

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF BELLE CREEK TOWNHOMES

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Exhibit A - The Community		
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ADAMS COUNTY

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
BELLE CREEK TOWNHOMES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BELLE CREEK TOWNHOMES ("Declaration") is made and entered into by Belle Creek, LLC, a Colorado limited liability company ("Declarant"). 5)

WITNESSETH:

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

WHEREAS, there has been recorded a certain "Master Declaration of Covenants, Conditions and Restrictions of Belle Creek," which was recorded in the office of the Clerk and Recorder of Adams County, Colorado at Reception Number C0839237, which contains covenants, conditions, restrictions, easements and other provisions, and to which the Community is or will be subject; and

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

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

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

ARTICLE 1. DEFINITIONS

Section 1.1. Agencies.

"Agencies" mean the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation

(FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

Section 1.2. *Allocated Interest.*

"Allocated Interest" means the share of Assessment and votes in the Association allocated to each Lot. The Allocated Interest for each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time. The Allocated Interest for each Lot is subject to decrease with the annexation of additional property to this Community as provided in the Declaration.

Section 1.3. *Annexable Area.*

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

Section 1.4. *Architectural Review Committee or Committee.*

"Architectural Review Committee" or "Committee" means the committee which is appointed pursuant to the Master Declaration.

Section 1.5. *Assessment.*

"Assessment" means annual Assessments and special Assessments, which are provided for in this Declaration. For purposes of Sections 4.1, 4.4.3, 4.8 through 4.16, inclusive, and 13.6 of this Declaration, "Assessment" means annual Assessments, special Assessments, and late charges, fines, fees, interest, costs, expenses, reasonable attorneys' fees, and any other charges, which are provided for in this Declaration.

Section 1.6. *Association.*

"Association" means Belle Creek Townhome Association, Inc., a community association as provided in CCIOA. The Association constitutes a Subassociation as defined in the Master Declaration.

Section 1.7. *Board of Directors or Board.*

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

Section 1.8. *CCIOA.*

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

Section 1.9. *Common Elements.*

"Common Elements" means any property owned or leased by the Association, other than a Lot, which exists for the common use of more than one of the Owners; provided, however, a portion of the Common Elements may constitute Limited Common Elements. The Common Elements at the time of recordation of this Declaration is described on Exhibit B attached hereto and incorporated herein by this reference.

Section 1.10. *Community.*

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

Section 1.11. *Declarant.*

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

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

1.11.2. Reserves or succeeds to any Special Declarant Right.

Section 1.12. *Declaration.*

"Declaration" means this Declaration of Covenants, Conditions and Restrictions of Belle Creek Townhomes, and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, plats and maps. This Declaration constitutes a Supplemental Declaration as defined in the Master Declaration.

Section 1.13. *Development Rights.*

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

1.13.1. add real estate to this Community, as provided in Section 14.5 hereof;

1.13.2. subdivide or replat Lots, as provided in Section 14.6 hereof; or

1.13.3. withdraw real estate from this Community, as provided in Section 14.5 hereof.

The Declarant may exercise its Development Rights in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any such development rights. The Declarant's right to exercise Development Rights shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.29 of this Declaration.

Section 1.14. *Governing Documents.*

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

Section 1.15. *Improvements.*

"Improvements" means all improvements, structures, and any appurtenances thereto or components thereof of every type and kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, gardens, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball backboards and hoops, whether fixed or movable, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment, if any. For purposes of Article 5 hereof, and only in such Article, the word "exterior" shall be inserted immediately preceding the fourth word "improvements" in the preceding sentence.

Section 1.16. *Initially Unoccupied Lots.*

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

Section 1.17. *Limited Common Elements.*

"Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner of a particular Lot or are limited to and reserved for the use of Owners of more than one, but less than all of the Lots. Limited Common Elements shall be designated in any Annexation of Additional Land together with a description of the Lot(s) with the right to use such Limited Common Elements. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance, or other instrument.

Section 1.18. *Lot.*

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

Section 1.19. *Lots that May Be Included.*

"Lots that May Be Included" means one hundred thirty (130) Lots, which shall be the maximum number of Lots that may be subject to this Declaration, including the Lots within the property described on the attached Exhibit A and those Lots which may be added if all of the Annexable Area is annexed to this Declaration. However, the aforesaid number of Lots that May Be Included is not a representation or a guarantee as to the actual number of Lots that will ultimately be included in or constructed as part of the Community.

Section 1.20. *Master Association.*

"Master Association" means Belle Creek Master Association, Inc., a community Association as provided in CCIOA.

Section 1.21. *Master Declarant.*

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

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

1.21.2. Reserves or succeeds to any Special Master Declarant Right.

Section 1.22. *Master Declaration.*

"Master Declaration" means the "Master Declaration of Covenants, Conditions, and Restrictions of Belle Creek," which was recorded in the office of the Clerk and Recorder of Adams County, Colorado at Reception Number C0839237, as amended and supplemented from time to time.

Section 1.23. *Member.*

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

Section 1.24. *Owner.*

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

Section 1.25. *Person.*

"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.

Section 1.26. *Security Interest.*

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

Section 1.27. *Security Interest Holder.*

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Section 4.11 of this Declaration (Certificate of Status of Assessments), the Administrator of Veterans Affairs, an Officer of the United States of America, and such Administrator's assigns under any executory land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the land records of the Clerk and Recorder of the County in which the property is located show the said Administrator as having the record title to the Lot), or any successor to the interest of any such Person under such Security Interest.

Section 1.28. *75% Control Period.*

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

Section 1.29. *Special Declarant Rights.*

"Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements in the Community; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the

Community and sale of Lots; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to merge or consolidate a Community of the same form of ownership; or to appoint or remove any officer of the Association or any Board of Directors member during any 75% Control Period. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically at such time as Declarant no longer owns any portion of the property described on the attached Exhibits A and D.

ARTICLE 2. MEMBERSHIP AND VOTING RIGHTS

Section 2.1. Association.

The Association has been or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration and in its Articles of Incorporation and Bylaws.

Section 2.2. Board of Directors.

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

Section 2.3. Voting Rights

Each Member shall be entitled, for each Lot owned, to one vote on each matter that comes to a vote of the Association; provided that the right to cast such vote is subject to this Declaration, the Articles of Incorporation and Bylaws of the Association. No votes allocated to a Lot owned by the Association may be cast. The maximum number of votes which may be cast in connection with any matter shall be equal to the denominator of the Allocated Interests at the time the vote is taken.

ARTICLE 3. ASSOCIATION

Section 3.1. Authority of Board of Directors.

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

Section 3.2. *Election of Part of the Executive Board During the Period of Master Declarant Control.*

Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that May Be Included to Owners other than a Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that May Be Included to Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the directors must be elected by Members other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board.

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

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

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

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

Section 3.5. *Delivery of Property by Declarant.*

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

Section 3.6. *Budget.*

Within thirty (30) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than fifty (50) days after mailing or other delivery of the summary. Unless at that meeting the budget is rejected by the vote or agreement of Members to which at least eighty percent (80%) of the votes in the Association are allocated, then the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. Any budget prepared with respect to Limited Common Elements shall be submitted in

accordance with the requirements set forth above, but shall be sent only to those Owners against whose Lots the costs associated with certain Limited Common Elements are assessed and who shall be entitled to vote on such budget in accordance with the voting requirements set forth above.

Section 3.7. *Rules and Regulations.*

Rules and regulations concerning and governing the Lots, Common Elements, and/or this Community may be adopted, amended or repealed from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations. Without limitation, the rules and regulations may state procedural requirements as well as interpretations and applications of the provisions of this Declaration, including without limitation, blanket requirements, blanket interpretations, and blanket applications. The Board has the authority to adopt or vary one or more rules and regulations that are different for different types of Lots, if any exist. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration, the Master Declaration, and all provisions thereof.

Section 3.8. *Association Books and Records.*

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

Section 3.9. *Information Regarding Security Interests.*

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

Section 3.10. *Management Agreements and Other Contracts.*

Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice; provided, however, that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the 75% Control Period shall be subject to review and approval by HUD or VA, if at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests (and if HUD

or VA requires such approval), and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the 75% Control Period.

Section 3.11. *Cooperation with Master Associations, Any Other Community Association(s) and/or Any District(s).*

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

Section 3.12. *Merger.*

The Declarant hereby reserves the right to merge the Association with one or more other common interest communities without the approval of any Owner or any other Person. This right shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.29 hereof.

ARTICLE 4. ASSESSMENTS

Section 4.1. *Personal Obligation for Assessments.*

Each Owner of a Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual Assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such Assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with

Note to File:

Now that Belle Creek LLC has closed on all properties listed in Exhibit A, assessments begin at closing by annexing the property. Annexation document is provided by GHI closer at time of closing to be executed by all parties *provided.*

all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all Assessments, fees, charges and other amounts attributable to their Lot. Each amount, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the amount became due. The personal obligation for delinquent amounts (including Assessments) shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 4.2. *Purpose of Assessments.*

The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration, the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements but may be used for other purposes, including without limitation maintenance, repair, reconstruction and replacement.

Section 4.3. *Amount of Annual Assessment.*

Until the effective date of an Association budget ratified by the Members with a different amount for annual Assessments, as provided above, the amount of the annual Assessment against each Lot shall not exceed One Hundred Thirty-Five Dollars (\$135.00) per month, exclusive of any amounts due to the Master Association, any other community association(s), any district or any other Person. However, the rate of annual and special Assessments paid by Initially Unoccupied Lots shall be less than that paid by other Lots, as provided in the next Section.

Section 4.4. *Rate of Assessment.*

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

4.4.2. The annual Assessments shall include an adequate reserve fund for the maintenance, repair, replacement and reconstruction of those items that must be maintained,

repaired, replaced or reconstructed on a periodic basis, and for the payment of insurance deductibles.

4.4.3. During the 75% Control Period, the Declarant may in its discretion, but shall not be required to, cover certain costs of the Association by payment of any amount(s), which shall be treated as an advance against future amounts, including Assessments, due from the Declarant; provided, however, that any such advances which have not been credited against amounts due from the Declarant as of termination of the 75% Control Period shall then be repaid by the Association to the Declarant, without interest, to the extent that the Association has funds in excess of its working capital funds, reserve funds, and operating expenses to date for the calendar year in which the 75% Control Period terminates; and provided further, however, that any of such advances which are not repaid to the Declarant shall continue to constitute advances against future amounts, including Assessments, due from the Declarant until conveyance by the Declarant of all of the property described on the attached Exhibits A and D. If the Declarant elects in its discretion to pay any amounts as provided in this subparagraph, Declarant shall not, under any circumstances, be obligated to continue payment or funding of any such amount(s) in the future.

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

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

Note: assessments commence at closing via annexation document for each property.

Section 4.6. *Special Assessments.*

In addition to the annual Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of the votes of sixty-seven percent (67%) of a quorum of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any expense or deficit incurred by the Association. Any such special Assessment shall be set against each Lot in accordance with the Allocated Interests set forth in this Declaration, except that the rate of special Assessments against Initially Unoccupied Lots shall be set as provided in Section 4.4.1 of this Declaration. A meeting of the Members called for the purpose of considering the establishment of a special Assessment shall be held in conformance with Section 4.7 of this Declaration (Notice and Quorum for Any Special

Assessments). Notwithstanding the foregoing, special Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.

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

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

Section 4.8. *Assessments/Charges for Services to the Master Association and/or Separate Areas of the Community.*

The Association may, at any time from time to time, provide services to the Master Association and/or to any area(s) (containing less than all of the Lots) in the Community. If such services are not funded by the annual Assessments or special assessments, then such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Master Association and/or the Owners of the Lots for which such service is to be provided, as applicable, with such agreement to include a statement and terms for payment of the costs, fees and expenses that are to be paid by such Owners for such services, and which amounts shall include overhead expenses of the Association. Services which may be provided by the Association pursuant to this Section include, without limitation, (a) the construction, care, operation, management, maintenance, repair, replacement, reconstruction and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to such area, such as trash removal; (c) the enforcement of the provisions of the Master Declaration, any Supplemental Declaration, or any other document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the collection of Assessments for, in the name of, and on behalf of the Master Association; or (e) the payment of taxes or other amounts for Owners with funds provided by such Owners; or (f) the procurement of insurance for Owners.

Section 4.9. *Lien for Assessments.*

4.9.1. The Association has a statutory lien on a Lot for any amount levied against that Lot or the Owner thereof, including for fines imposed against the Lot's Owner. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid association acceleration of installment obligations.

4.9.2. Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If

a lien is filed, the costs and expenses thereof shall be added to the Assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Section 4.10. *Priority of Association Lien.*

4.10.1. A lien under this Article 4 is prior to all other liens and encumbrances on a Lot except:

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

4.10.1.2. A Security Interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent; and

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

4.10.2. A lien under this Section is also prior to the Security Interests described in the preceding subsection 4.9.1.2 to the extent, if any, provided in CCIOA.

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

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

Section 4.11. *Certificate of Status of Assessments.*

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

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

Any Assessments not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser

rate as may be set from time to time by the Board of Directors, and the Board of Directors may assess thereon a monthly late charge in such amount as may be determined by the Board of Directors in its discretion from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include reasonable attorney's fees to be fixed by the court, together with the costs of the action, and may include interest and late charges, as above provided. No Owner may be exempt from liability for payment of any assessment by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Lot against which the Assessments are made, or because of dissatisfaction with the Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

Section 4.13. *Surplus Funds.*

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

Section 4.14. *Working Capital Fund.*

The Association shall require the first Owner (other than the Declarant) of any Lot who purchases that Lot from the Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the then current monthly installment of the annual Assessment (regardless of whether or not annual Assessments have commenced as provided in Section 4.5 hereof). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall, until use, be maintained for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the sale of his Lot, an Owner shall be entitled to reimbursement at closing (in the form of a credit on the closing settlement statement) from the purchaser of such Lot (but not from the Association) for the portion of the aforesaid contribution to working capital fund which has not been used by the Association at the time of conveyance of the Lot by such Owner.

Section 4.15. *Other Charges.*

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

Section 4.16. *Assessments for Misconduct.*

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

ARTICLE 5. ARCHITECTURAL REVIEW COMMITTEE

Section 5.1. *Architectural Review Committee Approval.*

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

Section 5.2. *Requirement for Approval by Governmental Entities.*

In addition to the foregoing, the construction, erection, addition, deletion, change or installation of any Improvements shall require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by Commerce City, Colorado, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement.

ARTICLE 6. INSURANCE

Section 6.1. *Insurance.*

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

Section 6.2. *Insurance on the Structures on the Lots.*

The Association, through the Executive Board or its agent, may (but is not obligated to) obtain and maintain, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, a policy of property insurance covering the structure(s) located on each Lot, except for land, excavations, foundations and other matters normally excluded from property policies, in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the insurance policy. If carried, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full

replacement cost basis without deduction for depreciation, an "Inflation Guard Endorsement," an "Agreed Amount Endorsement," and may include other endorsement(s) as deemed appropriate by the Executive Board from time to time. Such insurance as may be maintained by the Association pursuant to this section shall afford protection against at least the following:

- a. loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and
- b. such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available.

Section 6.3. *General Provisions of Insurance Policies.*

All policies of insurance carried by the Association shall comply with this Section. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be 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. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation against any Owner or member of such Owner's household. Further, all policies of insurance carried by the Association 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 or Master Association.

Section 6.4. *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. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association, may be borne by the Person who is responsible for the maintenance, repair, replacement and reconstruction of the property which is damaged or destroyed, may be apportioned among the Persons sharing in a joint duty of repair and maintenance, and/or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question in such amount(s) as the Board of Directors deems appropriate, and the Association may collect such amount(s) from said Owner(s) in the same manner as any assessment.

Section 6.5. *Payment of Insurance Proceeds.*

Any loss covered by an insurance policy described in Section 6.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 8.1 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 and any budget or reserve deficit funded, or unless the Community is terminated.

Section 6.6. *Association Insurance as Primary Coverage.*

If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. 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 6.7. *Acceptable Insurance Companies.*

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

Section 6.8. *Insurance to be Maintained by Owners.*

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

insurer to recover from the other insurer any such sums for which the other insurer is found to be liable.

Section 6.9. *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 adequately covers those risks intended to be insured by the Association.

ARTICLE 7. PARTY WALLS

Section 7.1. *Definition.*

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

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

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

Section 7.3. *Sharing of Repair and Maintenance.*

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

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

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

Section 7.5. *Weatherproofing.*

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

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

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

Section 7.7. *Arbitration.*

In the event any dispute arises concerning a Party Wall, under the provisions of this Article, such dispute shall be resolved as follows unless such dispute is subject to Article 13 of this Declaration (Dispute Resolution): each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators; should any party fail or refuse to appoint an arbitrator within ten (10) days after written request therefor by the Owner with whom such party shares a Party Wall, the Board of Directors shall select an arbitrator for the refusing party. The parties to the arbitration shall share the costs thereof, but each party shall pay its own attorneys' fees.

ARTICLE 8. *DAMAGE OR DESTRUCTION*

Section 8.1. *Damage or Destruction.*

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

8.1.1.1. The Community is terminated;

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

8.1.1.3. Sixty-seven percent (67%) of the Members, including every Member whose Lot will not be rebuilt, vote not to rebuild; or

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

8.1.2. The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is a Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the assessment liability of all the Lots. If the Members vote not to rebuild any Lot, that Lot's Allocated Interests are automatically reallocated upon the vote as if the Lot had been condemned as provided in Section 14.14 hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

Section 8.2. *Lots.*

Except as otherwise provided in Section 8.1 of this Declaration, any damage to or destruction of any structure located on a Lot shall be promptly repaired and reconstructed by the Owner(s) thereof. "Repaired and reconstructed," as used in this Section, shall mean restoring the

structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. If the Owner of a Lot 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 Architectural Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Section 8.2 hereof, enter upon the Lot for the purpose of completing such repair and reconstruction in conformance with approved plans. The cost related to such repair and reconstruction shall be the personal obligation of the Owner of the Lot on which such work is performed and shall be subject to all the terms and provisions applicable to Assessments as provided in Article 4 hereof, including without limitation, interest, late charges, attorneys' fees and lien rights.

ARTICLE 9. EXTERIOR MAINTENANCE

Section 9.1. General.

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

9.1.2. The Association shall maintain, repair and replace the landscaping on Lots and shall also provide exterior maintenance on the structures on each Lot, as follows (to the extent that such are applicable): paint or stain, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, and walks; provided, however, that such exterior maintenance shall not include foundations, exterior doors or garage doors, except painting or staining, decks or patios (except fences around decks or patios), air conditioning compressors located on the Common Elements, exterior light fixtures attached to a structure, foundations, windows or window screens, or other glass surfaces. The costs to be expended for such maintenance and repair shall, subject to Section 9.4 of this Declaration (Owner's Acts or Omissions), be collected by the Association as Assessments as provided in Article 4 hereof.

9.1.3. Except as provided in subsection 9.1.1 above, or pursuant to Section 4.8 of this Declaration, the maintenance, repair and replacement of each Lot, and the Improvements thereon, shall be the responsibility of the Owner of such Lot. Additionally, each Owner shall be responsible for maintaining all landscaping to the edge of the street(s)

to which such Owner's Lot is adjacent, including any landscaped area between a sidewalk and such street(s).

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

In the event any Owner shall fail to perform his maintenance, repair, replacement and/or reconstruction obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair, replacement or reconstruction. The cost of such maintenance, repair, replacement or reconstruction shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to Assessments as provided in Article 4 hereof including, without limitation, interest, late charges and lien rights.

Section 9.3. *Non-Interference with Grade and Drainage.*

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 Lot or the Common Elements, then the party responsible for the maintenance of such real property shall submit a plan to the Architectural Review Committee for its review and approval in accordance with Article 5 of this Declaration, and any such change shall also be made in accordance with all laws, regulations and resolutions of applicable governmental entities. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading by the Declarant is completed.

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

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair, replacement or reconstruction of the Common Elements, a Lot, or any Improvements located thereon, is caused by the act or omission of any Owner, or by the act or omission of any member of such Owner's family or by a tenant, guest or invitee of such Owner, the cost of such maintenance, repair, replacement, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair, replacement or reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article 4 of this Declaration. A determination of the act or omission of any Owner, or any member of an Owner's family or a tenant, guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE 10. EASEMENTS

Section 10.1. *Easements.*

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

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

Each Owner hereby grants to the Association and the other Owners, and to their agents, employees and contractors, a right and easement on, over, across and through such Owner's Lot for maintenance, repair, replacement as provided in this Declaration, including without limitation as provided in Article 9 of this Declaration (Exterior Maintenance). If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Lot, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair, replacement and/or reconstruction as provided in Article 9 during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants of each affected Lot shall be warned of impending emergency entry as early as is reasonably possible.

Section 10.3. *Utilities and Drainage Easement.*

10.3.1. Declarant hereby reserves a blanket easement upon, across, over and under the Common Elements for utilities and the installation, use, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect, use, and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, use, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Section 1.29 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

10.3.2. In addition to the easements described in Section 10.3.1 above and those easements shown on the plat(s) of the Community, Declarant hereby reserves, to itself and to the Association, easements for drainage and drainage facilities across the five (5) rear and

five (5) side feet of each Lot; provided, however, that if a structure is located on any of the area(s) described in this sentence, then such easement shall be reduced in width to the width of the distance from the nearest Lot line to the exterior wall of the structure on such Lot that is nearest to such Lot line. No Improvements (except fencing or landscaping with the prior written approval of the Architectural Review Committee) shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves, to itself and to the Association, the right to enter in and upon each drainage easement, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage, or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Section 1.29 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest solely in the Association.

Section 10.4. *Easement for Encroachments.*

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

Section 10.5. *Easement for Unannexed Property.*

The Declarant hereby reserves, for the use and benefit of the Annexable Area, a non-exclusive, perpetual easement and right-of-way for 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, and on, over, across and under the Common Elements for utilities and the construction, location, erection, installation, storage, maintenance, repair, replacement, renovation, and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services, to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community pursuant to Section 14.5 hereof. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE 11. RESTRICTIONS

Section 11.1. *Restrictions Imposed.*

This Community is subject to the recorded easements, licenses, and other matters listed on Exhibit C attached hereto and incorporated herein by this reference. In addition, the Declarant

that no such dedication or transfer shall be effective unless the same is done in accordance with CCIOA. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection; and

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

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

Section 12.3. *Declarant's Use of Common Elements.*

An easement is hereby granted to the Declarant through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any rights of the Declarant, including without limitation Special Declarant Rights. No Owner shall engage in any activity which will temporarily or permanently interfere with this easement through the Common Elements.

Section 12.4. *Limited Common Elements.*

Subject to the terms and provisions of this Declaration, every Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to such Owner's Lot or which are otherwise designated for use by such Owner's Lot. Such right shall be exclusive except as to those Owners with a right to use such Limited Common Elements.

Section 12.5. *Delegation of Use.*

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

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

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

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

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

declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the provisions of this Declaration.

Section 11.2. *Compliance with Master Declaration and Architectural Review Committee.*

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

ARTICLE 12. *PROPERTY RIGHTS IN THE COMMON ELEMENTS*

Section 12.1. *Owners' Easements of Enjoyment.*

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

Section 12.2. *Extent of Owners' Easements.*

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

12.2.1. The right of the Association to borrow money for 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 except in accordance with CCIOA; and

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

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

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

12.2.5. The right of the Association to dedicate or transfer all or any part of the Common Elements owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided

Section 12.8. *Designation of Common Elements.*

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

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

The Association shall accept title to any Common Elements, including Improvements thereon, as well as personal property, equipment, easements and any property on which the Association has or assumes maintenance responsibilities, transferred to the Association by the Declarant, together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association. As of the date of recording of this Declaration, interests which are planned to be transferred by the Declarant to the Association are planned to consist only of fee simple title to Common Elements to be located in the property described on the attached Exhibit A and/or the Annexable Area and/or easements.

ARTICLE 13. DISPUTE RESOLUTION

Section 13.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

13.1.1. Each Party (as defined below) agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims each alleges to have to the procedures set forth in this Article and not to a court of law.

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

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

Section 13.2. *Definitions Applicable to this Article.*

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

13.2.1. "AAA" means the American Arbitration Association.

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

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

representations, promises, warranties, or other communications made by or on behalf of any Party.

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

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

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

13.2.7. "Subject Property" means the property being inspected pursuant to the inspection right provided in Section 13.7 of this Declaration.

13.2.8. "Termination of Mediation" means a period of time expiring thirty (30) days after a mediator has been agreed upon by the Parties (however, a mediator shall be selected no later than 45 days after the Claimant has given notice to the Respondent of the Claim and if the Parties are unable to agree on a mediator, one shall be chosen by the AAA) and the matter has been submitted to mediation (or within such other time as determined by the mediator or agreed to by the Claimant and Respondent) and upon the expiration of which the Claimant and Respondent have not settled the Claim.

Section 13.3. *Approval Required for Association Actions.*

Except as provided in Section 13.6 below, the approval of seventy-five percent (75%) of a quorum (as provided in Section 13.4) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot, must be obtained before the Association shall have the power to institute action on any Claim pursuant to this Article, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 13.4.

Section 13.4. *Notice and Quorum for Association Actions.*

Written notice of any meeting of Members which includes a vote pursuant to Section 13.3 hereof shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information:

13.4.1. A statement regarding the nature of the Claim. Such statement shall include, without limitation, the name(s) of the proposed Respondent(s), the basis and reason

for the Claim, and any other information necessary to adequately explain the nature of the proposed Claim; and

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

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

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

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

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

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

Section 13.5. *Required Form of Proxy or Ballot.*

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

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

Section 13.6. *Exclusions from "Claim."*

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

13.6.1. An action by the Association to enforce the provisions of Article 4 of this Declaration (Covenant for Assessments); and

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

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

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

Section 13.7. *Right to Inspect.*

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

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

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

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

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

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

Section 13.8. *Mandatory Procedures.*

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

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

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

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

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

13.8.3. *Mediation.*

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

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

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

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

13.8.3.5. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 13.8.3 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again

comply with the procedures set forth in Section 13.8. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

13.8.4. *Binding Arbitration.*

13.8.4.1. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate, subject to any Federal arbitration statutes and State arbitration statutes as applicable. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the Claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

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

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

Section 13.9. *Liability for Failure of Association to Maintain an Action*

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

Section 13.10. *Severability.*

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

Section 13.11. *Amendment.*

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

ARTICLE 14. GENERAL PROVISIONS

Section 14.1. *Enforcement; Fines.*

14.1.1. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Except as otherwise provided in this Declaration, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings subject to Article 13 of this Declaration (Dispute Resolution). For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of CCIOA or of the Declaration, Articles of Incorporation, Bylaws or rules and regulations of the Association, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 14.2. *Severability.*

All provisions of this 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 14.3. *Conflict of Provisions.*

In case of any conflict between this Declaration and the Master Declaration, the Master Declaration shall control. 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 14.4. *Conflict with CCIOA.*

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

Section 14.5. *Annexation; Withdrawal.*

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

14.5.2. Notwithstanding the foregoing, the Declarant may annex to this Declaration the Annexable Area or any portion(s) thereof, until termination of this right as provided below, without consent of any other Owners, Security Interest Holders, or any other Person; however, such annexation is subject to a determination by HUD or VA (if the Declarant desires to attempt to obtain HUD or VA approval of the property being annexed, and if HUD or VA require such approval) that the annexation is in accord with the general plan approved by them and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Each annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the Clerk and Recorder of the County in which the annexed property is located, which document shall:

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

14.5.2.2. shall identify the owner(s) of the Lots thereby created;

14.5.2.3. shall assign an identifying number to each new Lot;

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

14.5.2.5. shall reallocate the Allocated Interests; and

14.5.2.6. may include such other provisions (which may provide for exemption from or modification of any provision(s) of this Declaration) as the Declarant deems appropriate in its sole discretion. Other provisions that may be included in an Annexation of Additional Land include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions, in addition to or different from those contained elsewhere in this Declaration, that apply or will apply to some or all of the property that is thereby being annexed to this Declaration. Any of such other provisions referenced in this subsection may be amended with the consent of the Owners of sixty-seven percent (67%) of the Lots to which such other provisions apply.

14.5.3. Except as otherwise specifically stated in the Annexation of Additional Land, all provisions of this Declaration, including (as to Lots), but not limited to, those provisions regarding obligations to pay Assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon the effective date of the Annexation of Additional Land (which shall constitute the date of recording of the Annexation of Additional Land unless otherwise stated therein).

14.5.4. The Declarant's right to annex the Annexable Area without approval shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.29 of this Declaration.

14.5.5. Subsequent to the date of recording hereof, each Person who purchases any portion of the property described on the attached Exhibit D ("Parcel"), will have agreed pursuant to applicable documents that such Parcel will be governed by this Declaration. The Declarant, therefore, reserves the right (but not the obligation) during the time period set forth in subsection 14.5.3 of this Section to annex the Parcel to the Declaration without further authorization from the Person who has purchased such Parcel, even if such annexation occurs subsequent to conveyance of the Parcel by Declarant.

14.5.6. The property which is described on the attached Exhibit A and each portion of the Community which is annexed to this Declaration by the Declarant shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with CCIOA. However, the Declarant's right to withdraw each such portion of the Community shall expire and terminate, as to each portion of the Community which has been annexed to this Declaration, upon the first conveyance of any Lot in such portion of the Community to any Person other than the Declarant, but in any event, no later than automatic termination of the Special Declarant Rights as provided in Section 1.29 hereof.

Section 14.6. *Subdivision or Replatting of Lots.*

The Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Declarant in the Community. Without limiting the generality of the foregoing, the Declarant reserves the right to move any Lot line(s) on Lot(s) owned by the Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed; provided that such Lot line adjustments, if any, shall not change the number of Lots in the Community at the time

each such Lot line adjustment is approved by the applicable governmental entity. The rights provided for in this Section shall terminate automatically upon termination of the Special Declarant Rights, as provided in Section 1.29 hereof. No Lot may be further subdivided from that existing at the time such Lot becomes subject to this Declaration, except by Declarant.

Section 14.7. *Declarant's Use.*

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors to perform such reasonable activities, and to maintain upon portions of the Lots and the Common Elements such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots and development and construction of Improvements. The foregoing includes, without limitation, locating, maintaining and relocating management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its reasonable discretion from time to time. Any real estate used as a sales office, management office, or a model, shall be a Lot or Common Elements, as designated in this Declaration or any Annexation of Additional Land. Further, nothing contained in this Declaration shall limit the rights of Declarant or require the Declarant to obtain approvals:

14.7.1.1. to excavate, cut, fill or grade any property (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements;

14.7.1.2. to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office in connection with the development, construction or sale of any property; and/or

14.7.1.3. to require Declarant to seek or obtain any approvals under the Master Declaration or this Declaration for any such activity.

Section 14.8. *Duration, Revocation, and Amendment.*

14.8.1. Each and every provision of this Declaration shall run with and bind the land perpetually. Except as otherwise provided in this Declaration, this Declaration may be amended by a vote or agreement of Owners holding at least sixty-seven percent (67%) of the Allocated Interests; provided, however, while Declarant owns any portion of the property described on Exhibits A and D, no amendment may be made to this Declaration except with the affirmative vote or agreement of Members holding ninety percent (90%) of the Allocated Interests.

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

14.8.3. Notwithstanding anything to the contrary contained in this Declaration, the Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirements, standards, or guidelines of any of the Agencies or of recognized secondary mortgage markets. Such right of

amendment shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.29 hereof.

14.8.4. Notwithstanding anything to the contrary contained in this Declaration, this Declaration, or any map or plat, may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct clerical, typographical, or technical errors. Such right of amendment shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.29 hereof.

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

Section 14.9. *Registration of Mailing Address.*

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the 75% Control Period shall be sent by registered or certified mail, postage prepaid, c/o Belle Creek, LLC, 1805 Shea Center Drive, Suite 250, Highlands Ranch, CO 80129, unless such address is changed by the Association during the 75% Control Period; subsequent to termination of the 75% Control Period, the Association shall notify the Owners of a different address for notices which may be done not less often than biannually with the office of the Colorado Secretary of State.

Section 14.10. *HUD or VA Approval.*

During the Period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more first Security Interests, and HUD or VA require such approval: annexation of additional real property (if the Declarant desires to obtain VA or HUD approval of the property that is being annexed); amendment of this Declaration, except as provided in Sections 14.5, 14.8.3 and 14.8.4 hereof; termination of this Community; or merger or consolidation of the Association, except as provided in Section 3.12 of this Declaration (Merger).

Section 14.11. *Termination of Community.*

The Community may be terminated only in accordance with CCIOA.

Section 14.12. *Transfer of Special Declarant Rights.*

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

Section 14.13. *Eminent Domain.*

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

Section 14.14. *Limitation on Liability.*

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

Section 14.15. *No Representations, Guaranties or Warranties.*

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, the Association, the Board of Directors, the Architectural Review Committee, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

Section 14.16. *Disclaimer Regarding Safety.*

DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS 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 14.17. Headings.

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

Section 14.18. Gender.

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

Section 14.19. Run with Land; Binding Upon Successors.

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon this Community and all real property and Improvements which are not now or hereafter become a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal this 8th day of February, 2002.

BELLE CREEK, LLC, a Colorado limited liability
company by New Town Builders its Managing
Member

By: [Signature]
Its: Gene W. Myers
Manager

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 8th day of February, 2002
by Gene W. Myers as Manager of Belle Creek, LLC, a Colorado limited
liability company.

Witness my hand and official seal.

(S E A L)

Notary Public: [Signature]

My Commission Expires: November 30, 2005

ajr/belle creek/townhomes/declaration/20092.36002/2/8/02 9:40 AM

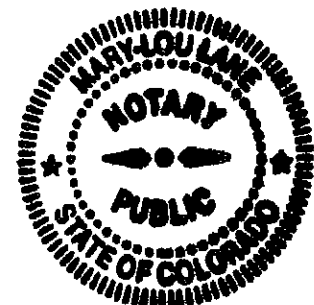


EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
BELLE CREEK TOWNHOMES

(Community)

The following property as shown on the final plat of Belle Creek Filing 1 recorded on October 10, 2000 at Reception No. C0719064, File No. 18, Map No. 293 in the office of the Clerk and Recorder of Adams County, Colorado, as amended and supplemented from time to time:

Lots 1 through 10, inclusive, Block 3

EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
BELLE CREEK TOWNHOMES

(Common Elements)

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

EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
BELLE CREEK TOWNHOMES

(Certain Title Exceptions)

IF RECORDED, THE FOLLOWING DOCUMENTS ARE RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF ADAMS COUNTY, COLORADO:

1. TAXES AND ASSESSMENTS FOR THE YEAR OF RECORDING OF THE DECLARATION AND FOR SUBSEQUENT YEARS, NOT YET DUE OR PAYABLE.
2. RIGHT OF WAY EASEMENT AS GRANTED TO COLORADO-WYOMING GAS COMPANY IN INSTRUMENT RECORDED MARCH 6, 1950 IN BOOK 390 AT PAGE 347.
3. LIMITED POINTS OF ACCESS TO U.S. HIGHWAY 40 AS SET FORTH IN INSTRUMENT RECORDED MARCH 18, 1953 IN BOOK 460 AT PAGE 414.
4. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT AS EVIDENCED BY INSTRUMENT RECORDED AUGUST 05, 1981, IN BOOK 2575 AT PAGE 967, AND RECORDED DECEMBER 31, 1997 IN BOOK 5196 AT PAGE 855.
5. TERMS, CONDITIONS AND PROVISIONS OF ZONING HEARING DECISION-CASE #112-98-MD BELLE-CREEK METRO DISTRICT RECORDED AUGUST 31, 1998 IN BOOK 5450 AGE PAGE 194.
6. RIGHT OF WAY FOR INGRESS AND EGRESS GRANTED IN INSTRUMENT RECORDED OCTOBER 1, 1981 IN BOOK 2590 AT PAGE 460 AND RECORDED MAY 4, 1998 IN BOOK 5317 AT PAGE 815.
7. THE EFFECT OF RESTRICTIONS (CASE #Z-717-99) RECORDED FEBRUARY 15, 2000 IN BOOK 6035 AT PAGE 342.
8. NOTICE OF ANNEXATION AGREEMENT ENCUMBERING REAL ESTATE RECORDED MARCH 1, 2000 IN BOOK 6049 AT PAGE 312.
9. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE BELLE CREEK METROPOLITAN DISTRICT NO. 1, AS EVIDENCED BY INSTRUMENT RECORDED JUNE 06, 2000, IN BOOK 6150 AT PAGE 21.

10. EASEMENTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS ON THE RECORDED PLAT OF BELLE CREEK SUBDIVISION FILING 1, RECORDED OCTOBER 10, 2000 UNDER RECEPTION NO. C0719064.
11. ANY TAX, LIEN, FEE OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE BELLE CREEK METROPOLITAN DISTRICT NO. 1, AS EVIDENCED BY INSTRUMENT RECORDED OCTOBER 10, 2000 IN BOOK 6284 AT PAGE 950 AND RECORDED OCTOBER 10, 2000 IN BOOK 6284 AT PAGE 957.

AMENDED AND RESTATED RESOLUTION REGARDING THE IMPOSITION OF OPERATION AND MAINTENANCE FEES RECORDED JULY 18, 2001 UNDER RECEPTION NO. C0829661.

SECOND AMENDED AND RESTATED RESOLUTION OF THE BELLE CREEK METROPOLITAN DISTRICT NO. 1 REGARDING THE IMPOSITION OF OPERATION AND MAINTENANCE FEES RECORDED OCTOBER 24, 2001 UNDER RECEPTION NO. C0876695.

12. TERMS, CONDITIONS AND PROVISIONS OF GUARANTY AGREEMENT RECORDED OCTOBER 10, 2000 IN BOOK 6293 AT PAGE 599.
13. TERMS, CONDITIONS AND PROVISIONS OF DEVELOPER'S AGREEMENT RECORDED OCTOBER 20, 2000 IN BOOK 6296 AT PAGE 748.
14. TERMS, CONDITIONS AND PROVISIONS OF EASEMENT BETWEEN THE ADEN FAMILY TRUST AND BELLE CREEK METROPOLITAN DISTRICT NO. 1 RECORDED JUNE 06, 2001 AT RECEPTION NO. C0810051.
15. RIGHT OF WAY GRANTED TO UNITED POWER, INC. RECORDED JUNE 18, 2001 UNDER RECEPTION NO. C0815269.
16. TERMS, CONDITIONS AND PROVISIONS OF DEVELOPERS AGREEMENT RECORDED AUGUST 02, 2001 AT RECEPTION NO. C0837140.
17. RESTRICTIVE COVENANTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS, AS CONTAINED IN INSTRUMENT RECORDED AUGUST 08, 2001, UNDER RECEPTION NO. C0839237.
18. 20 FOOT SHARED USE ALLEY AND UTILITY EASEMENT AS SHOWN ON THE RECORDED PLAT.

19. THE EFFECT OF EASEMENT GRANT AND RESERVATION RECORDED
AUGUST 30, 2001 UNDER RECEPTION NO. C0850073.
20. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED
OCTOBER 17, 2001 AT RECEPTION NO. C0873920.

EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
BELLE CREEK TOWNHOMES

(Annexable Property)

A PARCEL OF LAND LOCATED IN SECTIONS 9 AND 10, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9;
THENCE NORTH 00 DEGREES 17 MINUTES 19 SECONDS WEST ALONG THE EAST LINE OF SAID SECTION 9, A DISTANCE OF 164.00 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 00 DEGREES 17 MINUTES 19 SECONDS WEST, CONTINUING ALONG SAID EAST LINE OF SECTION 9, A DISTANCE OF 1151.26 FEET, SAID POINT BEING THE SOUTHEAST CORNER OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 9;
THENCE SOUTH 89 DEGREES 40 MINUTES 45 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$, A DISTANCE OF 948.81 FEET, BEING A POINT ON THE EASTERLY RIGHT OF WAY LINE FOR COUNTY ROAD NO. 31 (BRIGHTON ROAD) ALSO BEING THE CITY OF COMMERCE CITY CORPORATE BOUNDARY AS RECORDED IN ADAMS COUNTY FILE NO. 17 MAP 881, RECEPTION NO. C0412997;
THENCE NORTH 25 DEGREES 48 MINUTES 55 SECONDS EAST, ALONG SAID EAST RIGHT OF WAY, A DISTANCE OF 33.37 FEET, SAID POINT BEING THE SOUTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 314 AT PAGE 441 AS RECORDED AT THE ADAMS COUNTY RECORDERS OFFICE;
THENCE NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, DEPARTING SAID RIGHT OF WAY ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN BOOK 314 AT PAGE 441, A DISTANCE OF 513.83 FEET;
THENCE NORTH 13 DEGREES 18 MINUTES 03 SECONDS EAST, ALONG THE EAST LINE OF SAID PARCEL DESCRIBED IN BOOK 314 AT PAGE 441, A DISTANCE OF 478.73 FEET TO A PARCEL DESCRIBED IN BOOK 483 AT PAGE 203 AS RECORDED AT THE ADAMS COUNTY RECORDERS OFFICE;
THENCE NORTH 26 DEGREES 35 MINUTES 42 SECONDS EAST, ALONG THE EAST LINE OF SAID PARCEL DESCRIBED IN BOOK 483 AT PAGE 203, A DISTANCE OF 40.17 FEET;
THENCE NORTH 39 DEGREES 02 MINUTES 02 SECONDS EAST, CONTINUING ALONG SAID EAST LINE OF SAID PARCEL DESCRIBED IN BOOK 483 AT PAGE 203, A DISTANCE OF 304.95 FEET, SAID POINT OF THAT PARCEL DESCRIBED IN BOOK 607 AT PAGE 406 AS RECORDED AT THE ADAMS COUNTY RECORDERS OFFICE;

THENCE NORTH 54 DEGREES 52 MINUTES 50 SECONDS EAST, ALONG THE
EASTERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN BOOK 607 AT PAGE 406,
A DISTANCE OF 87.29 FEET;
THENCE NORTH 27 DEGREES 48 MINUTES 59 SECONDS EAST, CONTINUING ALONG
SAID EASTERLY LINE, A DISTANCE OF 54.58 FEET;
THENCE NORTH 26 DEGREES 19 MINUTES 35 SECONDS EAST, CONTINUING ALONG
SAID EASTERLY LINE, A DISTANCE OF 165.01 FEET;
THENCE NORTH 36 DEGREES 10 MINUTES 41 SECONDS EAST, CONTINUING ALONG
SAID EASTERLY LINE, A DISTANCE OF 377.66 FEET, SAID POINT IS LOCATED ON
THE EAST-WEST CENTERLINE OF SAID SECTION 10;
THENCE SOUTH 89 DEGREES 32 MINUTES 16 SECONDS WEST, ALONG SAID EAST-
WEST CENTERLINE OF SECTION 10, A DISTANCE OF 153.82 FEET FROM WHICH THE
WEST QUARTER CORNER OF SAID SECTION 10, SAID TO BEAR SOUTH 89 DEGREES
32 MINUTES 16 SECONDS WEST A DISTANCE OF 145.36 FEET;
THENCE NORTH 00 DEGREES 31 MINUTES 34 SECONDS WEST, ALONG THE EAST
LINE OF THAT PROPERTY DESCRIBED IN BOOK 4927 AT PAGE 569 AS RECORDED
AT THE ADAMS COUNTY RECORDERS OFFICE, A DISTANCE OF 529.18 FEET TO A
POINT AT THE SOUTHERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN
BOOK 4392 AT PAGE 859 AS RECORDED AT THE ADAMS COUNTY RECORDERS
OFFICE;
THENCE SOUTH 76 DEGREES 03 MINUTES 34 SECONDS EAST, ALONG THE SOUTH
LINE OF THAT PARCEL OF LAND DESCRIBED IN BOOK 4392 AT PAGE 859, A
DISTANCE OF 511.59 FEET;
THENCE NORTH 51 DEGREES 51 MINUTES 56 SECONDS EAST, CONTINUING ALONG
SAID SOUTHERLY LINE OF THE PARCEL DESCRIBED IN BOOK 4392 AT PAGE 859, A
DISTANCE OF 771.21 FEET;
THENCE NORTH 56 DEGREES 37 MINUTES 55 SECONDS WEST, CONTINUING
ALONG THE BOUNDARY OF THAT PARCEL DESCRIBED IN BOOK 4392 AT PAGE 859,
A DISTANCE OF 794.50 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-
HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 10;
THENCE NORTH 89 DEGREES 35 MINUTES 05 SECONDS EAST, ALONG SAID NORTH
LINE A DISTANCE OF 89.92 FEET;
THENCE SOUTH 56 DEGREES 37 MINUTES 55 SECONDS EAST, DEPARTING SAID
NORTH LINE ALONG THE SOUTHWEST BOUNDARY OF THAT PARCEL DESCRIBED
IN BOOK 3194 AT PAGE 274 AS RECORDED AT THE ADAMS COUNTY RECORDERS
OFFICE A DISTANCE OF 813.61;
THENCE SOUTH 55 DEGREES 28 MINUTES 05 SECONDS EAST, CONTINUING ALONG
SAID SOUTHWEST BOUNDARY, A DISTANCE OF 145.02 FEET TO THE PROPERTY
CORNER OF SAID PARCEL DESCRIBED IN BOOK 3194 AT PAGE 274;
THENCE NORTH 45 WEST 23 MINUTES 51 SECONDS EAST, CONTINUING ALONG
THE SOUTHEAST BOUNDARY OF SAID PROPERTY DESCRIBED IN BOOK 3194 AT
PAGE 274, A DISTANCE OF 768.29 FEET TO A POINT, SAID POINT BEING A
PROPERTY CORNER LOCATED ON THE NORTH LINE OF THE SOUTH ONE-HALF OF
THE NORTHWEST ONE-QUARTER OF SAID SECTION 10;
THENCE NORTH 89 DEGREES 35 MINUTES 15 SECONDS EAST, ALONG SAID NORTH
LINE, A DISTANCE OF 620.02 FEET TO A FOUND 3 1/4" ALUMINUM CAP STAMPED LS

7631 BEING THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE
 NORTHWEST ONE-QUARTER OF SAID SECTION 10;
 THENCE NORTH 89 DEGREES 25 MINUTES 07 SECONDS EAST, ALONG THE NORTH
 LINE OF THE SOUTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SAID
 SECTION 10, A DISTANCE OF 866.16 FEET, ALSO BEING THE SOUTHERLY
 BOUNDARY OF THE REISBECK SUBDIVISION AS RECORDED AT THE ADAMS
 COUNTY RECORDERS OFFICE IN FILE 12 MAP 37 RECEPTION NO. 794796 AND ALSO
 IN BOOK 3098 AT PAGE 184 TO A POINT ON THE WESTERLY RIGHT OF WAY LINE
 OF COLORADO STATE HIGHWAY 85, ALSO BEING THE CITY OF COMMERCE CITY
 CORPORATE LIMITS AS RECORDED IN ADAMS COUNTY FILE NO. 17 MAP 881,
 RECEPTION NO. C0412997;
 THENCE SOUTH 30 DEGREES 47 MINUTES 14 SECONDS WEST, ALONG SAID
 WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 1538.72 FEET TO A FOUND PIN &
 CAP STAMPED LS 7631 LOCATED ON THE SOUTH LINE OF THE NORTHEAST ¼ OF
 SECTION 10 FROM WHICH THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF
 SECTION 10 SAID TO BEAR SOUTH 89 DEGREES 22 MINUTES 36 SECONDS WEST A
 DISTANCE OF 71.47 FEET;
 THENCE SOUTH 30 DEGREES 32 MINUTES 13 SECONDS WEST, CONTINUING ALONG
 SAID RIGHT OF WAY A DISTANCE OF 139.09 FEET TO A POINT ON A LINE LOCATED
 ON THE WEST LINE OF THE SOUTHEAST ¼ OF SECTION 10 FROM WHICH THE
 SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SECTION 10 BEARS NORTH 00
 DEGREES 00 MINUTES 19 SECONDS WEST A DISTANCE OF 119.54 FEET;
 THENCE ALONG THE ARC OF NON-TANGENT CURVE RIGHT WHOSE CHORD
 BEARS SOUTH 35 DEGREES 58 MINUTES 39 SECONDS WEST A DISTANCE OF 1019.46
 FEET, HAVING A RADIUS OF 5655.00 FEET, A CENTRAL ANGLE OF 10 DEGREES 20
 MINUTES 35 SECONDS, AND AN ARC LENGTH OF 1020.84 FEET;
 THENCE SOUTH 41 DEGREES 06 MINUTES 42 SECONDS WEST, CONTINUING ALONG
 SAID WESTERLY RIGHT OF WAY DEPARTING SAID CURVE ON A NON-TANGENT
 BEARING, A DISTANCE OF 1144.42 FEET;
 THENCE SOUTH 41 DEGREES 07 MINUTES 55 SECONDS WEST, CONTINUING ALONG
 SAID RIGHT OF WAY A DISTANCE OF 979.73 FEET;
 THENCE SOUTH 61 DEGREES 50 MINUTES 46 SECONDS WEST, ALONG SAID
 WESTERLY RIGHT OF WAY, A DISTANCE OF 157.08 FEET TO A POINT ON A LINE,
 SAID POINT IS LOCATED 30.00 FEET NORTH OF THE SOUTH LINE OF SAID SECTION
 10;
 THENCE SOUTH 89 DEGREES 37 MINUTES 52 SECONDS WEST, PARALLEL TO AND
 30.00 FEET OFFSET FROM SAID SOUTH LINE, A DISTANCE OF 421.47 FEET;
 THENCE NORTH 00 DEGREES 22 MINUTES 16 SECONDS WEST DEPARTING SAID
 RIGHT OF WAY A DISTANCE OF 133.95 FEET;
 THENCE SOUTH 89 DEGREES 37 MINUTES 52 SECONDS WEST PARALLEL TO AND
 164.00 FEET OFFSET FROM THE SOUTH LINE OF SAID SECTION 10, A DISTANCE OF
 74.91 FEET TO THE POINT OF BEGINNING.

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