases shall be for a term of at least thirty (30) days. No Lot or Condominium shall be made subject to any type of time-sharing, fraction-sharing membership program, tenancy in common or similar program whereby the right to exclusive use of the Lot or Condominium rotates among, or is allocated to, owners or members of a program on a fixed or floating time schedule over a period of years. The Board may adopt additional rental or lease policies as rules and regulations that do not conflict with this Section.

Section 12.18 Maintenance of Grade and Drainage. Each Owner shall maintain the grading upon his Unit, and the Association shall maintain the grading upon the Common Elements, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Unit or Common Elements which an Owner or the Association has a duty to maintain, then the party responsible for the maintenance of such real property shall submit a plan to the ARC for its review and approval, in accordance with the provisions of Article 8 of this Declaration. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Unit is completed.

Section 12.19 Use of the words Uplands, Uplands Community, and Uplands Residential Community Association, Inc. Without the Association's prior written consent, Owners or residents will not use the words Uplands, Uplands Community, Uplands Residential Community Association, Inc., or the logo of the Community or Association, if any, or any derivative thereof, if use is likely to cause confusion, mistake or deception, in the Association's sole discretion.

ARTICLE 13. EASEMENTS

Section 13.1 Owner Easements.

(a) Declarant hereby establishes and grants to each Owner a nonexclusive easement of use, access and enjoyment in and to the Common Elements. Any Owner may extend its right of use and enjoyment to its Related Parties (excluding, however, Related Parties whose status as such derives from a commercial relationship) subject to reasonable regulation by the Board. Without limiting the generality of the foregoing, Declarant hereby grants to each Owner a nonexclusive easement over and across all walkways and other pedestrian access-ways and all streets, roadways, and/or driveways designated as Common Elements for the purpose of gaining pedestrian or vehicular access to and from any of: the public streets, roadways, and sidewalks adjoining the Property; the Common Elements; other tracts, Lots; and such Owner's Unit. The easement granted by this Section shall be appurtenant to and pass with the title to the Units.

(b) In addition, each Owner shall afford to the Association, and to their agents or employees, access through such Owner's Unit reasonably necessary for maintenance, repair and replacement of the Common Elements and any other property or Improvements maintained, repaired or replaced by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit, 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. Further, each Unit shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants of any affected Unit, except that no such notice shall be required in connection with any exterior, non-intrusive maintenance (for example boundary fence work), and except that in emergency situations entry upon a Unit may be made at any time provided that the Owner or occupants of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible. The interior of any Dwelling located on a Unit shall not be subject to such easements as provided for in this Section.

(c) During the Development Period, Declarant may construct and install boundary fences to be located on certain rear and side lot lines of the Units located on the perimeter or other areas of the Community, as Declarant deems appropriate. Although boundary fences are to be constructed on lot lines, Declarant hereby reserves a ten (10) foot non-exclusive easement along all rear and side boundaries of Units in the Community upon which a boundary fence has been installed for the benefit of Declarant during the Development Period and for the benefit of the Association, for the purpose of maintaining, repairing, and replacing such boundary fences.

Section 13.2 **Declarant's Use of Common Elements.** An easement is hereby granted to the Declarant and to its agents or employees through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's or Builder's obligations or exercising any Special Declarant Rights. Subject to the immediately preceding sentence:

(a) No use shall be made of the Common Elements which will in any manner violate the statutes, rules, or regulations of any Governmental Authority having jurisdiction over the Common Elements.

(b) No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements to all Members, nor shall any Owner place any structure whatsoever upon the Common Elements.

(c) The use of the Common Elements shall be subject to such Rules and Regulations as may be adopted from time to time by the Board of Directors.

(d) No use shall ever be made of the Common Elements which will deny ingress and egress to those Owners having access to their Units only over Common Elements, and the right of ingress and egress to said Unit is hereby expressly granted.

Section 13.3 **Easement for Minor Encroachments.** To the extent that any Unit or Common Element as originally developed by Declarant encroaches pursuant to a minor encroachment on any other Unit or Common Element, a valid easement for the encroachment exists; a "minor encroachment" for the purposes of this Section is an encroachment of not more than one (1) foot beyond platted lot lines. This provision shall apply only to the original Improvements installed by Declarant or Builders and shall not apply to any alterations or replacement of such structures.

Section 13.4 **Easements for Drainage.** Easements for the installation and maintenance of drainage facilities are reserved as shown on the recorded Plats affecting the Unit and any amendments to such Plats or as established by any other instrument of record. Additionally, the Community and the

Units are subject to the other easements and rights-of-way shown on the Plat. Declarant creates and reserves to itself until the expiration of the Development Period, and to the Association, a blanket non-exclusive easement upon, over and across the Common Elements for the construction, installation, operation, maintenance, repair and replacement of drainage facilities and other appurtenances thereto.

Section 13.5 Easement for Unannexed Property. The Declarant hereby reserves, for the use and benefit of the Community Annexable Area described on Exhibit B a non-exclusive, perpetual easement and right of way for: (a) pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Elements, now or hereafter constructed, erected, installed or located in or on the Community; (b) on, over, across and under the Common Elements for utilities and drainage and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Community Annexable Area or any portion thereof; (herein collectively the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services to those portion(s) of the Community Annexable Area which have not been included, from time to time, in the Community. Hence, the Annexable Area Easement shall be in effect for each portion of the Community Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Community Annexable Area at such time as both of the following have occurred with respect to such portion of the Community Annexable Area: annexation of such portion of the Community Annexable Area to the Community; and expiration of the Declarant's right to withdraw such portion of the Community Annexable Area from this Declaration.

Section 13.6 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations contained in this Declaration; and

(b) The right of the Association, in accordance with its Articles and Bylaws, and the applicable requirements of the Act, to borrow money for the purpose of improving the Common Elements 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 unless such is approved by Owners casting at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Units not owned by the Declarant; and

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

(d) The right of the Association to promulgate, amend, repeal, re-enact and publish Rules and Regulations with which each Owner and Related User shall strictly comply, including, but not limited to, the right of the Association to regulate and/or restrict vehicular parking and Improvements; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Units not owned by the Declarant, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of

any action taken. Notwithstanding the foregoing, lot line adjustments, 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 or as otherwise deemed proper by the Board shall not be deemed a transfer within the meaning of this subsection, and Declarant reserves and shall retain the right to convey or dedicate property for public use as required by any subdivision Plat of the Community or Development Agreement pertaining thereto during the Development Period without the necessity of consent from the Association or Owners; and

(f) 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

(g) 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 subject to the requirements set forth in the Act; and

(h) The right of the Board to impose membership requirements and charge admission or other use fees for the use of any recreational facility situated within or on the Common Elements; and

(i) The right of the Board to permit use of any recreational facility situated within or on the Common Elements by persons other than Owners and their Related Parties upon payment of use fees established by the Board, which fees the Board shall include as Association revenue in calculating the amount of Common Assessments necessary to satisfy the Common Expenses of the Association.

Section 13.7 **Certain Easements for the Association.** Declarant hereby establishes and grants to the Association and the Metro Districts a non-exclusive easement over each Unit, at reasonable times and upon reasonable prior notice, and other portions of the Property (but excluding in any case the interior of any building improvements that do not constitute Common Elements) for the purpose of: (a) permitting the Association, and the Metro Districts reasonable and necessary access to any of the Common Elements for the purpose of maintaining, repairing, replacing and improving any such Common Elements and the Improvements thereon; and (b) installing, maintaining, repairing, replacing and improving landscaping, fencing, monumentation, signage, sidewalks, irrigation and water distribution systems, and utilities servicing any Common Elements or other portions of the Community; provided, however, that in using such easement, the Association and the Metro Districts shall not unreasonably interfere with any Owner's quiet use and enjoyment of such Owner's Unit and the interior of any Dwelling or Condominium shall not be subject to such easements as provided for in this Section.

Section 13.8 **Easements Benefiting Declarant.** Declarant hereby reserves such easements over and across the Common Elements, which easements will exist for the duration of the Development Period, as may be reasonably necessary for Declarant's exercise of any Special Declarant Right, performance of any of Declarant's obligations hereunder, and the showing of the Property to prospective purchasers. In addition, and without limiting the easements reserved in the preceding sentence, Declarant reserves an easement over the Common Elements for the purpose of Declarant's use and enjoyment of any water or water rights appurtenant to or associated with the Property (including, without limitation, all adjudicated, non-adjudicated, decreed, non-decreed, tributary, non-tributary and non-tributary water rights, ditch rights and well permits) owned by Declarant.

Section 13.9 **Easements for Utilities.** Easements and right-of-way for the installation and maintenance of utilities, drainage facilities, public or private improvements and access thereto are reserved as shown on the recorded Plats and any amendments to such Plats or as established by any other instrument of record. Declarant reserves for itself and its successors, assigns and designees, (including, without limitation and if so designated by Declarant, the Association or the Metro Districts and their respective successors, assigns and designees), perpetual non-exclusive easements upon, across, over and under all of the Common Elements to the extent reasonably necessary for the purpose of exercising Special Declarant Rights, and for the purpose of construction, operation, maintenance, repair and replacement of roads, utilities, drainage improvements and facilities therefor and other appurtenances thereto. The designees of Declarant and the Association may include, without limitation, any governmental or quasi-governmental entity, utility company, or other utility or service provider. The easements provided for in this Section shall in no way affect, avoid, extinguish or modify any other Recorded easement on the Property. Any damage to the Common Elements resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of such easements shall not extend to permitting entry onto any Unit, nor shall it unreasonably interfere with the use of any Unit.

Section 13.10 **Right of Entry.** Declarant reserves for the Association, the Metro Districts, and other Persons described below an easement for the right, but not the obligation, to enter upon any Unit (but not entry into any Dwelling or Condominium): (a) for emergency reasons; (b) to inspect any Lot for the purpose of ensuring compliance with this Declaration, the Bylaws and the Rules; and (c) to remove nonconforming Improvements as provided in Section 11.2 hereof. Such right may be exercised by any member of the Board and the Association's officers, agents, employees and managers, the members of the ARC, and, for emergency, security and safety purposes, by all police, fire and ambulance personnel and other similar emergency personnel in the proper and lawful performance of their duties. This right of entry shall include the right of the Association or the Metro Districts to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure such condition within a reasonable time after requested by the Board, but shall not authorize entry into any Dwelling or Condominium.

Section 13.11 **Easements for Water Use and Development and Flood Control.** Declarant reserves for itself and its successors, assigns and designees, for the duration of the Development Period, and Declarant hereby establishes and grants to the Association in perpetuity, as Common Elements, the nonexclusive right of ingress and egress and easement, but not the obligation, to enter upon any lakes, reservoirs, ponds, streams, drainage ditches, irrigation ditches and wetlands located within the Common Elements: (a) to provide water for the irrigation of any of the Common Elements and/or Units; (b) to alter drainage and water flow; (c) to construct, maintain, operate and repair any bulkhead, wall, dam or other structure retaining water; (d) to develop, maintain, rehabilitate, restore, repair and protect wetlands, shorelines, beaches, waterways and other lakefront and reservoir-front areas; and (e) to remove trash and other debris therefrom, all in accordance with applicable law. Such easement shall include an access easement over and across the Property, to the extent reasonably necessary to exercise rights granted under this Section, and in order to maintain and landscape the slopes and banks pertaining to such lakes, reservoirs, ponds, streams, drainage ditches and wetlands. To the extent the exercise of such easement is anticipated to materially diminish the value of or unreasonably interfere with the use of any Unit potentially affected thereby, the prior written consent of the Owner of such Unit shall be obtained before such exercise. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

Section 13.12 **Additional Easements.**

(a) Declarant's Right to Grant Easements. Declarant shall have and hereby reserves the right to grant, create and use temporary or permanent easements in, on, under, over and across any Unit owned by Declarant and any Common Elements whether owned by the Declarant, the Association or a Subassociation for the benefit of any portion of the Community or Community Annexable Property, for access, utilities, drainage, water, open space and any other purposes incident to development and sale of the Community or incident to the exercise by Declarant of any of its Special Declarant Rights without the necessity of obtaining consent or approval of the Association, the Owners or the Security Interest Holders.

(b) Association's Right to Grant Easements. Notwithstanding anything to the contrary in other Sections of this Declaration, the Association, acting through the Board and without the approval of the members of the Association, may grant easements on, over, or across the Common Elements for installation and maintenance of utilities, drainage facilities and roads and for other purposes not inconsistent with the intended use of the Common Elements.

Section 13.13 Easements Run with Land. Except as otherwise provided in this Article, all easements established and granted pursuant to this Article are appurtenant to and run with the Property and will be perpetually in full force and effect so long as this Declaration is in force and will inure to the benefit of and be binding upon Declarant, the Association, the Metro Districts, Owners, Related Parties and any other Persons having any interest in the Property or any part thereof. The Units, the Common Elements and the Limited Common Elements will be conveyed and encumbered subject to all applicable easements set forth in this Article, whether or not specifically mentioned in such conveyance or encumbrance.

ARTICLE 14. ANNEXATION AND DECLARANT'S DEVELOPMENT OF THE COMMUNITY

Section 14.1 Right to Annex an Annexable Area. Declarant has and hereby reserves as a Development Right the right, but not the obligation, to add to the Community, from time to time, all or any portion of the Community Annexable Area. In accordance therewith, each Owner hereby grants to Declarant the right to annex all or any portion of the Community Annexable Area to the Community and to modify such Owner's rights in and to the Community accordingly. Any real property this Declaration does not designate as part of the Community Annexable Area, and which is subsequently added to the Community, shall be subject to the limitations of C.R.S. §38-33.3-222.

Section 14.2 Property Which May Be Annexed. During the Development Period, Declarant may, but shall in no way be required to, from time to time, add to the Community all or any portion of the Community Annexable Area while Declarant owns an interest in any portion of the Community or Community Annexable Area.

Section 14.3 Manner of Annexation.

(a) Except as provided in Section 14.6 herein, property within the Community Annexable Area shall become part of the Community and subject to this Declaration ("Annexed Property"), effective upon the recordation in the Records of a Supplemental Declaration meeting the requirements hereafter set forth, together with any supplemental Plat(s) applicable thereto. A Supplemental Declaration may provide for phased annexation so that Annexed Property may be made subject to the Supplemental Declaration and this Declaration at different times. A Supplemental Declaration: i) shall be executed and acknowledged by Declarant and by the owner of the Annexed Property described therein, if other than Declarant; ii) shall contain an adequate land description of the

Annexed Property; iii) shall contain a reference to this Declaration which shall state its date of recordation, and the book and page (or reception number) of the Records where this Declaration is recorded; iv) shall contain a statement that the Annexed Property is declared to be part of the Community under this Declaration and that the Annexed Property shall be subject to this Declaration; v) shall establish the right, if any, of the Owners of any Units therein or other Persons to use any Limited Common Element; vi) shall state if the Units therein are or will be subject to the jurisdiction of a Subassociation, if known; vii) shall designate in which Service Area, if applicable, the Annexed Property is located; and viii) may include such other provisions as Declarant deems necessary or appropriate. A Supplemental Declaration will be substantially in the form set forth as Exhibit E attached hereto and incorporated herein by this reference. In addition, a deed by which Declarant conveys a parcel of property to another Person may constitute a Supplemental Declaration if it meets the foregoing requirements. A Supplemental Declaration may impose on the Annexed Property described therein covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, taking into account the unique and particular aspects of the proposed development of the Annexed Property covered thereby. Upon recordation of a Supplemental Declaration, the Annexed Property shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration.

(b) Any lien arising from ownership or construction upon land added to this Declaration shall encumber only such land and Improvements located thereon and shall not affect the rights of existing Owners or the priority of Security Interests on Units or Common Elements within the Community previously made subject to this Declaration.

Section 14.4 Government Mortgage Agency Approval of Annexations. A requirement of any annexation hereunder shall be written approval of the VA, HUD or other Agencies, as determined by Declarant to be necessary and appropriate, but only to the extent such Agencies' regulations require such approval. No consent of the Association, other Owners, or Security Interest Holders shall be required.

Section 14.5 Effect of Annexation. In the event any real property is annexed into the Community as provided herein, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Community as expanded; for example, "Community" shall mean the real property described herein plus any additional real property annexed thereto; similarly, "Common Elements" and "Units" shall include those areas as described herein as well as those that may be so designated on any Supplemental Declaration or supplemental Plat relating to any real property which is annexed pursuant to this Article. Every Owner of a Unit in the Annexable Area annexed to the Community shall, by virtue of ownership of a Unit within such Annexed Property and upon recordation of the Supplemental Declaration and Plat, be a Member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations under the Governing Documents as any other Member. The recordation of the Supplemental Declaration shall operate automatically and subject the Annexed Property to the Special Declarant Rights set forth in this Declaration. Annual Assessments for Units within the Annexed Property shall commence as of the date of Recordation of the Supplemental Declaration or on such other date as stated in the Supplement Declaration. Allocated Interests shall be calculated as provided in the definition of "Allocated Interest."

Section 14.6 Withdrawal of Annexed Property by Declarant. Declarant has and hereby reserves as a Development Right the right, but not the obligation, to withdraw from the Community any separately described legal tax parcel of the Community or separately platted lot, tract or parcel as set out on a Plat whether part of the Property or part of the Annexed Property made subject to this Declaration as applicable, in accordance with the terms and conditions of this Section. Declarant may withdraw property pursuant to this Section for any reason, including, but not limited to, correction of a surveyor error or other

technical or clerical error. Declarant may accomplish withdrawal of property from the Community or subsequently Annexed Property ("Withdrawn Property") by the execution, acknowledgment and recordation of a Notice of Withdrawal. The Notice of Withdrawal (a) shall be executed and acknowledged by the Owner or Owners of the Withdrawn Property; (b) shall, if the Withdrawn Property is not then owned by Declarant, contain the executed and acknowledged written consent of Declarant for so long as Declarant owns any property in the Community and has the power to annex additional property to the Community; (c) shall contain an adequate legal description of the Withdrawn Property; and, (d) shall contain a statement and declaration that the Withdrawn Property is withdrawn from the Community. The withdrawal shall be effective upon recording the Notice of Withdrawal. Nothing herein shall be interpreted to prohibit later annexation of Withdrawn Property so withdrawn.

Section 14.7 **Expansion of Annexable Area.** Subject to any limitations contained in the Act, Declarant has and hereby reserves as a Development Right the right, but not the obligation, to expand the Community Annexable Area to add real property, effective upon the recordation of a written instrument, executed by Declarant, describing such real property and declaring that such real property shall thereafter be added to the Community Annexable Area.

Section 14.8 **Unit Line Adjustments.** The Declarant hereby reserves for itself and Builders, as a Special Declarant Right in order to build and complete Improvements in the Community, the right to move any Unit lot line(s) with the consent of the Owner(s) of each Unit whose Unit line is being moved. Such Unit lot line adjustments may be done by the Declarant or Builder, if at all, for the purpose of accommodating Improvements, access and utilities which are constructed or are to be constructed and other development activities, and shall not change the number of Units in the Community at the time such Unit lot line adjustment is approved by the applicable Governmental Authority.

Section 14.9 **Laws and Regulations.** Every Owner and Related User shall comply with all laws, statutes, resolutions and rules of federal, state and county governments applicable to the Property. Any violation thereof may be considered a violation of this Declaration by the Board. However, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules. All provisions of this Declaration, the Bylaws and the Rules shall also apply to all occupants of any Unit and to Related Parties of any Owner or occupant. Every Owner shall cause all occupants of its Unit and its Related Parties to comply with this Declaration, the Bylaws and the Rules.

Section 14.10 **Designation for Public Purposes.** Declarant reserves the right to designate or dedicate one or more sites within the Property to public use.

Section 14.11 **Subdivision and Replatting.** Declarant reserves the unilateral right to seek approval from the necessary Governmental Authority to subdivide any property owned by Declarant into additional Lots or other parcels, and change the boundary line of or replat any Lots or other portions of the Property owned by Declarant, including the right to increase the dwelling unit density of the Property or any portion thereof up to the maximum number of Total Units.

Section 14.12 **Right to Construct Additional Improvements on Common Elements.** During the Development Period, Declarant shall have and hereby reserves the right and easement, but not the obligation, to construct additional Improvements on Common Elements at any time and from time to time for the improvement and enhancement of the Common Elements and for the benefit of the Association and the Owners without the need of obtaining consent from the Association, other Owners or Security Interest Holders.

Section 14.13 Right to Create Service Areas. Declarant shall have and hereby reserves the unilateral right, but not the obligation, to create and designate that a group of Units (whether or not contiguous) are part of a particular Service Area.

Section 14.14 Miscellaneous Declarant Special Declarant Rights and Development Rights Within the Community. Declarant shall have and hereby reserves the unilateral right, but not the obligation, to construct or create additional Units or Common Elements (subject to the maximum number of Total Units), to subdivide or combine Units, to convert Units into Common Elements and to allocate portions of the Common Elements as Limited Common Elements on all or any portion of the Community. Declarant also reserves the right to merge the Community with another common interest community of the same form of ownership. Declarant's rights under this Section to subdivide, combine or convert a Unit shall terminate upon the sale by Declarant of such Unit to a third party.

Section 14.15 Exercise of Development Rights Within the Property. During the Development Period, Declarant may from time to time, in its sole discretion, exercise any of the Development Rights, on all, any or no portion of the Property in whatever order Declarant determines. Declarant makes no assurances as to the boundaries, extent or order of the Property upon which Declarant shall exercise any of its Development Rights. The exercise of a Development Right with respect to one portion of the Property shall not require the exercise of such Development Right or any other Development Right with respect to such portion or any other portion of the Property. All Development Rights as to a Unit shall terminate when Declarant transfers such Unit to a third party. All Development Rights as to any Common Element or a portion thereof shall terminate when such Common Element or portion thereof is added to the Community and transferred by deed to the Association.

Section 14.16 Reservation and Exercise of Development Rights on Community Annexable Area. During the Development Period, Declarant may from time to time, in its sole discretion, exercise any of the Development Rights on all, any or no portion of the Community Annexable Area, in whatever order the Declarant determines. Declarant makes no assurances as to the boundaries, extent or order of the Community Annexable Area upon which the Declarant may exercise any of its Development Rights. The exercise of a Development Right with respect to one portion of Community Annexable Area shall not require the exercise of any other Development Right with respect to such portion. The exercise of a Development Right with respect to one portion of the Community Annexable Area shall not require the exercise of such Development Right or any other Development Right with respect to any other portion of the Community Annexable Area or the Community.

Section 14.17 Expiration of the Declarant's Rights Period. Upon the expiration or other termination of the Development Period, any Development Rights then applicable to any Unit shall terminate.

Section 14.18 Declarant's Rights to Use Common Elements in Promotion and Marketing of the Community. During the Development Period, Declarant and Builders shall have and hereby reserves the right to use the Common Elements in connection with the promotion and marketing of property within the boundaries of the Community and Community Annexable Property. Without limiting the generality of the foregoing, Declarant and Builders may erect and maintain on any part of the Common Elements such signs, temporary buildings and other structures as Declarant or a Builder may reasonably deem necessary or proper in connection with the promotion, development and marketing of real property within the Community and Community Annexable Property; may use vehicles and equipment on the Common Elements for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Community to use the Common Elements.

Section 14.19 Declarant's Rights to Complete Development of Community.

Notwithstanding anything to the contrary contained in this Declaration, it is permissible and proper for Declarant and Builders, and their employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Units and Common Elements such facilities as they deem reasonably necessary or incidental to the development, construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations (including but not limited to Lots owned by Declarant, any passive or active recreational amenity constructed by Declarant as a Common Element and other locations) as they determine in their reasonable discretion from time to time. Nothing in this Declaration limits the rights of the Declarant to conduct all construction, sales and marketing activities as the Declarant deems necessary or desirable in its sole discretion and to use the easements provided in this Declaration or otherwise of record for those and other purposes. Further, nothing in this Declaration limits the right of the Declarant or requires the Declarant (or Builders who have obtained the Declarant's approval) to obtain approvals: (a) to excavate, cut, fill or grade any property owned by the Declarant (or a Builder) or to construct, alter, demolish or replace any Improvements; (b) to use any structure on the Common Elements or on any property owned by Declarant (or a Builder) 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 (or a Builder) to seek or obtain the approval of the ARC or of the Association for any activity or Improvement. Notwithstanding the foregoing, the Declarant and Builders shall not perform any activity or maintain any facility on any portion of the Units in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members, guests or invitees, of and to the Owner's Unit and to a public right-of-way.

Section 14.20 Declarant's Approval of Conveyances or Changes in Use of Common Elements. Until Declarant no longer has the right to appoint the members of the ARC, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change or alter the use of Common Elements, or mortgage the Common Elements.

Section 14.21 Declarant's Rights to Convey Additional Property to Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey Common Elements and other real property interests and Improvements thereon to the Association or any Subassociations at any time and from time to time and the Association or applicable Subassociation has the duty to accept such conveyance.

Section 14.22 Limitations Imposed by Government Mortgage Agencies. The exercise of the Special Declarant's Rights shall be subject to such reasonable requirements and limitations as may be imposed by Agencies or other governmental authorities having jurisdiction, including any requirements for consent, approval or modifications of this Declaration, the Articles of Incorporation, or the Bylaws by such Agencies or Governmental Authorities.

Section 14.23 Other Covenants and Subassociation Declarations. During the Development Period, no Person shall Record any declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument affecting any portion of the Property, including, without limitation, a Subassociation Declaration, without Declarant's prior review and written consent as to the form and content of such instrument, except that no Declarant review or consent is required with respect to (i) any party wall declaration applicable to townhome, rowhome or duplex residential Dwellings, (ii) any solar energy covenants, or (iii) any alternative dispute resolution covenant, any of which do not create a common interest community pursuant to the Act.

ARTICLE 15.

GENERAL PROVISIONS

Section 15.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration or the other Governing Documents, as supplemented and amended, may be by action of the Board following notice and hearing as required by any proceeding at law or in equity against any Person(s) (including, without limitation, the Association) violating or attempting to violate any such provision of the Governing Documents. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the Governing Documents. In addition, the Association, through the Board, may exercise self-help to cure violations and may suspend any services it provides to any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. 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.

Section 15.2 Arbitration.

(a) Except as otherwise agreed to in writing between any parties to a Construction Dispute (as hereinafter defined), including without limitation any purchase and sale agreement or similar document, any claim, controversy or dispute over or related to: (i) the design, construction or physical condition of the Common Elements, or Improvements related thereto, or the design, construction or physical condition of a Dwelling, or any subdivision improvements or facilities serving all or any portion of the Units made against the Declarant, a Builder, the Association, an Owner or others, each of which shall be deemed a "Construction Dispute;" shall be resolved by binding arbitration in accordance with the Uniform Arbitration Act of 1975, C.R.S. §13-22-201, et seq., as amended (or if such Act is repealed, then such other uniform state arbitration law enacted in its place). Any such arbitration proceeding, may be required by an aggrieved Person upon written notice delivered to the Association, the Declarant or other Person(s), as the case may be, before the date when commencement of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitations. No such demand for arbitration shall be made after the date when such proceedings would be barred by the applicable statute of limitations. An arbitrator (such as the Judicial Arbitrator Group or similar arbitration organization) mutually agreed upon by the parties shall administer all aspects of arbitrations conducted hereunder, including the selection of arbitrators, pursuant to the American Arbitration Association (AAA) Commercial Arbitration Rules. Arbitration hereunder shall be before a single arbitrator. The arbitrator shall possess the requisite experience and expertise in respect to matters to which the controversy relates to enable him or her to perform his or her arbitral duties competently and shall, subject to the terms of this Declaration, apply the substantive law of Colorado. The cost of the arbitrator and of any hearing transcript shall be divided equally between the parties. Any and all discovery in conjunction with such arbitration shall be limited to information directly relevant to the controversy or claim in arbitration and shall be concluded within forty-five (45) days after the appointment of the arbitrator. Each party to a Construction Dispute shall pay its own costs and attorneys' fees incurred pursuant thereto. Judgment upon the arbitrator's determination shall be entered and enforced by the district court for the County in which the Community is located.

(b) JURY WAIVER. IN THE EVENT THAT ANY JUDICIAL PROCEEDING IS ALLOWED OR HAD HEREIN, IN ORDER TO EXPEDITE FINAL RESOLUTION OF A CONSTRUCTION DISPUTE, EACH PARTY TO THE CONSTRUCTION DISPUTE WAIVES ANY RIGHT TO A JURY TRIAL FOR CLAIMS AND COUNTERCLAIMS RELATING TO THE CONSTRUCTION DISPUTE. THE OWNERS, ASSOCIATION AND DECLARANT WAIVE ANY RIGHTS TO JURY TRIAL FOR SUCH DISPUTES. SUCH PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE

OPPORTUNITY TO BE ADVISED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THIS DECLARATION AND IN MAKING THIS WAIVER. EACH OWNER, ASSOCIATION AND THE DECLARANT ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE MEANING AND RAMIFICATIONS OF THIS JURY WAIVER AND INTEND THIS JURY WAIVER BE READ AS BROADLY AS POSSIBLE AND EXTEND TO CONSTRUCTION DISPUTES.

(c) The Association shall comply with Section 38-33.3-303.5 of the Act, as may be amended, before instituting any "construction defect action" (as defined in said Section 38-33.3-303.5). Any Construction Dispute that constitutes an "action" as defined by Section 13-20-802.5 of the Colorado Construction Defect Action Reform Act shall be subject to the provisions of the Colorado Construction Defect Action Reform Act, C.R.S.

(d) The Declarant, the Association and the Owners agree that if the Association or any Owner alleges that any Common Element, Unit, Dwelling, Lot or Lots or any portions thereof or Improvements thereon are subject to or alleged to be subject to a construction defect, then in any arbitration, mediation or other proceeding regarding such matters, there shall be no presumption that an alleged construction defect is prevalent or consistently present in other Common Elements, Units, Dwellings, Lots or other portions of the Community where such alleged construction defect has not been observed.

(e) Notwithstanding anything to the contrary in this Declaration, the Association may not sue anyone or arbitrate claims on behalf of two or more Owners, or take an assignment of claims from one or more Owners, with respect to any claims or issues on individual residential dwelling units, including without limitation, any claim or dispute over or related to the design, construction or physical condition of the Units or the residential dwelling units or other improvements thereon.

(f) Notwithstanding anything to the contrary set forth in this Declaration, this Section may not be amended except pursuant to Section 15.6 below and with the prior written approval of the Declarant. The terms and provisions of this Section inure to the benefit of Declarant, are enforceable by Declarant, and shall not ever be amended without the written consent of Declarant and without regard to whether Declarant owns any portion of the Community at the time of such amendment.

Section 15.3 **Severability.** All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation 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 15.4 **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 15.5 **Conflict with Act.** In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act or other state law, the terms or provisions of the Act or other state law 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 the Act or other state law, and any conflict with or violation of the Act 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 15.6 **Duration, Revocation, and Amendment.**

(a) Each and every provision of this Declaration shall run with and bind the land in perpetuity. Except as otherwise provided in this Declaration, this Declaration may be amended by a vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. No provision of this Declaration that expressly requires Declarant's consent to amend may be amended without Declarant's written consent thereto recorded in the Records. Further, prior to the termination of the Special Declarant Rights, no amendment of this Declaration shall be effective without the prior, written approval of the Declarant. Any amendment that requires Declarant's written consent thereto shall be void and of no force or effect if Declarant's consent thereto is not recorded in the Records.

(b) Declarant reserves the right and is granted the power to make amendments to this Declaration or a Plat at any time prior to the expiration of the Development Period to correct clerical, typographical or technical errors, without the necessity of obtaining the consent or approval of the Association, the Owners or the Security Interest Holders.

(c) No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded in the Records.

(d) Every amendment to the Declaration must be recorded in every County in which any portion of the Community is located, and is effective only upon recordation in the Records.

(e) Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create, increase or decrease Special Declarant Rights, increase the number of Total Units, or change the boundaries of any Unit or the Allocated Interests of a Unit, or the uses to which any Unit is restricted, in the absence of a vote or agreement of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Units not owned by a Declarant, are allocated.

(f) Amendments to the Declaration that are required by this Declaration to be recorded by the Association may be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

(g) No amendment may remove, revoke, limit, condition, or modify any Special Declarant Right or other benefit, right or privilege of the Declarant established by a provision hereunder and may not be unilaterally amended by the Owners to affect or alter the benefit, right, privilege or contractual agreement without the written consent of the Declarant or the assignee of such right or privilege. Each amendment to this Declaration enacted by the vote or agreement of Owners of Units shall be applicable only to disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred after the date of recording of such amendment in the County, and no such amendment shall be applied retroactively (i) to any disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred before the date of recording of such amendment in the County, or (ii) to impair the rights or obligations of any Person, including Declarant, bound by the provisions of this Declaration. Notwithstanding anything to the contrary herein, this subsection may not be

amended, nullified or modified without the written consent of the Declarant. Any amendment made without such prior written consent as required herein shall be null and void and shall have no effect.

(h) Any repeal or modification of any provision of the Governing Documents of the Association that permit or require the indemnification of director's and officer's shall be prospective only, and shall not adversely affect any limitation on the personal liability of a current or former director or officer of the Association for acts or omissions prior to such repeal or modification; any such repeal or modification shall not be effective as against a current or former director or officer of the Association for acts or omissions prior to such repeal or modification without such director's or officer's written consent and the written consent of the Declarant. Any indemnification or right of indemnification of directors and officers of the Association as provided by any of the Association Documents shall continue as to a person who has ceased to be a director or officer of the Association and shall inure to the benefit of the director's or officer's estate, heirs, personal representatives, executors and administrators.

Section 15.7 **Registration of Mailing Address.** Each Owner and each Security Interest Holder shall register its mailing address with the Association, and, unless another method of delivery is expressly required by this Declaration, all notices or demands intended to be served upon an Owner, or upon a Security Interest Holder shall be sent by first class 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 Unit. Routine notices, billing statements, annual statements and documents sent to all Owners may be mailed by regular first class mail or delivered in any manner permitted by the Act. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association shall be sent by certified mail, postage prepaid to the address of the registered agent of Declarant until the such address is changed by the Association, whereupon the Association shall notify the Owners of the different address for notices.

Section 15.8 **HUD or VA Approval.** Notwithstanding the provisions hereof, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Agency requires to be amended or repealed, as a condition to making, purchasing, insuring or guaranteeing Security Interests, or is required in order to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, HUD, FHA or other Agency, may be amended or repealed solely by Declarant and no approval, consent or vote of any other person or entity shall be required. Any such amendment or repeal shall be effective upon the Recordation of a Supplemental Declaration, executed by Declarant, setting forth the amendment or repeal in full.

Section 15.9 **Termination of Community.** The Community may be terminated only in accordance with the provisions of the Act.

Section 15.10 **Eminent Domain.** The taking by eminent domain of a Unit(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation the Act.

Section 15.11 **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 the Community and all real property and Improvements which are now or hereafter 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.

Section 15.12 **Limitation on Liability.** The Association, the Board of Directors, the ARC, the Declarant, and any member, agent or employee of any 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 15.13 **No Representations or Warranties.** No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

Section 15.14 **Disclaimer Regarding Safety.** DECLARANT AND THE ASSOCIATION 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 AND THE ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND 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 15.15 **Dedication 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 as provided in this Declaration. The Common Elements owned by the Association are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Owners as more fully provided in this Declaration.

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**EXHIBIT A-1
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS**

LEGAL DESCRIPTION OF THE PROPERTY

Tract G and Tract H,
Uplands Filing No. 2, Block 1, Final Plat,
according to the plat recorded June 12, 2024, under Reception No. 2024000031590,
City of Westminster,
County of Adams,
State of Colorado.

**EXHIBIT A-2
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS
ALLOCATED INTERESTS FOR ANNEXED UNITS**

UPLANDS FILING NO. ____, BLOCK ____, FINAL PLAT		
Lot Number	Common Expense Liability Allocated to Unit	Vote Allocated to Unit
-	1/-	-
Totals	-	-

**EXHIBIT B
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS

COMMUNITY ANNEXABLE AREA**

PARCEL 1

LOTS 1 – 82, INCLUSIVE, AND TRACTS A, B, C, D, E, AND F, UPLANDS FILING NO. 2, BLOCK 1, FINAL PLAT, RECORDED JUNE 12, 2024, UNDER RECEPTION NO. 2024000031590, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 2

LOTS 1-78, INCLUSIVE, AND TRACTS A-J, INCLUSIVE, UPLANDS FILING NO. 1, BLOCK 1, FINAL PLAT, RECORDED JANUARY 21, 2025 AT RECEPTION NO. 2025000003168, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 3

LOTS 1-135, INCLUSIVE AND TRACTS A-J, INCLUSIVE, UPLANDS FILING NO. 1, BLOCK 2, FINAL PLAT, RECORDED AUGUST 29, 2024 AT RECEPTION NO. 2024000047361, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 4

BLOCK 3, UPLANDS FILING NO. 1, FINAL PLAT, RECORDED MAY 21, 2024 AT RECEPTION NO. 2024000027140, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 5

LOTS 1-125, INCLUSIVE AND TRACTS A-M, INCLUSIVE, UPLANDS FILING NO. 1, BLOCK 4, FINAL PLAT, RECORDED DECEMBER 11, 2024 AT RECEPTION NO. 2024000068746, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 6

LOTS 1-166, INCLUSIVE, AND TRACTS A-N, INCLUSIVE, UPLANDS FILING NO. 1, BLOCK 5, FINAL PLAT, RECORDED JANUARY 21, 2025 AT RECEPTION NO. 2025000003182, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 7

BLOCK 6, UPLANDS FILING NO. 1, FINAL PLAT, RECORDED MAY 21, 2024 AT RECEPTION NO. 2024000027140, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 8

LOTS 1-180, INCLUSIVE AND TRACTS A-W, INCLUSIVE, UPLANDS FILING NO. 1, BLOCK 7, FINAL PLAT, RECORDED DECEMBER 18, 2024 AT RECEPTION NO. 2024000070125, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 9

BLOCK 8, UPLANDS FILING NO. 1, FINAL PLAT, RECORDED MAY 21, 2024 AT RECEPTION NO. 2024000027140, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE

NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 10

BLOCK 9, UPLANDS FILING NO. 1, FINAL PLAT, RECORDED MAY 21, 2024 AT RECEPTION NO. 2024000027140, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 11

BLOCK 10, UPLANDS FILING NO. 1, FINAL PLAT, RECORDED MAY 21, 2024 AT RECEPTION NO. 2024000027140, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 12

BLOCK 2, UPLANDS FILING NO. 2, FINAL PLAT, RECORDED APRIL 10, 2024 AT RECEPTION NO. 2024000018558, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 13

BLOCK 1, UPLANDS FILING NO. 4, FINAL PLAT, RECORDED APRIL 16, 2024 AT RECEPTION NO. 2024000019580, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 14

BLOCK 2, UPLANDS FILING NO. 4, FINAL PLAT, RECORDED APRIL 16, 2024 AT RECEPTION NO. 2024000019580, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, SAID COUNTY AND STATE.

PARCEL 15

BLOCK 1 TRACT A, BLOCK 1 TRACT B, BLOCK 2, BLOCK 3 AND BLOCK 4, UPLANDS FILING NO. 3, FINAL PLAT, RECORDED APRIL 16, 2024 AT RECEPTION NO. 2024000019586, IN THE OFFICIAL RECORDS OF ADAMS COUNTY, COLORADO, SITUATED WITHIN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 68 WEST, SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, ADAMS COUNTY, COLORADO

**EXHIBIT C-1
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS
INITIAL COMMON ELEMENTS AND SERVICE AREA DESIGNATION**

General Common Elements:

None upon the date this Declaration is recorded in the Records.

Limited Common Elements:

Tract G and Tract H,
Final Plat Uplands Filing No. 2, Block 1,
according to the plat recorded June 12, 2024, under Reception No. 2024000031590,
City of Westminster,
County of Adams,
State of Colorado.

Service Area Designation:

The following Lots are made a part of and located within Service Area 1 and assigned the exclusive right to use Tract G and Tract H described above as Limited Common Elements:

Lots 1 – 82, inclusive,
Uplands Filing No. 2, Block 1, Final Plat,
according to the plat recorded June 12, 2024, under Reception No. 2024000031590,
City of Westminster,
County of Adams,
State of Colorado

**EXHIBIT C-2
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS**

**AREAS WHICH MAY BECOME COMMON ELEMENTS OR LIMITED COMMON ELEMENTS
AND
EASEMENT FOR USE, INGRESS AND EGRESS ACCESS**

The following property and improvements must become Common Elements if and when deeded from the Declarant to the Association and recorded in the real property records of Adams County, Colorado:

Common Elements:

Tracts A, B, C, D, E, and F,
Final Plat Uplands Filing No. 2, Block 1,
according to the plat recorded June 12, 2024, under Reception No. 2024000031590,
City of Westminster,
County of Adams,
State of Colorado.

Limited Common Elements:

TBD as may be exercised by Declarant as a reserved Development Right.

Easement for Ingress and Egress Access and Use:

Until such time as the Tracts described in this Exhibit C-2 become Common Elements, each Lot within Service Area 1 described on Exhibit C-1 is hereby granted an easement for use, ingress and egress access over the Tracts described on Exhibit C-2 in accordance with the terms and conditions of this Declaration.

**EXHIBIT D
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS
RECORDED TITLE MATTERS**

1. ANNEXATION AGREEMENT RECORDED JUNE 07, 1966 IN BOOK 1299 AT PAGE 398.
2. EASEMENT GRANTED TO THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, FOR COMMUNICATION FACILITIES, AND INCIDENTAL PURPOSES, BY INSTRUMENT RECORDED APRIL 30, 1973, IN BOOK 1860 AT PAGE 465.
3. EASEMENTS AS SET FORTH AND GRANTED IN AGREEMENT TO VACATE EXISTING RIGHT-OF-WAY IN EXCHANGE FOR FUTURE RIGHT-OF-WAY DEDICATION RECORDED MARCH 07, 2005 UNDER RECEPTION NO. 20050307000226260.
4. EASEMENTS AS SET FORTH AND GRANTED IN ORDINANCE NO. 3198 RECORDED MARCH 07, 2005 UNDER RECEPTION NO. 20050307000226270.
5. PERMANENT EASEMENT RECORDED MARCH 07, 2005 UNDER RECEPTION NO. 20050307000226280.
6. RESERVATION OF ALL OIL, GAS, MINERALS AND MINERAL RIGHTS, RESERVED IN DEEDS RECORDED FEBRUARY 16, 2022 AT RECEPTION NOS. 022000014721 AND 2022000014722 AND RECORDED APRIL 27, 2022 UNDER RECEPTION NO. 2022000037741, 2022000037742.
7. RESTRICTIVE COVENANT RECORDED FEBRUARY 16, 2022 UNDER RECEPTION NO. 2022000014723.
8. COVENANT REGARDING PUBLIC IMPROVEMENTS COST RECOVERY RECORDED FEBRUARY 16, 2022 UNDER RECEPTION NO. 2022000014724.
9. PRELIMINARY DEVELOPMENT PLAN UPLANDS A PLANNED UNIT DEVELOPMENT RECORDED JUNE 23, 2022 UNDER RECEPTION NO. 2022000055313.
10. INCLUSION OF SUBJECT PROPERTY IN THE UPLANDS METROPOLITAN DISTRICT NO. 1, AS EVIDENCED BY INSTRUMENT RECORDED DECEMBER 02, 2022, UNDER RECEPTION NO. 2022000094535.
11. CORRECTED SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT RECORDED AUGUST 25, 2023 UNDER RECEPTION NO. 2023000048752.
12. RESOLUTION NO. 2023-08-01 RECORDED SEPTEMBER 26, 2023 UNDER RECEPTION NO. 2023000054701.

13. FIRST AMENDED PRELIMINARY DEVELOPMENT PLAN - UPLANDS RECORDED DECEMBER 12, 2023 UNDER RECEPTION NO. 2023000068697.
14. MASTER PUBLIC IMPROVEMENTS AGREEMENT FOR UPLANDS RECORDED DECEMBER 13, 2023 UNDER RECEPTION NO. 2023000068908.
15. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF UPLANDS FILING NO. 2 RECORDED APRIL 10, 2024 UNDER RECEPTION NO. 2024000018558.
16. OFFICIAL DEVELOPMENT PLAN UPLANDS - FILING NO. 2 - BLOCK 1 RECORDED APRIL 10, 2024 UNDER RECEPTION NO. 2024000018859.
17. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF UPLANDS FILING NO. 2, BLOCK 1 RECORDED JUNE 12, 2024 UNDER RECEPTION NO. 2024000031590.
18. LANDSCAPING AND PRIVATE IMPROVEMENTS AGREEMENT FOR OFFICIAL DEVELOPMENT PLAN UPLANDS – FILING NO. 2 - BLOCK 1 RECORDED AUGUST 14, 2024 UNDER RECEPTION NO. 2024000044346.
19. THIS DECLARATION.

**EXHIBIT E
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS**

SUPPLEMENTAL DECLARATION – ANNEXATION OF ADDITIONAL LAND

Upon recording, please return to:

SAMPLE FORM

**SUPPLEMENTAL DECLARATION FOR ANNEXATION OF ADDITIONAL LAND
TO
RESIDENTIAL COMMUNITY DECLARATION FOR UPLANDS**

_____, a _____ (the "Declarant") executes this Supplemental Declaration for Annexation of Additional Land to Residential Community Declaration for Uplands ("Annexation of Additional Land"), this ___ day of _____, 20__.

RECITALS

- A. The Residential Community Declaration for Uplands (the "Declaration") was recorded on _____, 20__ under Reception No. _____ of the records ("Records") of the Office of the Clerk and Recorder of Adams County, Colorado.
- B. Westminster Neighborhood Mixed Use, LLC, a Florida limited liability company, is the Declarant under the Declaration.
- C. Article 14, Sections 14.1 through 14.5, inclusive, of the Declaration reserves unto the Declarant the right to add and annex all or any portion of the Community Annexable Area to the Declaration and the Community by recordation of one or more Supplemental Declarations to the Declaration.
- D. The purpose of this Annexation of Additional Land is to add and annex certain additional land which is a portion of the Community Annexable Area into the Community and to include such land within the Property that is subject to the Declaration, which annexation is to be effective as of the Effective Date hereinafter set forth. The additional land added into the Community by this instrument is a part of the Community Annexable Area that is identified and described on Exhibit B of the Declaration as real property that is annexable to the Declaration.

DECLARATION

NOW, THEREFORE, effective upon the date that this Annexation of Additional Land is recorded in the Records ("Effective Date"), Declarant hereby adds and annexes the Units and Common Elements that are identified and legally described on Exhibit A attached hereto and incorporated herein ("Annexed Property"), together with all improvements, appurtenances, and facilities now or hereafter thereon into the Community, and imposes upon the Annexed Property the following conditions, restrictions, reservations and equitable servitudes. All capitalized terms used herein have the same meaning as set forth in the Declaration unless otherwise defined herein. The Recitals set forth above are hereby incorporated by reference.

1. Annexation. The Annexed Property is added to the Declaration and annexed to the Declaration pursuant to the provisions of Article 14, Sections 14.1 through 14.5, inclusive, of the Declaration. The Annexed Property being added to the Community and made part of the Property subject to the Declaration by this Annexation of Additional Land is described in Exhibit A, attached hereto and incorporated herein by this reference. The Annexed Property consists of Units and/or Common Elements, as more particularly described and identified on Exhibit A. A Plat containing the Annexed

Property is identified in Exhibit A has been recorded in the records of the Office of the Clerk and Recorder of Adams County, Colorado. Each Unit or Common Element in the Annexed Property and its identifying designation is set forth on the Plat and is listed on Exhibit A. The Annexed Property is a part of the Community Annexable Area described on Exhibit B of the Declaration. The Declarant is the Owner of the Annexed Property.

2. Effect of Annexation. The Annexed Property is declared to be part of the Community under this Declaration and shall be subject to this Declaration. The Annexed Property shall be held, transferred, sold, conveyed and occupied subject to all of the terms, provisions, covenants, conditions, reservations, charges, and liens set forth in the Declaration, as supplemented and amended from time to time, including all assessment obligations set forth in the Declaration. The Annexed Property is also subject to all of the provisions of the Articles of Incorporation and the Bylaws of the Uplands Residential Community Association, Inc., a Colorado nonprofit corporation, as more particularly described in the Declaration, the Articles of Incorporation, and the Bylaws.

3. Allocated Interests. Upon the annexation of the Annexed Property, and as provided in the Declaration, the Allocated Interests attributable to each Unit in the Community shall be the percentage equivalent to a fraction, the numerator of which is one and the denominator of which shall be the total number of Units included in the Community and subject to the Declaration. The Allocated Interest of each Unit subject to the Declaration, including the Annexed Property, is 1/ _____. *[insert the total number of Units included in the Declaration, including the Annexed Property]*. Exhibit A-2 of the Declaration is hereby replaced in its entirety by Exhibit A-2 attached hereto to document the Allocated Interests for all Units annexed into the Community.

4. Binding Effect. This Annexation of Additional Land runs with the Annexed Property and is binding upon the successors and assigns of the signatories hereto and each successor owner of the Annexed Property.

5. Subassociation. The Units within the Annexed Property are or will be subject to the jurisdiction of a Subassociation. *[delete this paragraph 5 if not applicable]*

6. Service Area. The Units within the Annexed Property are hereby made a part of and are located in Service Area _____. *[delete this paragraph 6 if not applicable]*

[signature page follows]

EXHIBIT A-1
ANNEXED PROPERTY

Units: [SAMPLE]

Common Elements: [SAMPLE]

Limited Common Elements: [SAMPLE]

