



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SKYESTONE COMMUNITY ASSOCIATION, INC.



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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR**

SKYESTONE COMMUNITY ASSOCIATION, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Skyestone Community Association, Inc. ("Declaration"), is made this ____ day of _____, 2013, by Taylor Morrison of Colorado, Inc., a Colorado corporation ("Declarant"). Any reference in collateral documentation referring to "CC&Rs" for the Skyestone Community shall refer to this Declaration.

This Declaration is part of a general plan to protect and enhance the value and desirability of all property now or hereafter subject hereto.

INTRODUCTION TO THE COMMUNITY

Declarant has created this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of Skyestone as a planned community.

ARTICLE I - CREATION OF THE COMMUNITY

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A" intends by Recording this Declaration to establish a general plan of development for the planned community known as Skyestone consisting of residential, recreational and other areas and uses. This Declaration provides for the Community's overall development, administration, maintenance, and preservation, and provides flexible and reasonable procedures for its future expansion. Declarant intends, without obligation, that when developed fully, Skyestone may include several residential neighborhoods, a clubhouse, and greenbelts and recreational areas, including but not limited to open spaces, walkways and other facilities.

An integral part of the development plan is the creation of the Skyestone Community Association, Inc., an association comprised of all Skyestone real property owners, to own, operate, and/or maintain amenities upon various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents (defined hereafter) referenced in this Declaration. Skyestone is intended to be an age-qualified community of housing for persons fifty-five (55) years of age or older. Declarant desires to form the Association as a non-profit corporation to (a) own, manage and maintain the Common Areas and certain other areas in Skyestone, (b) levy, collect and disburse the Assessments and other charges imposed hereunder, and (c) act as the agent and representative of the Skyestone Owners and enforce the use restrictions and other provision of this Declaration.

The development plan provides for a variety of land use classifications. The land use classifications in Skyestone shall be (a) Single Family Residential; (b) Recreational Use; (c) Common Areas; (d) Open Lands; (e) Open Space Use; (f) Parks; (g) such other residential or



other related areas, as may be set forth in any Supplemental Declaration; and (h) such non-residential or other related areas of use, as may be set forth in any Supplemental Declaration.

Declarant reserves the right, without obligation, to annex additional land into the Skystone planned community, which land is defined and described under Article X relating to annexation of property ("Annexable Property").

As the development of Skystone proceeds, Declarant intends, without obligation, to record various subdivision plats, to dedicate portions of the Annexable Property to the public for streets, roadways, drainage, flood control and general public use, or to keep all or portions of the above private and dedicate them to the Association, and to record Supplemental Declarations causing portions of the Annexable Property to be subject to this Declaration and designating the purposes for which such portions of Skystone may be used and may set forth additional covenants, conditions and restrictions applicable to such portions of Skystone.

This document is prepared pursuant to the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* (the "Act"), and establishes a planned community as defined in the Act.

1.2. Binding Effect.

All property described in Exhibit "A", and any additional property made subject to this Declaration in the future by recording one or more Supplemental Declarations, shall be owned, conveyed, and used subject to this Declaration. This Declaration shall run with the title to such property and shall be binding upon all Persons having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns whether or not it is specifically referenced in the conveyance deed. Each and every provision of this Declaration shall run with and bind the land in perpetuity. This Declaration may be terminated only in accordance with the termination procedures set forth in the Act. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents create a general plan of development for Skystone which may be supplemented by additional covenants, restrictions, and easements applicable to particular Neighborhoods.

The Community's Governing Documents consist of the following and shall be deemed to include all amendments thereto.



SKYESTONE
Governing Documents

<u>Name of Document</u>	<u>Purpose</u>
Articles of Incorporation —————→ (filed with Secretary of State)	establishes the Association as a non-profit corporation under Colorado law
Bylaws —————→ (the Board of Directors adopts)	describes the system to govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Declaration —————→ (Recorded in County)	creates obligations and rights, which are binding upon the Association and all present and future owners of property in the Community
Supplemental Declaration —————→ (Recorded upon annexation of each parcel)	adds property to the Community; <i>may</i> impose additional obligations or restrictions applicable to the specific parcel
Design Guidelines —————→ (Declarant adopts)	establishes architectural standards, guidelines and procedures for improvements and modifications to Lots and Common Areas, including structures, landscaping and other items
Use Restrictions —————→ (initial set attached as <u>Exhibit "C"</u> to Declaration)	govern use of privately owned property and activities within the Community
Board Resolutions and Rules —————→ (Board adopts)	establish rules, policies, and procedures for Association operations; regulate operation and use of Common Area

Additional restrictions or provisions, which are more restrictive than the provisions of this Declaration may be imposed on any Neighborhood or Lot, in which case, the more restrictive provisions will be controlling. However, no Person shall Record any additional covenants, conditions, or restrictions affecting any portion of the Community without Declarant's written consent, so long as Declarant owns any property described in Exhibit "A" or "B". Any instrument Recorded without the required consent is void and of no force and effect.

If there are conflicts between Colorado law, the Declaration, the Articles, and the Bylaws, Colorado law, the Declaration, the Articles, and the Bylaws (in that order) shall prevail.



The Governing Documents apply to all Owners and all Occupants of their Lot, as well as their respective tenants, guests, and invitees. **Declarant shall not be subject to the obligations set forth in the Declaration, unless specifically noted as Declarant obligations.**

Unless otherwise specifically provided or as provided by law, any notice provided for in the Governing Documents shall be provided in accordance with the Bylaws.

If any judgment or court order should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

All diagrams, which are included in the Governing Documents, are intended only to summarize the express written terms therein. **Diagrams are not intended to supplant or supplement the express written or implied terms contained in the Governing Documents.**

ARTICLE II - CONCEPTS AND DEFINITIONS

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as follows:

“Act”: The Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 to 319, as amended.

“Activity Card”: A card the Association issues in accordance with the terms and conditions set forth in Article IX and which confers upon the holder rights of access to and use of recreational and the Common Area facilities subject to the applicable Board resolutions and rules.

“Allocated Interest”: The liability for Common Expenses 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.

“Annexable Property”: All or any portion of the property described in Exhibit “B” hereto.

“Architectural Review Committee” or **“ARC”**: The committee established to review plans and specifications for the construction or modification of improvements and to administer and enforce the Design Guidelines, as described in Article IV.

“Articles”: The Association’s Articles of Incorporation, filed with the Secretary of State, as they may be amended from time to time.



“Assessment” or “Assessments”: Any Base Assessment, Benefited Assessment, Neighborhood Assessment, Special Assessment, Community Enhancement Fees, or any other fees, fines or charges made or assessed hereunder by the Association against an Owner and his or her Lot in accordance with the provisions of Article VIII, below.

“Assessment Lien”: A lien that is created or imposed as set forth in Section 8.8.

“Assessable Property”: Property that is either a Lot or a Parcel, excluding any Exempt Property that is identified in Section 8.12.

“Association”: Skyestone Community Association, Inc., a Colorado nonprofit corporation, its successors or assigns, a unit owners association organized under Section 7-121-101 to 137 of the Colorado Revised Nonprofit Corporation Act, as amended, pursuant to Section 38-33.3-301 of the Act.

“Base Assessment”: Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1.

“Benefited Assessment”: Assessments charged against a particular Lot or particular Lots for Association expenses as described in Section 8.5.

“Board of Directors” or “Board”: The body responsible for the Association’s general governance and administration, selected as provided in the Bylaws.

“Builder”: Anyone who acquires one or more Lots from Declarant for the purpose of constructing homes for later sale to consumers, or who purchases land from Declarant within the Community for further subdivision, development, and/or resale in the ordinary course of its business.

“Bylaws”: The Association’s Bylaws, as they may be amended from time to time.

“Common Area” and “Common Areas”: All real and personal property, including easements and other land use rights, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including areas designated as Common Area by Declarant from time to time, areas designated as “common element” or “common area” on a Plat. Common Area includes any Limited Common Area, as defined below.

“Common Estimated Expenses”: The estimated expenses expected or anticipated to be incurred by or on behalf of the Association, including, but not limited to, any allocation for reserves determined by the Board to be necessary and appropriate, and any other expected or anticipated financial liabilities of the Association.

“Common Expenses”: The actual and estimated expenses incurred or anticipated to be incurred by or on behalf of the Association, including, but not limited to, any allocations to



reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

“Community” or “Skyestone”: The real property described in Exhibit “A”, together with such additional property shown on Exhibit “B” or otherwise, as is subjected to this Declaration in accordance with Article X, with respect to which a Person, by virtue of such Person’s ownership of a Lot is obligated to pay for real property taxes, insurance premiums, maintenance or improvement of other real property described in this Declaration.

“Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing at the Community, or the minimum standards established pursuant to the Design Guidelines, Use Restrictions, and Board resolutions, whichever is the strictest standard. Declarant may initially establish such standard, which may be more specifically defined in the Design Guidelines, the Use Restrictions, rules and Board resolutions. Any subsequent amendments to the standard shall meet or exceed the standards set during the Declarant Control Period. The Community-Wide Standard may contain both objective and subjective elements and may or may not be in writing. The Community-Wide Standard may evolve as development progresses and as the needs, desires and demands within the Community change.

“Declarant”: Taylor Morrison of Colorado, Inc., a Colorado corporation, and any other person(s) acting in concert, to whom Declarant, by recorded document, expressly assigns one or more of the Declarant’s rights or obligations under this Declaration (which shall be the extent of the Declarant’s rights or obligations to which such assignee succeeds), and who 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.

“Declarant Control Period”: The period of time during which the Declarant may appoint a majority of the Board members. The Declarant Control Period ends when any of the following occur:

- (a) When seventy-five percent (75%) of the Maximum Lots are conveyed to Lot Owners other than a Declarant or a Builder;
- (b) Twenty (20) years after the date of initial recording of this Declaration in the City and County of Broomfield, Colorado;
- (c) Two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business;
- (d) Two (2) years after the right to add new Lots to the Declaration was last exercised; or
- (e) When at an earlier date, in its discretion, the Declarant so determines.

“Declarant’s Affiliate”: Any Person directly or indirectly controlling, controlled by or under common control with the Declarant, and shall include, without limitation, any general or



limited partnership, limited liability company, limited liability partnership or corporation in which the Declarant (or another Declarant Affiliate) is a general partner, managing member or controlling shareholder.

“Declaration”: This Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

“Design Guidelines”: The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV.

“Dwelling Unit”: A single building or structure or portion of a building or structure situated upon a Lot, which is intended for use and occupancy as a separate attached or detached Dwelling Unit for one or more persons.

“Facility User”: Any Member, Resident, Tenant, Occupant, Guest or invitee of a Member, Resident, Tenant, Occupant or Guest who enters upon the Recreational Amenities.

“Governing Documents”: The documents referred to in Section 1.3 of the Declaration.

“Governmental Entity”: The City and County of Broomfield, any local, state, or federal governmental or quasi-governmental entity, any utility service provider, special district, ditch company, non-profit organization or tax-exempt organization.

“Guest” – Invitee of a Member or Tenant.

“Improvement”: Any (a) Dwelling Unit, building, fence or wall; (b) any spa, tennis court, basketball court, road, driveway, parking area or satellite dish; (c) any trees, plants, shrubs, grass or other landscaping improvements of every type and kind; and (d) any other approved structure of any kind or nature.

“Limited Common Area”: A portion of the Common Area allocated for the exclusive use of one or more, but less than all of the Lots, as more particularly described in Article XIII or as allocated by operation of the Act.

“Lot”: A portion of Skyestone, whether improved or unimproved, which may be independently owned and conveyed, and upon which a Dwelling Unit is intended for development, use, and occupancy. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, including any Dwelling Unit, on the Lot. The boundaries of each Lot shall be shown on a Plat or other recorded map; provided, in the case of a building containing multiple Dwelling Units for individual sale, each Dwelling Unit capable of being sold individually shall be a separate Lot. The term shall not include Common Area, common property of any other association, or property dedicated to the public or land owned by Declarant within the Master Plan not yet included in the Community. A Lot constitutes a “unit” for the purposes of the Act.



A parcel shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel. Thereafter, the subdivided portion shall contain the number of Lots shown on the Plat. Any portion not subdivided shall continue to be a single Lot.

“Managing Agent”: Any one (1) or more Persons employed by the Association who is engaged to perform any of the duties, powers or functions of the Association.

“Master Plan” or **“Master Development Plan”**: The land use plan for the development of Skystone approved by the City and County of Broomfield, as it may be amended from time to time, which includes all of the property described in Exhibit “A” and all or a portion of the property described in Exhibit “B”. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration or limit the Declarant’s ability to subject it to a different Declaration, nor shall the omission of property described in Exhibit “B” from the Master Plan bar its later submission to this Declaration.

“Maximum Lots”: The maximum number of Lots approved for development within the Community under the Master Plan, as amended from time to time; provided, nothing in this Declaration shall be construed to require Declarant to develop the maximum number of Lots approved. The Maximum Lots as of the date of this Declaration is 1,000 Lots. This number shall increase if the City and County of Broomfield approves additional Lots for development under the Master Plan or the number shall decrease if there is an approved amendment to the Master Plan.

“Member”: Each Owner of a Lot, subject to Section 6.2, holding Membership in the Association pursuant to the Declaration.

“Membership”: A Membership in the Association and the rights granted to the Owners of Lots pursuant to Section 6.2 to participate in the Association.

“Mortgage”: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. The term **“Mortgagee”** shall refer to a beneficiary or holder of a Mortgage.

“Neighborhood”: A group of Lots designated by Declarant as a separate Neighborhood in accordance with Section 6.9. Lots within Neighborhoods may share Limited Common Areas and/or receive benefits or services from the Association which are not provided to all Lots. A Neighborhood may include more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to all Lots within a particular Neighborhood, then such Lots may be required to pay separate Neighborhood Assessments for such benefits or services.

“Neighborhood Assessments”: Assessments levied against all of the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

“Neighborhood Expenses”: The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or



Neighborhoods, including any reserve for capital repairs and replacements and administrative charges authorized by this Declaration or the Supplemental Declaration(s) applicable to such Neighborhood(s).

“Occupant”: Any individual other than an Owner who Occupies a Dwelling Unit or is in possession of a Lot or Parcel, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a Resident).

“Occupy,” “Occupied,” “Occupies,” or “Occupancy”: Unless otherwise specified in the Governing Documents, staying overnight in a particular Dwelling Unit for at least ninety (90) total days in the subject calendar year.

“Qualified Occupant”: Any person (i) nineteen (19) years of age or older who Occupies a Dwelling Unit and was the original Occupant following purchase of the Dwelling Unit from the Declarant; or (ii) a person nineteen (19) years of age or older who Occupies a Dwelling Unit with an Occupant fifty-five (55) years of age or older who has designated the Dwelling Unit as the Qualified Occupant’s primary residence. Occupancy as a primary residence shall be established by the mailing address for the individual, official address on file for voter registration or driver’s license or other means to establish legal residency under the law of the state where the Dwelling Unit is located.

“Owner”: The Record title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (e.g., a Mortgage). An Owner is any Person or Persons who individually or collectively own fee title to a Lot or Parcel, provided that the Declarant (and not the fee title holder) shall be deemed to be the **“Owner”** of each Lot or Parcel with respect to which fee title is held by a Declarant Affiliate or by a trustee (other than the trustee of a deed of trust) for the benefit of the Declarant or a Declarant Affiliate. Where reference is made in this Declaration to Lots or Parcels “owned by” a Person, such phrase shall be deemed to refer to Lots or Parcels of which that Person is the Owner as determined pursuant to this definition.

“Parcel”: Each area of real property in the Community, and all Improvements situated thereon, shown as a separate parcel of land on the Master Plan, provided, however, that in the event a Parcel is split in any manner into portions under separate ownership (other than by subdivision of the Parcel by Recordation of a subdivision plat into Lots, each of which constitutes or may have constructed thereon only one Dwelling Unit) each portion under separate ownership shall thereafter constitute a separate Parcel. If the same Person owns two or more contiguous parcels of land, they shall be considered one Parcel for purposes of this Declaration. A Parcel shall cease to be a Parcel when it has been fully subdivided into Lots (together with any type of Common Area, if any). If a portion of a Parcel is subdivided into Lots (and any type of Common Area, if any), the subdivided portion shall cease to be a Parcel, but each remaining unsubdivided portion shall be a Parcel if it otherwise meets the requirements of the definition set forth in this definition.



“Party Structure”: Each wall, fence, driveway, or similar structure built on the Lots which serves and/or separates any two adjoining Lots or a Lot and Common Area shall constitute a party structure.

“Person”: An individual, a corporation, a partnership, business trust, estate, a trustee, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

“Plat”: Any Recorded subdivision plat for all or any portion of the Community, as it may be amended and supplemented from time to time.

“Property”: The real property described in Exhibit “A”, together with such additional property as is subjected to this Declaration pursuant to annexation provisions set forth in Article VIII. The Property is also referred to herein as the “Community” or “Skyestone”.

“Record,” “Recording,” “Recorded” or “Recordation”: To record, the recording of or recorded of record a legal instrument in the real property records of the City and County of Broomfield.

“Recreational Amenities”: All of the common areas and improvements owned, leased, or otherwise held by the Association including any Community center, all sports courts, ponds, and trails.

“Resident”: Each individual who resides in any Dwelling Unit.

“Residential Areas”; Includes attached and detached single family residential developments, all common recreational areas and facilities associated with any of the foregoing Residential Areas and facilities and other non-commercial, non-industrial and non-utility areas.

“Reserve” “Reserves”: means funds that are set aside by an association to pay for the repair or replacement of Community assets and other obligations for which the Association is responsible.

“Special Assessment”: Any assessment levied and assessed against all Owners or some Owners in accordance with Section 8.4.

“Supplemental Declaration”: A recorded instrument under which the Declarant subjects additional property to this Declaration, designates Neighborhoods, identifies Common Area and Limited Common Area, and/or imposes expressly or by reference additional restrictions and obligations on the land described in such instrument, including the establishment of a Sub-association.

“Tax-exempt organization”: An entity which is exempt from federal income taxes under the Internal Revenue Code (“Code”), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501 (c)(4), as the Code may be amended from time to time.



“Tenant”: Person who has an agreement with Owner or a Tenant if approved in writing by the Board to lease the Dwelling Unit for a minimum of six (6) months, provided that a copy of the lease has been provided to the Association and this lease is subject to this Declaration.

“Use Restrictions”: The use restrictions, rules, and regulations governing the use of and activities on the Lots set forth in Exhibit “C”, in accordance with Article III.

“Visible from Neighboring Property”: With respect to any given object, that such object is or would be visible to a person six (6) feet tall standing at ground level on any part of the neighboring property at an elevation no greater than the elevation of the base of the structure or building being viewed, except where the object is visible solely through a view fence and would not be visible if the view fence were a solid fence.

CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use and conduct, maintenance, and design at Skystone are what give the community its identity and make it a place that people want to call “home.” This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for community standards to evolve as the Community changes and grows. The Community is subject to the recorded easements, licenses and other matters listed on Exhibit “D” attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned and hypothecated subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained in elsewhere in this Declaration.

ARTICLE III - RESTRICTIONS AFFECTING LOTS

3.1. Restrictions Affecting Occupancy and Alienation.

(a) **Restrictions on Occupancy - Age Qualified Community.** Subject to the rights reserved to Declarant in Section 11.15, the Lots within the Community are intended for the housing of persons fifty-five (55) years of age or older. The provisions of this Section 3.1(a) are intended to be consistent with, and are set forth in order to comply with the Fair Housing Amendments Act, 42 U.S.C. §3601 *et seq.* (1988), as amended, the exemption for housing for older persons set out in 42 U.S.C. §3607(b)(2)(C), and the regulations promulgated thereunder (collectively, as may be amended, the “Fair Housing Act”) allowing discrimination based on familial status. Declarant or the Association, acting through the Board, shall have the power to amend this Section, without the consent of the Members or any Person except Declarant, for the purpose of maintaining the age restriction consistent with the Fair Housing Act, the regulations adopted pursuant thereto, and any related judicial decisions in order to maintain the intent and enforceability of this Section.

(b) Each occupied Dwelling Unit shall at all times be Occupied by at least one person fifty-five (55) years of age or older; however, in the event of the death of a person who was the sole Occupant fifty-five (55) years of age or older of a Dwelling Unit, any Qualified Occupant



may continue to Occupy the same Dwelling Unit as long as the provisions of the Fair Housing Act are not violated by such occupancy.

(c) No person under the age of 19 shall Occupy a Dwelling Unit.

(d) Nothing in this Section shall restrict the ownership of or transfer of title to any Lot; provided, (i) no Owner under the age of fifty-five (55) may Occupy a Dwelling Unit unless the requirements of this Section are met, and (ii) no Owner shall permit Occupancy of the Dwelling Unit in violation of this Section. Owners shall be responsible for including a statement that the Lots within the Community are intended for the housing of persons fifty-five (55) years of age or older, as set forth in this Section, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser, or other potential occupant of the Lot. Every lease of a Lot shall provide that failure to comply with the requirements and restrictions of this Section shall constitute a default under the lease.

(e) Any Owner may request in writing that the Board make an exception to the requirements for a Qualified Occupant of this Section with respect to a Dwelling Unit on his or her Lot, based on documented hardship. The Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that all of the requirements of the Fair Housing Act would still be met.

(f) In the event of any change in Occupancy of any Dwelling Unit, as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent Dwelling Unit, or otherwise, the Owner of the Dwelling Unit shall immediately notify the Board in writing and provide to the Board the names and ages of all current Occupants of the Dwelling Unit and such other information as the Board may reasonably require to verify the age of each occupant required to comply with the Fair Housing Act. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, the Association may levy monetary fines against the Owner and the Lot for each day after the change in Occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article, in addition to all other remedies available to the Association under this Declaration and applicable law.

(g) Monitoring Compliance; Appointment of Attorney-in-Fact. The Association shall be responsible for maintaining records to support and demonstrate compliance with the Fair Housing Act. The Board shall adopt policies, procedures, and rules to monitor and maintain compliance with this Section and the Fair Housing Act, including policies regarding visitors, updating of age records, the granting of exemptions to compliance, and enforcement. The Association shall periodically distribute such policies, procedures, and rules to the Owners and make copies available to Owners, their tenants and Mortgagees upon reasonable request.

The Association may enforce this Section 3.1 in any legal or equitable manner available, as the Board deems appropriate, including, without limitation, conducting a census of the



occupants of Dwelling Units, requiring that copies of birth certificates or other proof of age for one Qualified Occupant per Dwelling Unit be provided to the Board on a periodic basis, and in its sole discretion, taking action to evict the occupants of any Dwelling Unit which does not comply with the requirements and restrictions of this Section. The Association's records regarding individual members shall be maintained on a confidential basis except as legally required to governing authorities seeking to enforce the Fair Housing Act. Each Owner shall fully and truthfully respond to any Association request for information regarding the occupancy of Dwelling Units on his or her Lot which, in the Board's judgment, is reasonably necessary to monitor compliance with this Section. **Each Owner hereby appoints the Association as its attorney-in-fact for the purpose of taking legal or equitable action to dispossess, evict, or otherwise remove the occupants of any Dwelling Unit on his or her Lot as necessary to enforce compliance with this Section.**

Each Owner shall be responsible for ensuring compliance of its Lot with the requirements and restrictions of this Section, and the Association rules adopted hereunder, by itself and by its tenants and other occupants of its Lot. Each Owner, by acceptance of title to a Lot, agrees to indemnify, defend, and hold Declarant, any affiliate of Declarant, and the Association harmless from any and all claims, losses, damages, and causes of action which may arise from failure of such Owner's Lot to so comply. Such defense costs shall include, but not be limited to, attorney fees and costs.

(h) Residential and Related Uses. The Community shall be used only for residential, recreational, and related purposes. Related purposes may include, without limitation, offices for the Association or its management agent(s), Association owned or operated businesses offering services and goods, facilities for meetings, conferences and banquets owned or operated by the Association, Declarant's business or sales office(s), businesses offering services, goods or facilities contracted for by the Association, and any business use which meets the conditions of Section 3.1 (i) below. Supplemental Declarations or any other Recorded covenants may impose stricter standards than those contained in this Article and the Association shall have standing and the power to enforce such standards.

(i) Business Use. Unless permitted under the preceding subsection (h) above, no business shall be conducted in or from any Lot, except that an Owner or a resident of the Lot may conduct home occupation business activities within the Dwelling Unit so long as:

(i) the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit;

(ii) the business activity complies with applicable zoning requirements;

(iii) the business activity does not involve regular visitation of the Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation within the Community; and



(iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of others within the Community, as determined in the Board's sole discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

This Section shall not apply to restrict Declarant's activities in the Community, nor shall it restrict the activities of Persons approved by Declarant involved with the development and sale of property in the Community. Additionally, this Section shall not apply to any Association activity relating to operating and maintaining the Community, including the Community's recreational and other amenities.

Leasing a Dwelling Unit for a period of at least six (6) months is not a "business" within the meaning of this subsection.

(j) Leasing. For purposes of this Declaration, "leasing" is defined as regular, exclusive occupancy of a Dwelling Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or compensation. A Lot may be leased only in its entirety (*e.g.*, separate rooms within the same Dwelling Unit may not be separately leased). No fraction or portion may be leased.

No structure on a Lot other than the primary Dwelling Unit shall be leased or otherwise occupied for residential purposes. **There shall be no subleasing of a Dwelling Unit or assignment of leases except with the Board's prior written approval.**

All leases shall provide that tenants and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents. The restrictions on lease terms set forth in this paragraph shall not apply to Lots owned by Declarant.

Notice of any lease, together with such additional information as the Board may require, shall be given to the Board or its designee by the Owner within ten (10) days of execution of the lease. The Owner must make available to the Tenant copies of the Governing Documents. The Board may adopt reasonable Use Restrictions and rules regulating leasing and subleasing and the activities of tenants and subtenants.

No transient tenants may be accommodated in a Dwelling Unit. All leases, including sub-leases, shall be in writing and shall be for an initial term of at least six (6) months, except: (a) with the Board's prior written consent, or (b) as Declarant initially authorizes in a Supplemental Declaration for Lots located within certain Neighborhoods.



(k) Maximum Occupancy. No more than two Persons per bedroom shall occupy the same Dwelling Unit on a regular and consistent basis (as determined in the Board's discretion).

(l) Occupants Bound. The Governing Documents apply to all Occupants of and visitors to any Lot. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents/Use Restrictions and shall be responsible for all violations and losses to the Common Area caused by such Persons, notwithstanding the fact that such Persons also are fully liable and may be sanctioned for any violation.

(m) Subdivision of a Lot and Time-Sharing. Lots may not be subdivided or their boundary lines changed except with the Board's prior written approval; provided, Declarant may subdivide, change the boundary line of, and replat any Lot(s) it owns, and, for so long as Declarant owns any portion of the Community, convert Lots into Common Area or Common Area to Lots at any time prior to the transfer of title to the Association.

Timesharing, fraction-sharing, or similar programs whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years is prohibited.

(n) Disease and Insects. No Person shall permit any thing or condition to exist upon any Lot, Parcel or other property which shall induce, breed or harbor infectious diseases or noxious insects.

(o) Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals shall be erected, placed or maintained anywhere in or upon any Lot, Parcel or other property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Review Committee. No provision of this Declaration shall be deemed to forbid the erection of temporary power or telephone structures for emergency purposes or incident to the construction of buildings or structures approved by the Architectural Review Committee. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body.

(p) Model Homes. Any provisions of this Declaration, Supplemental Declarations or any other Declarations which prohibit non-residential use of Lots and certain Parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes or other model Dwelling Units of any kind (including, without limitation, any used in whole or in part as sales offices or design center displays) (collectively "Models") by Declarant or other Persons engaged in the construction of Dwelling Units in the Community, or parking incidental to the visiting of such Models, so long as the construction, operation and maintenance of such Models and parking otherwise comply with all of the provisions of this Declaration. The Architectural Review Committee may also permit Lots and other areas to be used for parking in connection with the showing of Models.



(q) Incidental Uses. The Architectural Review Committee may approve uses of property within a land use classification which are incidental to the full enjoyment of the Owners and Occupants of the Community within the land use classification. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Architectural Committee may wish to impose, in its sole discretion, for the benefit of the Community as a whole.

3.2. Framework for Regulation.

In addition to the foregoing restrictions affecting Lots, the Governing Documents establish, as part of the general plan of development, a framework of affirmative and negative covenants, easements, and restrictions which govern the Community, including the Use Restrictions set forth in Exhibit "C". Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes affecting the Community. This Article establishes procedures for modifying and expanding the Use Restrictions to respond to such changes.

The procedures set forth in this Article shall not apply to the Board's enactment and enforcement of rules and regulations relating to use and operation of the Common Area or other administrative rules, which the Board may adopt by resolution.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Lots and the Common Area is limited by the Use Restrictions as amended, expanded, and otherwise modified from time to time. **Each Owner, by accepting a deed, and each Tenant, by accepting a Lease, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot can be affected by the Use Restrictions and Board rules, which may change from time to time. All Lot purchasers are on notice that the Association may have adopted changes to the Use Restrictions and that such changes may not be set forth in a Recorded document.** Copies of the current Use Restrictions and Board rules may be obtained from the Association.

3.4. Rule Making Authority.

(a) The Board may change (*i.e.*, modify, cancel, limit, create exceptions to, or expand) the Use Restrictions. The exercise of this authority shall be subject to the Board's duty to use business judgment and reasonableness and the need to make as few changes as possible to meet its objectives and still fulfill the reasonable expectations of the Members. The Board shall provide notice to all Owners of any proposed change before the Board meeting to consider the change in accordance with Section 6.10. Members shall have a reasonable opportunity to be heard on the proposed change at such Board meeting.

If endorsed by the Board, the proposed change shall be approved unless disapproved by a majority of the Members. The Board is not obligated to call a meeting to consider disapproval unless it receives a petition of the Members which meets the requirements for special meetings in the Bylaws. If the Board receives such a petition before the effective date of the Board's action under this Section 3.4(a), the proposed change shall not become effective until after a meeting is held, and then subject to the outcome of such meeting. Alternatively, the Members, representing



a majority of the votes in the Association, at an Association meeting duly called for such purpose, may vote to change the Use Restrictions then in effect. During the Declarant Control Period, any such change shall require approval of the Declarant, if any.

(b) Before any Use Restriction change becomes effective, the Board shall provide at no cost a copy of the new or changed Use Restriction to each Owner. The change does not become effective until at least thirty (30) days following the date of such mailing to Owners. Each Owner shall be bound regardless of whether the mailing is received. The Association shall provide, without cost, a copy of the Use Restrictions then in effect to any requesting Member, Tenant or Mortgagee.

(c) At least once every two (2) years after the Declarant Control Period ends, the Board shall review and evaluate the then current Use Restrictions for continued viability or necessity within the Community.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Design Guidelines or any provision of this Declaration other than the Use Restrictions. In the event of a conflict between the Design Guidelines and the Use Restrictions, the Design Guidelines shall control;

(e) Notice or copies required to be provided under this Section may be sent to each Owner by any manner permitted under the Association's current Bylaws, communication policy, the Act or other applicable Colorado law, including, if so permitted: U.S. Mail, electronic communication (*i.e.*, "fax" or "e-mail") with confirmation of receipt, or publication in the community newsletter delivered or mailed to each Owner, provided such action is clearly identified under a separate newsletter headline.

3.5. Protection of Members and Residents.

Except as may be set forth in this Declaration (either initially or by amendment) or in the Use Restrictions the Association's actions with respect to Use Restrictions and rules must comply with the following:

(a) Displays. Members and Residents shall be permitted to display religious, patriotic and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in single-family residential neighborhoods, provided that the Association may regulate all such displays for conformity with this Declaration and, specifically, with the Community-Wide Standard.

(b) Signs. The Association shall not regulate the content of political or other signs; however, the Association may adopt reasonable time, place, and manner restrictions to posting such signs, as established in the Design Guidelines and consistent with applicable law.

(c) Household Composition. The Association shall not interfere with the freedom of Members and Residents to determine the number of Qualified Occupants within a household, except that it may limit the total number of Persons entitled to occupy a Dwelling Unit based upon the size of the Dwelling Unit (based on such factors as the number of bedrooms), not to



exceed the number permitted under current zoning ordinances. Section 3.1(k) establishes a maximum occupancy requirement.

(d) Activities within Dwellings. The Association shall not interfere with activities carried on within a Dwelling Unit, except it may prohibit activities not normally associated with residential property, and it may restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to other Owners and other Property, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling Unit, or that create an unreasonable source of annoyance.

(e) Alienation. The Association shall not prohibit leasing or transfer of any Lot, subject to the Governing Documents. The Association may require that Owners include specific lease terms and may impose a reasonable review or administrative fee on the lease or transfer of any Lot. Section 3.1(j) imposes a minimum lease term.

(f) Abridging Existing Rights. The Association may not require an Owner to dispose of personal property that was in or on a Lot in compliance with previous rules. This exemption shall apply only during the period of such Owner's ownership of the Lot, and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(g) Reasonable Rights to Develop. The Association may not unreasonably impede Declarant's right to develop the Community or require the Declarant to develop any portion thereof, with all future developments being in Declarant's sole discretion.

The limitations in subsections (a) through (g) of this Section shall only limit rule making authority exercised under Section 3.4, but shall not apply to amendments to this Declaration adopted in accordance with Article XIX.

ARTICLE IV - ARCHITECTURE AND LANDSCAPING

4.1. General.

No structure or thing shall be placed, erected, or installed upon any Lot and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations, or planting or removal of landscaping) shall take place within on a Lot, except in compliance with this Article and the Design Guidelines. Each Dwelling Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless the Architectural Review Committee or its designee, in its sole discretion, otherwise approves.

No approval shall be required to repaint the exterior of a structure in accordance with its most recently approved color scheme or to rebuild in accordance with previously approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of structures (including the Dwelling Unit) on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and any other portions of a Lot visible from outside a structure shall be subject to approval as set forth in the Design Guidelines.



This Article shall not apply to Declarant's activities, or to the Association's activities, or to Builder's architectural plans and specifications which have received Declarant's prior written approval.

4.2. Architectural Review.

(a) By Declarant; New Construction. Declarant shall have exclusive authority to administer architectural controls and to review and act upon all applications for original construction within the Community. This right shall continue until one hundred percent (100%) of the Lots have been conveyed to Members and contain a finished Dwelling Unit, unless Declarant earlier terminates its rights in a Recorded instrument. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person.

Declarant may, in its discretion, designate one or more Persons or an outside management company, from time to time to act on its behalf in reviewing applications.

Declarant may from time to time, but shall not be obligated to, delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the Architectural Review Committee. Any such delegation shall be in writing, specifying the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Architectural Review Committee; Modifications. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for modifications to improvements constructed within the Community. Declarant is to maintain records of all approvals and denials and turn them over to the Association. Prior to termination of Declarant's rights under Section 4.2(a) or to further a delegation if requested by Declarant, the Board shall establish the ARC, which shall consist of at least three (3) Persons. Members of the ARC shall be appointed and shall serve at the discretion of the Board; provided, as long as Declarant owns any property described in Exhibit "A" or "B", at all times, it may appoint one (1) member of the ARC.

When appointed, the ARC shall have exclusive jurisdiction over modifications to all Lots and/or structures and any additional improvements within the Community. Subject to Declarant's rights under subsection (a) above, the ARC also may be assigned by Declarant jurisdiction over original construction and landscaping within the Community.

The Declarant or the Board may create and appoint such subcommittees of the ARC as deemed appropriate. Such subcommittees may be established to preside over particular areas of review (e.g., landscape plans) and shall be governed by such procedures as may be established by the ARC or the Board. Any action of any subcommittee shall be subject to the review and approval of the ARC and Declarant, for as long as Declarant owns any property described in Exhibit "A" or "B". Notwithstanding the above, neither the ARC nor Declarant shall be



obligated to review all actions of any subcommittees and the failure to take action in any instance shall not be a waiver of the right of the ARC or Declarant to act in the future.

(c) Reviewer. The entity having jurisdiction in a particular case (whether Declarant or its designees or the ARC) shall be referred to as the “Reviewer.” On behalf of the Association, the Reviewer may retain architects, engineers, or other Persons as deemed necessary to perform the review. The cost will be the responsibility of the Applicant.

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Board shall include the estimated compensation of such Persons in the Association’s annual operating budget.

4.3. Guidelines and Procedures.

(a) Design Guidelines. Declarant shall prepare Design Guidelines, which may contain general provisions applicable to all Lots as well as specific provisions which vary from Neighborhood to Neighborhood. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer’s decisions and compliance with the Design Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of or has a unilateral right to annex property pursuant to Article X. Declarant’s right to amend shall continue notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant’s right to amend, the ARC may amend the Design Guidelines with the written consent of the Board.

Amendments to the Design Guidelines shall be prospective only. The Design Guidelines shall not require modifications to or removal of structures previously approved once the approved construction or modification has commenced. Subject to the Community-Wide Standard, there shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Community.

(b) Procedures. Except as otherwise specifically provided in the Design Guidelines, no construction activities or other activities described in Section 4.1 shall commence on any Lot until an application has been submitted to and approved by the Reviewer. The application shall be in the form Reviewer requires and shall include plans and specifications and other information required under the Design Guidelines. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction. The Design Guidelines



and the Reviewer may require additional information as reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Subject to Declarant's veto right, the Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall only be subject to review or appeal to the Board on the issue of good faith and in accordance with the required procedures.

The Reviewer shall make a determination on each application within forty-five (45) days after receipt of a completed application and all information it requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application with or without conditions.

The Reviewer shall notify the applicant in writing of a final determination on any application within five (5) days after such determination is made. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

If the Reviewer fails to respond in a timely manner, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 4.5.

Notice shall be deemed given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed given at the time of delivery to the applicant.

As part of any approval, the Reviewer may require that construction commence in accordance with approved plans within a specified time period. If construction does not commence within the required period, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer grants an extension in writing, which it is not obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

(c) Exemptions. The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. For example, Builders may submit



and receive pre-approval of landscaping, architectural house plans or other plans for general application. Such pre-approved plans shall not require resubmission prior to use on a particular Lot.

Reviewer approval shall not constitute approval of or waiver of approvals or reviews by any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved. The Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or when legally required for compliance with the Americans with Disabilities Act, but only in accordance with rules and regulations established by the Declarant or ARC. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

(a) The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based on aesthetic considerations only. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for ensuring compliance with building codes and other governmental requirements, or for ensuring that every Dwelling Unit is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners, provided the Community-Wide Standards shall serve as a guide in the review process.

(b) Declarant, the Association, its officers, the Board, the ARC, the Association's management agent, any committee, or any member of any of the foregoing shall not be held liable for matters related to its decisions including, but not limited to, soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or



damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in the Community; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Board, the ARC, and the members of each, and the Association officers, shall be defended and indemnified by the Association as provided in Section 7.7.

4.7. Certificate of Compliance.

Declarant, or any Owner may request in writing that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines as to the Owner's Lot. The Association shall either grant or deny such written request within thirty (30) days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall estop the Association from taking enforcement action against an Owner for any condition known to the Association on the date of the certificate.

ARTICLE V - LANDSCAPING, HOME MAINTENANCE AND REPAIR

5.1. Landscaping Requirements.

Landscaping shall be installed, as approved, in the front, side and rear yards of a Lot within one hundred eighty (180) days from the date of the initial closing of the sale of the Lot to a retail purchaser or the issuance of a certificate of occupancy on the Lot, whichever is later, or within any extension of that time period set forth in the Design Guidelines or granted by the Reviewer.

5.2. Maintenance of Lots.

Each Owner shall maintain his or her Lot, including the Dwelling Unit, fences, retaining walls, sidewalks and all other Improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, unless such maintenance responsibility is the obligation of the Association in accordance with the terms of this Declaration or is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or additional covenants applicable to such Lot.

Each Owner shall also be responsible for maintaining the sidewalk, improvements and landscaping located between the edge of such Owner's Lot and the street curb adjacent to such Owner's Lot, unless the Association or a Neighborhood Association, pursuant to a Supplemental Declaration or any additional covenants, assumes all or part of such maintenance.

5.3. Maintenance of Neighborhood Property.

Upon Board resolution, Owners within a Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Common Area within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads, private streets within the



Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance incurred by the Association pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Lots within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.4. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible, unless the Association carries such insurance (which they may, but are not obligated to do). If the Association assumes responsibility for insuring a Lot, the insurance premiums shall be levied as a Benefited Assessment against the benefited Lot and the Owner.

In the event of damage to or destruction of Improvements on a Lot, the Owner shall promptly repair or reconstruct such structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV. Alternatively, the Owner shall clear the Lot and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as the mechanism by which each Owner is able to participate in the governance and administration of the Community. While many powers and responsibilities are vested in the Association's Board of Directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership – the Lot Owners.

ARTICLE VI - THE ASSOCIATION AND ITS MEMBERS

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Common Area. The Association also has primary responsibility for enforcing the Governing Documents.



6.2. Membership.

Every Owner shall be a Member of the Association, and the membership of the Association at all times shall consist exclusively of all Owners or, following termination of the Community, of all former Owners entitled to distributions of proceeds under the Act or their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Lot. There shall be only one membership per Lot. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner which is not an individual may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

6.3. One Class of Membership.

The Association shall have one (1) class of voting membership. Each Owner shall be entitled to one (1) vote for each Lot owned in accordance with the Allocated Interest attributable to each Lot. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Lots then existing within the Association. The right to vote for a Lot commences at such time as the Lot is made subject to the Declaration; provided, no vote shall be exercised for any Lot which is exempt from assessment under Section 8.12, and no votes allocated to a Lot owned by the Association may be cast. Except as otherwise provided in this Article VI of this Declaration, during the Declarant Control Period, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Declarant Control Period; but, in that event, the Declarant may require, for the duration of the Declarant 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.

6.4. Exercise of Voting Rights.

The Lot Owner shall exercise the vote for a Lot. If only one of the multiple Owners of a Lot is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Lot. If more than one of the multiple Owners is present, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if anyone of the multiple Owners casts the vote without protest being made promptly to the Person presiding over the meeting by any of the other Owners of the Unit. In the event that more than one such co-Owner casts a vote, the Lot's vote shall be suspended and excluded from the final vote tally on the matter on which a vote is being taken.

6.5. Election of Part of Board of Directors during Declarant Control Period.

No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Maximum Lots that may be included within the Community to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Maximum Lots that may be included to Owners



other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by Owners other than the Declarant.

6.6. Authority of Declarant during Declarant Control Period.

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

6.7. Termination of Declarant Control Period.

Not later than the termination of the Declarant Control Period, the Owners shall elect a Board of Directors (with the exact number of members of the Board of Directors to be set forth in the Bylaws of the Association), at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers. Such Board of Directors members and officers shall take office upon election.

6.8. Delivery of Documents by Declarant.

After the Owners 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 or controlled by the Declarant, if and to the extent required by the Act.

6.9. Neighborhoods.

Every Lot shall be located within a Neighborhood. Unless and until additional Neighborhoods are established by Supplemental Declaration, the Community shall consist of a single Neighborhood. Lots within a particular Neighborhood may be subject to covenants in addition to those set forth in this Declaration.

Exhibit "A" to this Declaration, any Supplemental Declaration, and any Plat may assign property to a specific new or existing Neighborhood (by name or other identifying designation). To the extent permitted by the Act, so long as it has the right to subject additional property to this Declaration pursuant to Section 10.2, Declarant may unilaterally Record a Supplemental Declaration, or amend this Declaration or any Supplemental Declaration, to create Neighborhoods, re-designate Neighborhood boundaries, or combine two or more existing Neighborhoods. Thereafter, the Board may amend this Declaration or any Supplemental Declaration to re-designate Neighborhood boundaries; provided, it may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Lots in the affected Neighborhoods.

Owners within any Neighborhood may request that the Association provide a higher level of service than the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Lots in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Lots within the Neighborhood, the Association shall provide the requested services, subject to Board approval. In addition, the Association may provide a higher level or special services to any Neighborhood in accordance with a Supplemental Declaration, or if deemed necessary or



appropriate by the Board, in its discretion. The Board shall assess the cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate against the Lots within such Neighborhood as a Neighborhood Assessment; provided, any such administrative charge shall apply at the same rate per Lot to all Neighborhoods receiving the same service.

6.10. Notice and Comment.

Whenever the provisions of this Declaration or of the other Governing Documents of the Association or the Act require that an action be taken after "Notice and Comment" or "Notice and Hearing", and at any other time the Board determines, the affected Owner(s) have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice shall be given to each affected Owner(s) at such address as appears in the records of the Association, by U.S. Mail, electronic communication (*i.e.*, "fax" or "e-mail") with confirmation of receipt, or publication in the community newsletter delivered or mailed to each Owner, provided such action is clearly identified under a separate newsletter headline. The notice shall be given not less than three (3) business days before proposed action is to be taken. The notice shall invite comment (orally or in writing) to the Board before or at the scheduled time of any meeting or hearing. These notice provisions may be supplemented in the Bylaws or by the adoption of a communications policy adopted by the Board.

ARTICLE VII - ASSOCIATION POWERS AND RESPONSIBILITIES

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as Lessor or Tenant), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Section 16.5. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for payment or no payment as the Board deems appropriate, to permit use of portions of the Common Area by community organizations and by other third parties.

(b) Declarant and its designees may transfer to the Association, and the Association shall accept, personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibit "A" or "B". Upon Declarant's written request, the Association shall transfer back to Declarant any unimproved portions of the Common Area originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to correct or make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.



7.2. Maintenance of Common Area.

The Association shall maintain, in accordance with the Community-Wide Standard, the Common Area, and other areas of Association responsibility, which shall include, but not be limited to:

(a) all portions of the Common Area, including landscaping, structures, and other improvements;

(b) all land, rights-of-way landscaping, structures and other improvements, including without limitation any drainage structure or facilities, to the extent (i) any Governmental Entity requires the Association to maintain such items, or (ii) the Association has agreed to maintain such items;

(c) such portions of any additional property as may be required by this Declaration, any Supplemental Declaration, any Plat, development plan or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and

(d) all ponds, streams, and/or wetlands located within Skyestone which serve as part of the Community's storm water drainage system, including associated improvements and equipment unless the same have been dedicated to and/or accepted by a Governmental Entity, or another common interest community association for the purpose of maintenance, repair and replacement.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if required by any Governmental Entity, or if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing seventy-five percent (75%) of the Member votes in the Association, and the Declarant, if any, agree in writing to discontinue such operation.

Except as provided above, the Common Area shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration.

The costs associated with maintenance, repair, and replacement of the Common Area shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Area pursuant to this Declaration, a Supplemental Declaration, or other Recorded covenants or agreements.



Maintenance, repair, and replacement of Limited Common Areas shall be a Neighborhood Expense assessed against the Lots within the benefited Neighborhood(s).

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance on the Common Area and all improvements thereon for broad form covered causes of loss to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership; except that the total amount of insurance must not be less than the full insurance replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundation, excavations and other items normally excluded from property policies;

(ii) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas, insuring the Association with minimum limits of \$1,000,000.00 combined single limit per occurrence and \$1,000,000.00 general aggregate limit, insuring the Board of Directors, the Association, any managing agent and their respective employees, agents and all Persons acting as agents; the Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board of Directors; the Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas;

(iii) With respect to any contractors working on the premises or any third parties holding events on the premises, all such individuals shall be required to carry sufficient similar commercial general liability insurance with minimum limits of \$1,000,000.00 combined single limit per occurrence and \$1,000,000.00 general aggregate limit; the commercial general liability policy shall also be endorsed to include Declarant, Declarant's subsidiaries and affiliates and their respective directors, officers, employees, and agents as additional insureds with respect to any claims, losses, expenses or other costs arising out of any work performed for Declarant;

(iv) Certificates of insurance evidencing the minimum coverage required herein by any parties described above (other than the Association) shall be filed with the Association at the time of execution of any Agreement for services or events conducted on the premises and shall be maintained in a current status throughout the term of any such Agreement. Such certificates of insurance shall require the insurer(s) to provide not less than thirty (30) days advance written notice to the Association in the event of any cancellation, non-renewal or material (greater than twenty-five percent [25%] reduction) change in the policy limits, terms or conditions. Such third parties shall maintain all of their insurance and at the requested levels described above for not less than five (5) years following the expiration or termination of any Agreement with the Association.



(v) Statutory workers' compensation and employer's liability insurance to the extent required by law to cover all employees engaged in the services.

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

(vii) Automobile liability insurance for all owned, non-owned and hired vehicles with a minimum limit of \$500,000.00 combined single limit per accident; and (viii) Directors and officers liability coverage; and

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

(x) All of the coverage required herein shall be maintained with insurers rated B+ or better in the most current edition of Best's Insurance Reports.

(xi) The Board, in the exercise of its business judgment, may obtain such additional insurance coverage and higher limits.

Premiums for insurance on the Common Area shall be Common Expenses, except that premiums for insurance on Limited Common Areas within a Neighborhood may be a Neighborhood Expense unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. 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. All insurance coverage obtained by the Board shall contain an inflation guard endorsement. 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. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

(c) Deductibles. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment.

(i) To the extent the Association settles a claim for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than anyone (1) Lot is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

(ii) Any loss to any Lot or to any Common Areas that the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and maintenance of the property that is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing; after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, his tenants, family members, guest or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as any assessment.

(d) Payment of Insurance Proceeds. Any loss covered by an insurance policy described in subsection (a) of this Article must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Mortgagee. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 7.3(j) of this Article, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.



(e) 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 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.

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

(g) Insurance to be Maintained by Owners. Insurance obtained for the Association is not meant to replace any individual's personal liability or property insurance and an insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Lot and the Improvements thereon, including but not limited to flood insurance, and the furnishing and other items of personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot. It is strongly suggested that each Member of the Association carry their own personal coverage.

(h) 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. In making the aforesaid determination, the Board of Directors or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance. Any Mortgagee shall be furnished with a copy of such appraisal upon request.

(i) Notice of Cancellation. If the insurance described in Section 7.3 of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States Mail, to all Owners. If the insurance described in Section 7.3 of the Article is not reasonably available, the Association may carry any other insurance it considers appropriate.

(j) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which



it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any portion of the Community which is covered by a policy of insurance which is required to be carried by the Association under this Declaration and which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

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

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed upon settlement, for the benefit of the Members or the Owners of Lots within the insured Neighborhood, as appropriate, and place in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the applicable insurance coverage premiums.

7.4. Compliance and Enforcement.

(a) The Board may impose sanctions for Governing Documents violations, which sanctions include those listed below and any others specifically described in the Governing Documents and may establish a range of penalties for different violations, with violations.

The following sanctions require prior notice and an opportunity for a hearing in accordance with Section 6.10 and the Bylaws (provided only a single notice and hearing is required for continuing violations):

- (i) imposing reasonable monetary fines, not to exceed \$100.00 per violation (or per day in the case of a continuing violation), which shall constitute a lien upon the violator's



Lot. Fines may be imposed within a graduated range. There is no limit on the aggregate amount of any fine for a continuing violation;

- (ii) suspending an Owner's right to vote;
- (iii) suspending any Person's right to use Common Area amenities; provided, nothing shall authorize the Board to impair an Owner's or occupant's access to his or her Lot;
- (iv) suspending any services the Association furnishes to the Owner's Lot;
- (v) exercising self-help or taking action to abate any violation of the Governing Documents occurring on a Lot in a non-emergency situation; and
- (vi) levying Benefited Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.

(b) In addition, the Board or its designees may take the following enforcement actions to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws:

- (i) exercising self-help in any emergency situation (specifically including, but not limited to, towing vehicles that are In violation of parking rules and regulations);
- (ii) taking other action to abate a violation on the Common Area or a violation on a Lot in an emergency situation; or
- (iii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such required maintenance and assess all costs incurred against the Lot and the Owner as a Benefited Assessment.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(c) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any or further action;



(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the Association's right to enforce such provision at a later time or preclude the Association from enforcing any other covenant, restriction, or rule.

(d) In computing the number of days for purposes of any provision of this Declaration or any of the other Recorded documents, all days shall be counted including Saturdays, Sundays, and holidays; provided however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

7.5. Enforcement of Design Guidelines.

(a) Any construction, alteration, or other work performed in violation of the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Association or Declarant, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure the nonconformance to the satisfaction of the requester or restore the Lot and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Association, Declarant, or their designees shall have the right, in addition to any other available right or remedy set forth herein, to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by law), may be assessed against the benefited Lot and collected as a Benefited Assessment unless otherwise prohibited in this Declaration.

(b) All Design approvals shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, Declarant or the Association may, after notifying the Owner of the Lot and giving an opportunity to be heard in accordance with the Bylaws, enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Benefited Assessment.

(c) All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor,



agent, employee, or other invitee of an Owner who fails to comply with the Design Guidelines may be excluded from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither Declarant nor the Association, or their officers and directors, shall be held liable to any Person for exercising the rights granted by this Section.

(d) Except as provided in Section 4.2 in regard to Declarant's authorization to review and act upon applications for original construction and modifications to improvements constructed within the Community, the Association shall be primarily responsible for enforcement of the Design Guidelines. If, however, in the discretion of Declarant, the Association fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, Declarant, for so long as it owns any property described in Exhibit "A" or "B" to this Declaration, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the Association and Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of the Design Guidelines and the Reviewer's decisions. If the Association or Declarant prevails, they shall be entitled to recover all costs including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

7.6. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly, or by reasonable implication, by the Governing Documents, or take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, the Board may exercise the Association's rights and powers without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Area, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute any legal or other action or proceeding on behalf of or in the name of the Association or the Members.

7.7. Indemnification of Officers, Directors, and Others.

To the maximum extent permitted under the Act, the officers, directors, and committee members shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

Subject to and to the fullest extent permitted by Colorado law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer,



director, or committee member, except that such obligation to indemnify shall be limited to those actions for which the indemnitee's personal liability is limited under this Section.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.8. Safety and Security.

Each Owner and occupant of a Lot, and their respective guests and invitees, is responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to enhance the level of safety or security which each person provides for him and his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.9. Powers of the Association Relating to Neighborhoods.

A Neighborhood Committee is a committee of the Association and the Board shall have all of the power and control over any Neighborhood Committees that it has over other Association committees.

7.10. Provision of Services.

The Association may provide, or provide for, services and facilities for all or any of the Members and their Lots, and may enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Base Assessment, if provided to all Lots. If provided to less than all Lots, the Association may assess such costs as a Neighborhood or Benefited Assessment, as applicable. Such services and facilities to the extent not covered by the Base Assessment might include landscape maintenance, snow removal, pest control service, cable television and/or telecommunications service, security, caretaker, transportation, fire protection, utilities, trash collection and recycling, and similar services and facilities.



The Board of Directors shall have the right to regulate the number of trash collection service providers permitted to operate within the Community and to require trash and recycled materials to be collected from all or portions of the Community by such companies on the same day of each week. The Association, acting through its Board of Directors, is authorized to contract for trash and/or recycling service for all or portions of the Community and determine that the cost of such trash collection shall be charged as a use or service fees for such services, or paid by the Association as part of the Common Expenses, or that the cost of trash collection shall be paid by each Owner directly to the trash collection company in which case the Association shall not have any duty to pay the costs of trash collection or to assess the costs thereof to the Owners as assessments.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services provided to all Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.11. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring properties to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.12. Facilities and Services Open to the Public.

Certain facilities and areas within the Community may be opened for public use and enjoyment in the discretion of the facility owner. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, areas conducive to gathering and interaction, roads, sidewalks, and medians.

7.13. View Impairment.

Neither Declarant nor the Association guarantee or represent that any view over and across the Lots, any Common Area, or any open space within the Community will be preserved without impairment, and neither shall be obligated to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association and the Declarant (with respect to the Common Area) have the right to add trees, walls, fences, berms, homes or other structures, signs, lighting, water features and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Notwithstanding the above, the Design Guidelines or Association rules may impose requirements restricting the location of modifications to existing Improvements designed to preserve views.



7.14. Relationship with Governmental Entities.

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, any Governmental Entity. The Association may contribute or receive money, real property (including Common Area), personal property, or services to or from any such Governmental Entity. Any such contribution shall be included as a line item in the Association's annual budget.

7.15. Cooperation with Other Associations.

The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with other community association(s) and/or any special district(s), to share facilities, to share the costs and/or responsibility for any operation, maintenance, repair, replacement or other matters, to perform maintenance, repair or replacement for any person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers or others who may perform services for the Association, any other community association(s) and/or any district(s), or to otherwise cooperate with 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 and/or any other community associations and/or any districts, as the Board of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other community associations and/or any districts to collect assessments, other charges or other amounts which may be due to such entity and to permit any such entity to collect assessments, other charges or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity of any amounts collected by the Association or to the Association of any amounts collected by such entity.

7.16. Management Contracts.

Any agreement for professional management of the Association's business 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.

ARTICLE VIII - ASSOCIATION FINANCES

8.1. Budgeting and Allocating Common Expenses.

Declarant shall establish the Allocated Interest of each Lot in the initial Base Assessments by calculating the amount needed to meet the financial needs of the Association for the Fiscal Year and dividing by the number of Lots platted (other than Declarant's lots) and included within the Community as of the first day of the Fiscal Year.

In determining the Base Assessment, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.



Within ninety (90) 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 the budget not less than fourteen (14) days nor more than sixty (60) days after mailing or other delivery of the summary. The proposed budget does not require approval from Owners and is deemed approved by the Owners in the absence of a veto at the meeting by the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to Section 8.11 and the notice requirements set forth above.

8.2. Budgeting and Allocating Neighborhood Expenses.

Declarant shall establish the initial Neighborhood Assessments by calculating the amount needed to meet the financial needs of the Neighborhood for the Fiscal Year and dividing by the number of Lots in that Neighborhood as of the first day of the Fiscal Year.

The Board shall prepare separate Neighborhood budgets covering the estimated Neighborhood Expenses, if any, for each Neighborhood during the coming year. Each such budget shall include, without limitation, any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.9(a) and any contribution to be made to a reserve fund pursuant to Section 8.3 the budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of assessments against the Lots in such Neighborhood.

The Board shall send a summary of the Neighborhood budget for the coming year to each Owner in the Neighborhood for consideration by such Owners in the same manner as provided in Section 8.1 above.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Lots in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts the Association collects as Neighborhood Assessments shall be held for and expended solely for the benefit of the Neighborhood for which they were collected. Such amounts shall be accounted for separately from the Association's general funds.



8.3. Budgeting for Reserves.

The Board within six (6) months following initial conveyance of the Common Areas shall obtain a Reserve Study. The reserve study shall be updated annually during the Declarant Control Period in order to capture inventory of additional common area facilities and components as they are conveyed to the Association. The budget shall include Common Area and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense, if any. Reserve budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall, in the exercise of its business judgment establish a plan to fund reserves at a level projected to achieve forty to sixty percent (40-60%) funding by the end of the Declarant Control Period. Thereafter, the Board shall review the Reserve Budget annually and when additional common areas are conveyed. Amounts to be funded as reserves shall be reflected in the Common Expense Budget and the Neighborhood budget, as appropriate.

The Board shall adopt a policy restricting the expenditure of any reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for general Association purposes and for each Neighborhood. During the Declarant Control Period, neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent.

The Board may enter into agreements with Declarant regarding the timing and extent of Declarant contributions, on negotiated terms, under which Declarant may provide financial assurances in lieu of cash.

8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Lots within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members representing at least two-thirds (2/3) of the total votes allocated to Lots which will be subject to such Special Assessment, and the affirmative vote or written consent of the Declarant, if any.

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5. Benefited Assessments.

The Association shall have the power to levy Benefited Assessments against a particular Lot as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Lots upon request of an Owner pursuant to any menu of special services which the



Association may offer (which might include the items identified in Section 7.10) or which the Association may otherwise provide to less than all Owners under the Declaration or any Supplemental Declaration. Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Benefited Assessment under this subsection (b).

The Association may also levy a Benefited Assessment against the Lots within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Lots in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

8.6. Commencement of Assessment Obligation; Time of Payment.

The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the first anniversary of the date on which the Declarant transferred title to the Lot; (b) the date on which a Dwelling Unit on the Lot is actually occupied; (c) the date of recording of a deed of conveyance from Declarant to an Owner transferring title to the Lot upon which a Dwelling Unit has been constructed; whichever first occurs. The first annual Base Assessment and Neighborhood Assessment levied on each Lot shall be pro-rated for the time remaining in the Fiscal Year.

Advance payment of Assessments shall be required for the applicable payment period at closing of the transfer of title to a Lot. The Board may impose special requirements for Owners with a history of delinquent payment. The Board shall establish if assessments are to be paid annually, semi-annually or in quarterly or monthly installments. Until the Board otherwise provides, the Annual Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed whether or not it shall be so expressed in such deed, covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other lawful rate as the Board may establish, from time to time), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.



The Board's failure to establish or obtain Member approval, if required, of assessment amounts or rates or failure to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last Fiscal Year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempt from liability for assessments by non-use of Common Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant for which each Owner is jointly and severally liable. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(b) Certificate of Status of Assessments. Upon written request to the Association's registered agent from an Owner, Mortgagee or other person designated by the Owner, the Association shall furnish to any Owner, Mortgagee or other person designated by the Owner liable for any type of assessment a certificate in writing setting forth the amount of any unpaid assessment against such Owner's Lot. Certificates shall be requested and issued in accordance with the provisions of the Act. Such certificate shall be conclusive evidence of payment. The Association may require the payment of a reasonable processing fee for the issuance of such certificate.

(c) Subsidies/"In Kind" Contribution. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Declarant or other entities for payment of Common Expenses. Declarant's payment of assessments may be reduced or abated by the agreed value of any such services or materials provided by Declarant, in accordance with any such contract or agreement with the Association.

(d) Disclosure and Payment of Subsidy. Any such subsidy for Base Assessments or Neighborhood Assessments shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

8.8. Lien for Assessments.

(a) The Association has a statutory lien on a Lot for any assessment levied against that Lot or fines imposed against its Owner. Fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Declaration or the Act are enforceable as assessments under this Article. 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.



(b) Recording of the 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.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments becomes due.

(d) If two (2) or more associations have liens for assessments created at any time on the same property, those liens shall have equal priority.

8.9. Priority of Association Lien.

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

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

(ii) A first Mortgage on the Lot, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and

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

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

(c) 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. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S. 1973, as amended, or to the provisions of §15-11-201, C.R.S. 1973, as amended.

8.10. Receiver.

In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's assessments.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.



Notwithstanding the above, if a Lot is owned by the Association: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.11. Limitation on Increases of Assessments.

Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations, the Board may not impose a Base Assessment or Neighborhood Assessment that is more than twenty percent (20%) greater than such assessments for the immediately preceding fiscal year, or such amount that may from time to time be fixed by Colorado State law, without the approval of a majority of the Members subject to the applicable assessment. Approval may be indicated by vote or written consent.

An emergency situation is anyone of the following:

- (a) an extraordinary expense required by an order of a court;
- (b) an extraordinary expense necessary to repair or maintain any portion of the Community for which the Association is responsible where a threat to personal safety is discovered; or
- (c) an extraordinary expense necessary to repair or maintain any portion of the Community for which the Association is responsible which could not reasonably have been foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 8.1. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Notice of such resolution shall be provided to the Members along with the notice of such assessment.

8.12. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Benefited Assessments, Neighborhood Assessments, and Special Assessments:

- (a) All Common Area and other portions of the Community which are not Lots; and
- (b) Any property dedicated to and accepted by any Governmental Entity.

In addition, both Declarant and the Association shall have the right, but not the obligation, to grant exemptions to Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.13. Capitalization of Association.



Upon acquisition of record title to a Lot by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-quarter (1/4) of the annual Base Assessment per Lot for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the Bylaws.

8.14. Community Enhancement Fee.

(a) Authority. As an additional funding source, in addition to the administrative or transfer fee collected to cover administrative costs of membership transfer; the Association shall collect a "Community Enhancement Fee" upon each transfer of title to a Lot, other than exempt transfers as set forth herein. The Community Enhancement Fee shall be charged to the grantor of the property, shall be payable by grantor or grantee as their contract provides to the Association at the closing of the transfer, and shall be secured by the Association's lien for assessments. Each Owner transferring a Lot shall notify the Association's secretary or designee at least seven (7) days prior to the scheduled closing. Such notice shall include the name of the buyer, the date of title transfer, and other information the Association may reasonably require.

(b) Fee Limit. The Community Enhancement Fee to the Association is initially established to be an amount equal to one-fourth of one percent (0.25%) of the gross selling price of the Lot with all improvements, upgrades and premiums included, and shall be due upon the closing of the Sale of the Lot. The gross selling price shall be the total cost to the purchaser of the Lot, excluding transfer taxes and title fees. By duly adopted resolution, the Board of Directors may change the fee from time to time provided that the fee shall not exceed an amount equal to one-half of one percent (0.50%) of the gross selling price of the Lot.

(c) Purpose. Community Enhancement Fees shall be used for purposes which the Association Board deems beneficial to meet the general operating needs of the Association. By way of example and not limitation, Community Enhancement Fees may be used to assist the Association or one or more tax-exempt entities in funding operating and maintenance costs for recreational facilities, common areas, open space preservation and all other funding needs for operating the Association.

(d) Exempt Transfers. Notwithstanding the above, no Community Enhancement Fee shall be levied upon transfer of title to property:

- (i) by or to the Declarant;
- (ii) by a Builder or developer holding title solely for purposes of development and resale;
- (iii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;



(iv) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(v) to an entity wholly owned by the grantor or to a family trust created by the grantor for the direct benefit of the grantor and his or her spouse and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Community Enhancement Fee shall become due; or

(vi) to an institutional lender as security for the performance of an obligation pursuant to a Mortgage.

COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the Declarant in order to facilitate the smooth and orderly development of the Community and to accommodate changes in the master plan which inevitably occur as a community the size of the Community grows and matures.

ARTICLE IX - ACTIVITY CARDS

9.1. Issuance by the Board.

One Activity Card shall be allocated to each Qualified Occupant of a Lot, up to a maximum of two Activity Cards per Lot. No Activity Cards shall be allocated to any Lot which is not Occupied by a Qualified Occupant. The Board shall determine entitlement to Activity Cards on an annual basis. Activity Cards shall be renewed annually, provided, the Lot continues to be Occupied by a Qualified Occupant and all applicable assessments and other charges pertaining to the Lot have been paid. The Board may establish policies, limits, and charges with regard to the issuance of additional, renewal or replacement cards and guest privilege cards.

The Board may, at its sole discretion, issue temporary Activity Cards to persons who have signed binding contracts to purchase a Lot, subject to such policies as the Board may determine from time to time. If provided, such temporary Activity Card(s), if provided, shall expire at closing of the Lot purchase.

9.2. Assignment of Rights.

The right to an Activity Card is based upon Occupancy of a Lot. Any Owner who leases or otherwise transfers Occupancy of his or her Lot shall be deemed to have assigned his or her rights to an Activity Card to the Tenant of such Lot. The Tenant of the Lot shall be entitled to an Activity Card only if the Lot continues to be Occupied by a Qualified Occupant and in no event shall an Activity Card be assigned to anyone under nineteen (19) years of age. Any Owner who leases or otherwise transfers Occupancy of his or her Lot shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to Occupy a Lot, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Activity Card.

9.3. Issuance to Declarant.



As long as Declarant owns any portion of the Community or has the right to annex property pursuant to Section 10.2, the Association shall provide Declarant, free of charge, with as many Activity Cards as Declarant, in its sole discretion, deems necessary for the purpose of marketing the Community or any property described in Exhibit "B". Declarant may transfer the Activity Cards to prospective purchasers of Lots subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to Declarant shall entitle the bearer to use all Common Area and recreational facilities, (subject to the availability, payment of admission fees or other use fees charged to Qualified Occupants holding Activity Cards).

ARTICLE X - EXPANSION OF THE COMMUNITY

10.1. Annexation by the Association.

The Association may annex property to this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of more than fifty percent (50%) of the Members in person or by proxy at a meeting duly called for such purpose, and the consent of the property owner.

10.2. Annexation by the Declarant.

(a) Without the necessity of the consent thereto, or joinder therein, of the Owners, the Members, the Association, any Neighborhood Association, or Mortgagees, and effective upon the recording of any deed from Declarant to a non-Declarant conveying all or any part of the Annexable Property described in Exhibit "B" attached hereto and incorporated herein, such property shall be deemed automatically annexed to this Declaration, without the need to execute and/or record any other documents including without limitation a Supplemental Declaration. Notwithstanding the foregoing, the preceding sentence shall not apply to any deed from Declarant that expressly states on its face that the real property being conveyed by such deed is not being annexed to this Declaration.

(b) In addition to Section 10.2(a), the Declarant may annex to this Declaration additional property within the Annexable Property described on Exhibit "B" attached hereto and incorporated herein by this reference, until that date which is twenty (20) years after the date of recording of this Declaration in the county in which the Community is located without the consent or approval of any other Owners, Mortgagee or any other Person. However, such annexation is subject to HUD or VA approval, if required by HUD or VA (if the Declarant desires to attempt to obtain HUD or VA approval of the property being annexed). Each such annexation shall be effected, if at all, by recording of a plat or map of the property to be annexed (unless such plat or map has previously been recorded), and by recording in the office of the Clerk and Recorder of the county in which the Community is located, a Supplemental Declaration known as an Annexation of Additional Land. An Annexation of Additional Land may provide for phased annexation so that annexed property may be made subject to the Annexation of Additional Land and this Declaration at different times. An Annexation of Additional Land (i) shall be executed and acknowledged by Declarant, and by the owner of the annexed property described therein, if other than Declarant; (ii) shall contain an adequate legal description of the annexed property, including legal descriptions of Lots and Common Areas; (iii) shall contain a reference to this Declaration which shall state its date of recordation and reception number of the records of the county clerk and recorder's office where this Declaration



is recorded; (iv) shall contain a statement that the annexed property is declared to be part of the Community under this Declaration, that the annexed property shall be subject to this Declaration and the effective date of the annexation if a date other than the date of recordation; (v) shall identify Common Areas within the annexed property, if any; and (vi) and may include such other provisions as Declarant deems necessary or appropriate. A deed by which Declarant conveys a parcel of property to another Person may constitute an Annexation of Additional Land if it meets the foregoing requirements. An Annexation of Additional Land may impose on the annexed property described therein covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, taking into account the unique and particular aspects of the proposed development of the annexed property covered thereby. All provisions of this Declaration, including, 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 recording a deed, as aforesaid, or shall apply to the annexed property, as provided for in the recorded Annexation of Additional Land with respect thereto. Such deed or such Annexation shall be deemed an amendment to the Declaration for purposes of the Act. In addition to the foregoing, the Declarant may amend this Declaration at any time during the twenty (20) year period noted hereinabove, in order to add additional real estate to the Community from such locations as the Declarant may elect in its sole discretion, so long as the total additional real estate so annexed to the Community pursuant to this sentence, and not described in the attached Exhibit "B", does not exceed ten percent (10%) of the total area described in the attached Exhibits "A" and "B".

(c) Each portion of the Community which is annexed to this Declaration as provided in the preceding subsections (a) and (b), or which is described in Exhibit "A", shall be subject to a right of withdrawal by the Declarant as provided in Section 1. Such withdrawal may be accomplished, if at all, in accordance with the Act.

(d) The Declarant may exercise its development rights to annex additional property or any other development right in all or any portion of the property described in the attached Exhibits "A" and "B" over which such rights have not already been exercised, and no assurances are made as to the boundaries or order of exercise of any such development rights.

10.3. Additional Covenants and Easements.

By Supplemental Declaration, Declarant may impose additional covenants and easements on portions of the Community, including covenants obligating the Association to maintain and insure specific property and authorizing the Association to recover its costs through Neighborhood Assessments. If someone other than Declarant owns the property, then the Owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

10.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording, unless otherwise specified. The Lots are thereby subjected to the Declaration and the jurisdiction of the



Association and shall have equal voting rights in the Association and equal pro rata liability for Base Assessments with all other Lots.

ARTICLE XI - ADDITIONAL RIGHTS RESERVED TO DECLARANT

11.1. Deannexation of Property.

Declarant reserves the right to amend this Declaration by recording an amended Supplemental Declaration, so long as it has a right to annex property pursuant to Section 10.2, to withdraw any unimproved portion of the Community including any Lot or other parcel of property therein, from the coverage of this Declaration, provided such portion has not been conveyed to a purchaser. "Unimproved" means that no permanent structure or other permanent improvements have yet been built on the property. Such amendment shall not require the consent of any Person other than the Declarant. If the property is Common Area, the Association shall consent to such withdrawal and shall reconvey to Declarant any withdrawn property owned by the Association.

11.2. Marketing and Sales Activities.

Notwithstanding any provision in this Declaration, including Exhibit "C", to the contrary, Declarant and Builders may construct and maintain upon portions of the Common Area and other property owned by Declarant or the Builder such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things shall include, without limitation, business offices, signs, flags (whether hung from flag poles or attached to a structure), model Lots, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant and Builders may park vehicles in areas other than garages or driveways, including on streets. Declarant and Builders shall have easements for access to and use of such facilities at no charge. Builder's rights under this Section 11.2 are subject to Declarant's prior written approval.

11.3. Right to Develop.

Declarant and Declarant's Affiliates and their employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area, and to the Exhibit "B" property, as it deems appropriate in its sole discretion. 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 Area without conflicting with the terms hereof; provided, however, that such right and authority shall cease and terminate upon the earlier of the expiration of the Declarant Control Period, or conveyance by Declarant of the last Lot to the first Owner thereof (other than Declarant), at which time said reserved right shall vest in the Association.

Each Owner acknowledges that the Community is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge,



or otherwise object to (a) changes in uses or density of property outside the Owner's Neighborhood, or (b) changes in the Master Plan as it relates to property outside the Owner's Neighborhood.

Declarant for itself or its Successors specifically reserves the right to develop land adjacent to or in the vicinity of the Community for commercial uses.

Nothing contained in this Declaration or in any Supplemental Declaration shall be construed to prevent the construction, installation or maintenance by the Declarant, any Declarant affiliate or any agents or contractors thereof, during the period of development, construction and sales on the Property, of Improvements, landscaping or signs deemed necessary or convenient by the Declarant, in its sole discretion, to the development or sale of property within the Property.

11.4. Right to Designate Sites for Governmental and Public Interests.

For so long as Declarant owns any property described in Exhibit "A" or "B", Declarant may designate sites within the Community which are owned by Declarant for government, education, or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, commercial and other public facilities subject to receiving all necessary approvals.

11.5. Right to Approve Additional Covenants.

During the Declarant Control Period, no Person shall Record any additional covenants, conditions, or restrictions affecting any portion of the Community without Declarant's review and written consent. Any instrument Recorded without such consent shall be void and of no force and effect unless subsequently approved by written consent, signed by Declarant, and recorded.

11.6. Right to Approve Changes in the Community Standards.

No amendment to or modification of any Use Restrictions, rules, or the Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 10.2.

11.7. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a Recorded instrument signed by Declarant.

11.8. Exclusive Rights to Use Name of Development.

No Person shall use the name "Skyestone" or any derivative of such name in any printed or promotional material, or in logo or depiction, without Declarant's prior written consent.



However, Owners may use the name "Skyestone" where such term is used solely to specify that particular property is located within Skyestone and the Declarant hereby grants the Association a license to use the words "Skyestone" in its corporate name.

11.9. Trade Marks.

Any use by the Association of names, marks, or symbols of Taylor Morrison, Inc., or any of their affiliates, including Taylor Morrison of Colorado, Inc. (collectively "Taylor Morrison Marks"), shall inure to the benefit of Taylor Morrison, Inc., and shall be subject to Taylor Morrison, Inc.'s periodic review for quality control. The Association shall enter into license agreements with Taylor Morrison, Inc., terminable with or without cause and in a form specified by Taylor Morrison, Inc. in its sole discretion, with respect to permissive use of certain Taylor Morrison Marks. The Association shall not use any Taylor Morrison Mark without Taylor Morrison Inc.'s prior written consent.

11.10. Equal Treatment.

So long as Declarant owns any property described in Exhibit "A" or "B", neither the Association nor any other entity shall, without the prior written consent of Declarant, adopt any policy, rule, or procedure that:

(a) limits the access of Declarant, its successors, assigns, and/or affiliates or their personnel and/or guests, including visitors, to the Common Areas of the Association or to any property owned by any of them;

(b) limits or prevents Declarant, its successors, assigns, and/or affiliates or their personnel from advertising, marketing, or using the Association or its Common Areas or any property owned by any of them in promotional materials;

(c) limits or prevents purchasers of new residential housing constructed by Declarant, its successors, assigns, and/or affiliates in the Community from becoming members of the Association or enjoying full use of its Common Areas, subject to the membership provisions of this Declaration and the Bylaws;

(d) discriminates against or singles out any group of Members or prospective Members or Declarant [this provision shall expressly prohibit the establishment of a fee structure (*i.e.*, assessments, Special Assessments and other mandatory fees or charges other than Benefited Assessments, Neighborhood Assessments, chartered club dues, and use fees) that discriminates against or singles out any group of Members or Declarant, but shall not prohibit the establishment of Benefited Assessments or Neighborhood Assessments];

(e) impacts the ability of Declarant, its successors, assigns, and/or affiliates, to carry out to completion its development plans and related construction activities for the Community, as such plans are expressed in the Master Plan, as such may be amended and updated from time to time. Policies, rules, or procedures affecting the provisions of existing easements established by Declarant and limiting the establishment by Declarant of easements necessary to complete the Community shall be expressly included in this provision. Easements that may be established by



Declarant shall include but shall not be limited to easements for development, construction, and landscaping activities and utilities; or

(f) impacts the ability of Declarant, its successors, assigns, and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

Neither the Association nor any other entity shall exercise its authority over the Common Areas (including, but not limited to, any gated entrances and other means of access to the Community or the Exhibit "B" property) to interfere with the rights of Declarant set forth in this Declaration or to impede access to any portion of the Community or the Exhibit "B" property over the streets and other Common Areas within the Community. The Association shall not condone, encourage its members or participate in public assembly for the purpose of interfering with Declarant's business within the Community or engage in any activity that presents a public health or safety risk.

11.11. Right to Use Common Area for Special Events.

As long as Declarant owns any property described in Exhibit "A" or "B", Declarant shall have the right to use all Common Area, including recreational facilities, to sponsor special events for charitable, philanthropic, and social purposes as determined by Declarant in its sole discretion. Any such event shall be subject to the following conditions:

(a) the availability of the facilities for the period of time requested of the Association by the Declarant, provided that the request is not submitted more than six (6) months prior the actual special event.

(b) Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event (as per the insurance requirements for such events set forth herein) other than customary use charges that shall be waived; and

(c) Declarant shall return the facilities and personal property owned by the Association and used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

Declarant shall have the right to assign its rights contained in this Section 11.11 to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

11.12. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Community, including Lots, and a perpetual nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a Dwelling



Unit or other structure on a Lot shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, and pay for, any resulting damage.

11.13. Right to Notice of Design or Construction Claims.

So long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 10.2, no Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation against Declarant or a Builder involving such design or construction unless Declarant and any Builder involved in the design or construction have been first notified in writing ten (10) days prior to the inspection and given an opportunity to meet with the property Owner and conduct an independent inspection.

11.14. Termination of Rights.

The rights contained in this Article shall terminate as expressly provided with regard to any particular right, and if not provided, then upon the earlier of (a) twenty (20) years from the date this Declaration is Recorded, or (b) the conveyance of that number of Lots equal to the Maximum Lots by Declarant to an Owner other than Declarant. Thereafter, Declarant may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas. This Article 11 shall not be amended without Declarant's written consent so long as Declarant owns any property described in Exhibit "A" or "B".

11.15. Sales by Declarant.

Notwithstanding the restriction set forth in Section 3.1, Declarant reserves the right to sell Lots for Occupancy to Persons between forty-five (45) and fifty-five (55) years of age; provided, such sales shall not affect the Community's compliance with all applicable State and Federal laws under which the Community may be developed and operated as an age-restricted community.

PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the Community.

ARTICLE XII - EASEMENTS

12.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;



(b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) The Board's right to:

(i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(ii) suspend the right of an Owner to use any Common Area amenity (a) for any period during which any assessment or other charge against the Owner's Lot remains delinquent, and (b) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;

(iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;

(iv) rent any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person;

(v) permit use by people from outside of the Community, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;

(vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred subject to the approval requirements set forth in Section 16.5 and the approval of Members to the extent required by the Act;

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XIII;

(e) The requirement that access to and use of recreational facilities within the Community shall be subject to the presentation of an Activity Card that the Association issues for such purpose and as provided in this Declaration; and

(f) The Association's right to close or limit the use of the Common Areas, or portions thereof, while maintaining and repairing the same.

Any Owner may obtain guest passes to provide use and enjoyment of the community facilities to the members of his or her family, Tenants, and social invitees, as applicable, subject to reasonable regulation and use fees by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the Tenant of such Lot for the period of the lease.

12.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and



between adjacent Lots due to the unintentional placement, or settling, or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

12.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described in Exhibit "A" or "B", perpetual non-exclusive easements throughout the Community (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Community, cable and other systems for sending and receiving data and/or other electronic signals, drainage systems, and security and similar systems;

(ii) installing walkways, pathways and trails, street lights, and signage on property which Declarant or the Association owns or within public rights-of-way or easements reserved for such purpose on a Plat;

(iii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described above; and

(iv) access to read utility meters.

Notwithstanding the above, Declarant reserves the right to grant or deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Utility Easements. Declarant also reserves for itself the non-exclusive right and power to grant and Record such utility easements as may be necessary, in Declarant's sole discretion, in connection with the orderly development of any property described in Exhibits "A" and "B". The location of the easement on any Lot shall be subject to the written approval of the burdened property Owner, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property; to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.



12.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B", whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns, respectively, shall be responsible for any damage caused to the Common Area as a result of their actions. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

12.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over the Lots and Common Area as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents to abate a Governing Document violation and/or to remove any structure, thing or condition which violates the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Any costs incurred, including reasonable attorneys' fees, shall be assessed against the Lot Owner as a Benefited Assessment.

12.6. Easements for Lake and Pond Maintenance and Flood Water.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Area and enter upon adjacent Lots to the extent necessary to (a) install, operate, maintain, and replace pipes, pumps and related equipment to supply irrigation water to the Common Area; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Community which abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.



Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not inside a Dwelling Unit or other structure) adjacent to or within 100 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Area; and (c) maintain and landscape the slopes and banks pertaining to such areas. Anyone exercising these easements shall use reasonable care in and repair any damage resulting from their intentional exercise of the easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to natural occurrences.

12.7. Easements for Cross-Drainage.

Every Lot and the Common Area shall be burdened with easements for natural drainage of stormwater runoff from other portions of the Community; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Community without the consent of the Owner(s) of the affected property, the Board, and Declarant as long as it owns any property described in Exhibit "A" or "B" to the Declaration.

12.8. Easements for Avigation.

The Community is located in close proximity to the Rocky Mountain Regional Airport ("Airport"). Due to such proximity, a portion of the Community is located within the Airport Influence Area of the Airport and will be subject to overflights by aircraft to and from the Airport. In accordance with governmental requirements, an Avigation Easement has been granted to the City of Broomfield, Colorado, and recorded on January 11, 1968 in Book 1992, Page 212, in the real property records of the City and County of Broomfield ("Avigation Easement"). The Avigation Easement pertains to the overflight of aircraft over that portion of the Community which is located in the Airport Influence Area. In addition to the Avigation Easement, Declarant desires to establish a similar avigation easement over those portions of the Property and Annexable Property which are not encumbered by the Avigation Easement. Therefore, Declarant hereby creates, declares and establishes an easement and right-of-way for the passage of Aircraft ("Aircraft" being defined for the purposes of this section as any device now known or hereinafter invented, used or designated for navigation of or flight in the air) by whomsoever owned and operated, in the airspace above and over the surface of those portions of the Property and Annexable Property which are not encumbered by the Avigation Easement (the "Additional Property"), to an infinite height above such Property and Annexable Property, provided that Aircraft exceed the minimum altitudes above the Additional Property that are described as Civil Airport Imaginary Surfaces as provided in 14 C.F.R. Part 77, as amended, of the regulations of the Federal Aviation Administration (FAA), as applied to the Rocky Mountain Regional Airport, together with the right to cause in said airspace such noise, vibration and all other effects that may be caused by the operation of Aircraft using said airspace for landing at, taking off from or operating at the Airport; except to the extent that the terms, conditions and limitations as set forth in this grant of avigation easement, or the federal regulations are not complied with by the operation of Aircraft landing, taking off from or operating at or on the Airport. The Additional Property will not be used or permitted or suffered to use in such a manner that violates applicable rules and regulations of the FAA or other federal or state law



governing (i) electrical interference with navigational signals or radio communications at the Airport and with Aircraft; (ii) lights which mimic Airport lights or which result in glare affecting Aircraft using the Airport; or (iii) activities which otherwise endangers the landing, take-off and passage of Aircraft to and from the Airport.

ARTICLE XIII - LIMITED COMMON AREAS

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. For example, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners of the Neighborhood(s) to which the Limited Common Areas are assigned.

13.2. Designation.

Initially, any Limited Common Area shall be designated as such in a Supplemental Declaration, the deed conveying such area to the Association, or on a Plat; provided, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 10.2.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Members representing a majority of the total Member votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 10.2, Declarant's written consent also is required. Any assignment or reassignment of Limited Common Area shall be made in accordance with the requirements of the Act.

13.3. Use by Others.

Upon approval of a majority of Owners of Lots within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Lots in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area.

ARTICLE XIV - PARTY WALLS AND OTHER SHARED STRUCTURES

14.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built on the Lots which serves and/or separates any two (2) adjoining Lots or a Lot and Common Area shall constitute a Party Structure. To the extent not inconsistent with the provisions of this Section, the general rules of



law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a Party Structure shall be handled in accordance with the provisions of Article XV.

14.2. Maintenance; Damage and Destruction.

Unless otherwise specifically provided in additional covenants relating to such Lots, the cost of reasonable repair and maintenance of a Party Structure shall be shared equally by the Owners who own property benefited by the Party Structure.

If a Party Structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any benefited Owner shall contribute a pro rata share for the cost of restoration. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

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

RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Skystone as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.

ARTICLE XV - DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

15.1. Agreement to Encourage Resolution of Disputes without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents;



(iii) the design or construction of non-residential improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review; or

(iv) a challenge to any decision by the Board or any decision by a Board Committee;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

- any suit by the Association to collect assessments or other amounts due from any Owner;
- any suit by the Association to enforce Article IV or the Design Guidelines with respect to residential improvements;
- any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);
- any suit between 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;
- any suit in which any indispensable party is not a Bound Party; and
- any suit as to which any applicable statute of limitations would expire within one hundred eighty (180) days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

15.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;



(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the Bound Parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other agreed upon period), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Denver metropolitan area. Each Bound Party shall submit to the mediator a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within thirty (30) days after submitting the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

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

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

15.3. **Initiation of Litigation by Association.**

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding against the Declarant or anyone else unless first approved by a vote of Members entitled to cast fifty percent



(50%) of the total Member votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Declarant Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments, and foreclosure of liens and seeking injunctive relief for non-monetary violations;
- (c) initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (d) initiated against any contractor (exclusive of the Declarant), vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings. The Association cannot sue anyone with respect to any issues on individual homes including, without limitation, construction and warranty claims, and can only sue for issues regarding the common areas.

In the matters listed above, the Directors of the Association shall be indemnified for their decisions pursuant to Section 7.7.

ARTICLE XVI - MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

16.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within sixty (60) days;
- (c) Any lapse, cancellation, or material modification of any Association insurance policy;



(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders; or

(e) If the U.S. Department of Housing and Urban Development (HUD) is insuring or the U.S. Department of Veterans Affairs (VA) is guaranteeing the Mortgage on any Lot and requires notice, material amendment to the Governing Documents or extraordinary action of the Association.

16.2. No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.3. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

16.4. Failure of Mortgagee to Respond.

Any Mortgagee who receives a dated written request from the Association to approve, to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within sixty (60) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified mail, return receipt requested and complies with any other requirements set forth in the Act for notice to Mortgagees.

16.5. HUD/VA Approval.

As long as there is a Declarant membership, the following actions shall require, to the extent required by HUD or VA, the prior approval of the HUD or the VA, if either such agency is insuring or guaranteeing the Mortgage on any Lot: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance (other than to correct errors on property descriptions or other inconsequential or immaterial conveyances), or mortgaging of Common Area; or material amendment of this Declaration or the Bylaws. In addition, so long as HUD or VA insures or guarantees the Mortgage on any Lot, the above actions also shall require, to the extent required by HUD or VA, the prior approval of at least two-thirds (2/3) of the Members and the consent of the Declarant.

Notwithstanding anything to the contrary herein, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the Membership or HUD or VA.

16.6. Approvals during Declarant Control Period.



Notwithstanding any other provision of this Declaration or any of the other Governing Documents to the contrary, during the period, and to the extent required by FHA or VA: (a) commencing with the earlier of: (i) the date FHA or VA first approves any subdivision in the Community for single family residential loan insurance or guarantee programs offered by FHA or VA; or (ii) the date FHA or VA first insures or guarantees a loan or any Lot within the Community; and (b) ending with the expiration or termination of the Declarant Control Period:

(a) property which is not included with the Additional Property shall not be annexed to the Community without the prior approval of either FHA or VA (except to the extent such annexation involves only minor adjustments to boundaries of the Community);

(b) neither the Common Area nor any part thereof shall be dedicated to the public without the prior approval of either FHA or VA except for minor adjustments to the boundaries of any Common Area or any other portion of the Community; except the following shall not be deemed dedications requiring approval: dedications or grants of easements to the public, to any Governmental Entity or other grants of easements; and grants of easements with respect to, or dedications of, Common Area situated within the boundaries of a Parcel zoned for nonresidential use, if granted, made or approved by the Board;

(c) to the extent required by FHA or VA, no amendment to this Declaration or to the Articles or Bylaws shall be effective without the prior approval of either FHA or VA (except to make clerical or technical corrections, and to annex the Additional Property); and

(d) to the extent required by FHA or VA, the Association shall not be dissolved, or merged or consolidated with any other entity, without the prior approval of FHA or VA.

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

16.7. Obtaining Approvals.

As to any action required by this Article to be approved by FHA or VA before becoming effective or before being taken, such action shall be submitted to FHA or VA for approval, and if the agency whose approval is requested does not disapprove the same, by written notice to the Association, the Declarant or other Person requesting such approval, within thirty (30) days after delivery to such agency of the request for approval, the action in question shall be deemed approved by such agency.



16.8. Definitions.

For purposes of this Article, the term "FHA" means the Federal Housing Administration (or its successor federal agency).

CHANGES IN THE COMMUNITY

Planned communities are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Skyestone and its Governing Documents must be able to adapt to these changes while protecting the things that make the Community unique.

ARTICLE XVII - CHANGES IN OWNERSHIP OF LOTS

Any Owner, other than Declarant, desiring to sell or otherwise transfer title to his or her Lot shall give the Association's secretary or designee at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Upon completion of the transfer, the Community Enhancement Fee as described in Section 8.14 shall be paid to the Association. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Lot Owner, including assessment obligations, until the date upon which the Association, notwithstanding the transfer of title, receives such notice.

ARTICLE XVIII - CHANGES IN COMMON AREA

18.1. Condemnation.

If a Lot or Common Area, or any portion thereof shall be taken by eminent domain, compensation and the Owner's interests in the Common Area shall be allocated as provided in the Act.

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within sixty (60) days after such taking, Declarant, so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration, and at least sixty-seven percent (67%) of the total Members in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.



18.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees.

18.3. Transfer or Dedication of Common Area.

The Association may dedicate or convey fee title in portions of the Common Area to any Governmental Entity, subject to such approval as may be required by Section 16.5 and the approval of Members to the extent required by the Act.

ARTICLE XIX- AMENDMENT OF DECLARATION

19.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until a Lot is conveyed to a Person other than a Builder, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration (a) to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; (b) to correct clerical, typographical or technical errors; or (c) to the extent or for any purpose permitted by the Act, or as permitted as an exercise of Special Declarant Rights.

19.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration or the Act, this Declaration may be amended, changed or modified, only by the affirmative vote or written consent, or any combination thereof, of Members representing at least sixty-seven percent (67%) of the total votes in the Association. In addition, the approval requirements set forth in Article XVI shall be met, if applicable.

19.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall only become effective upon Recording, unless a later effective date is specified in the amendment. Any action to challenge the validity of an amendment must be made within one year of its Recordation or such amendment shall be presumed to be valid.



19.4. Exhibits.

Exhibits “A”, “B”, “C” and “D” attached to this Declaration are incorporated by this reference and may be amended as provided in this Declaration or the Act.

ARTICLE XX – COMMUNITY DISCLOSURES

20.1 Assignment of Ditch Agreement.

Declarant discloses to each Owner and Occupant, and each Owner and Occupant acknowledges, that Declarant has entered into a Ditch Agreement with the City and County of Broomfield, Recorded at Reception No. 2013011637, as amended by that certain First Amendment to Ditch Agreement Recorded at Reception No. 2013011638 (collectively, the “Ditch Agreement”). The Ditch Agreement and the documents and instruments executed in connection therewith, grant certain rights and impose certain obligations on Declarant with respect to the Dry Creek Valley Ditch (“Ditch”), including without limitation, certain maintenance obligations with respect to the Ditch, and the obligation to maintain a reserve fund in the amount of Fifty Thousand Dollars (\$57,500.00) as security for the maintenance obligations. Declarant hereby assigns to the Association the rights and obligations of the Declarant under the Ditch Agreement. The liabilities and expenses incurred by the Association under the Ditch Agreement shall be a part of the Common Expenses.

20.2 Assignment of Maintenance Obligations under SIA.

Declarant discloses to each Owner and Occupant, and each Owner and Occupant acknowledges, that the Community is subject to that certain City and County of Broomfield Subdivision Improvement Agreement for Great Western Park Filing No. 4 Recorded at Reception No. 2009004078, as amended by that certain First Amendment to City and County of Broomfield Subdivision Improvement Agreement for Great Western Park Filing No. 4, Recorded at Reception No. 2013004770 (“SIA”). Among other things, the SIA imposes certain maintenance obligations on Declarant with respect to the maintenance of paths, trails, and landscaping located within the City and County of Broomfield rights of way. Declarant hereby assigns to the Association the maintenance obligations of the Declarant under the SIA. The liabilities and expenses incurred by the Association under the SIA shall be a part of the Common Expenses.

20.3 Assignment of Sign Permit.

Declarant discloses to each Owner and Occupant, and each Owner and Occupant acknowledges, that Declarant has entered into An Agreement By and Between the City and County of Broomfield for the Grant of a Revocable Permit to Use and Occupy Public Right of Way, Recorded at Reception No. 2013004768 (“Permit”). Among other things, the Permit grants to Declarant certain rights and obligations with respect to the use of portions of the City and County of Broomfield right-of-way for installation of two Community subdivision identification signs and one covered bridge. Declarant hereby assigns to the Association all of the rights and obligations of the Declarant under the Permit. The liabilities and expenses incurred by the Association under the Permit shall be a part of the Common Expenses.



20.4 Assignment of License Agreement.

Declarant discloses to each Owner and Occupant, and each Owner and Occupant acknowledges, that Declarant has entered into a License Agreement (“License Agreement”) with the Public Service Company of Colorado (“PSC”). Among other things, the License Agreement grants to Declarant certain rights and obligations with respect to installation, maintenance and removal of a fence on real property owned by PSC that is located in the vicinity of the Community. Declarant hereby assigns to the Association all of the rights and obligations of the Declarant under the License Agreement. The liabilities and expenses incurred by the Association under the License Agreement shall be a part of the Common Expenses.

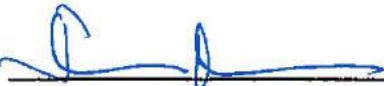
[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT:

Taylor Morrison of Colorado, Inc., a Colorado corporation

By: 

Name: Thomas Hennessy

Title: DIVISION PRESIDENT, TAYLOR MORRISON OF COLORADO, INC.

STATE OF COLORADO)

) ss.

COUNTY OF BROOMFIELD)

The foregoing Agreement was acknowledged before me this 18th day of December, 2013, by THOMAS HENNESSY as DIVISION PRESIDENT of Taylor Morrison of Colorado, Inc., a Colorado corporation, for and on behalf of the corporation.

Witness my hand and official seal

My Commission expires: 8/17/16

PATTY MELTON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124054302
MY COMMISSION EXPIRES AUGUST 17, 2016

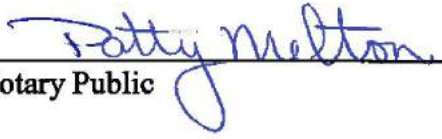

Notary Public



EXHIBIT "A"

Land Initially Submitted

Lot 29, Block 18; Great Western Park - Filing No. 4, Replat A, as recorded at Reception No. 2013004764 in the office of the Clerk and Recorder of Broomfield County, Colorado..



EXHIBIT "B"

Land Subject to Annexation

Lots 1 through 36, inclusive, Block 3;
Lots 1 through 16, inclusive, Block 4;
Lots 1 through 39, inclusive, Block 5;
Lots 1 through 21, inclusive, Block 6;
Lots 1 through 10, inclusive, Block 7;
Lots 1 through 36, inclusive, Block 8;
Lots 1 through 48, inclusive, Block 9;
Lots 1 through 15, inclusive, Block 10;
Lots 1 through 36, inclusive, Block 11;
Lots 1 through 27, inclusive, Block 12;
Lots 1 through 32, inclusive, Block 13;
Lots 1 through 16, inclusive, Block 14;
Lots 1 through 10, inclusive, Block 15;
Lots 1 and 2, Block 19;
and Tracts A3, A5, A6, A9, C, D, F, G, H, I, J, K, L, M, N, O, P, Q, R, Y, Z inclusive, Great Western Park - Filing No.4, as recorded at Reception No. 2009004077 in the office of the Clerk and Recorder of Broomfield County, Colorado.

Lots 1 through 14, inclusive, Block 16;
Lots 1 through 27, inclusive, Block 17;
Lots 1 through 28, inclusive, Block 18;
Lots 30 through 45, inclusive Block 19;
and Tracts E, S, T, FF, GG, HH, II, JJ and KK inclusive, Great Western Park - Filing No. 4, Replat A, as recorded at Reception No. 2013004764 in the office of the Clerk and Recorder of Broomfield County, Colorado.

Lots 1 and 2, Block 2 and Tract CC, Great Western Park - Filing No. 4, Replat C, as recorded at Reception No. 2013007766 in the office of the Clerk and Recorder of Broomfield County, Colorado.

Lots 1 through 39, Block 20;
and Tracts LL, MM, NN, OO, PP inclusive, Great Western Park - Filing No. 4, Replat D, as recorded at Reception No. 2013014836 in the office of the Clerk and Recorder of Broomfield County, Colorado.

EXHIBIT "C"

Initial Use Restrictions

The purpose of Design Guidelines and Use Restrictions is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities which fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Article IV, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Lot under one set of circumstances, the same thing may be disapproved for another Lot under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it estop the Board from taking enforcement action in any appropriate circumstances.

Subject to the above, the following restrictions shall apply to all of the Community until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

(a) General. When used in these Use Restrictions, the phrase "Visible from Neighboring Property" shall mean, with respect to any given object, that the object is or would be visible to a six-foot tall person standing at ground level on any part of the neighboring property at an elevation no greater than the elevation of the base of the object, structure or building being viewed, except where the object is visible solely through a view fence and would not be visible if the view fence were a solid fence.

(b) Animals and Pets. No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Community, except that for each Dwelling Unit there shall be permitted a reasonable number of usual and common household pets, such as dogs and cats, as determined in the Board's discretion. Pets which are permitted to roam free, or, in the Association's sole discretion, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to other Owners or residents of any portion of the Community shall be removed upon the Board's request at the Owner's expense. If the Owner fails to honor such request, the Board may cause the pet to be removed at the Owner's expense. No pets shall be kept, bred, or maintained for any commercial purpose.

(c) Wildlife. Capturing, killing, or trapping wildlife is prohibited within the Community, except for trained professionals in circumstances imposing an imminent threat to the safety of Persons or pets.

(d) Firearms or Other Weapons. The carrying, use or discharge of firearms or other weapons within Common Areas of the Community is prohibited. The term "Firearms or Other Weapons" includes, but is not limited to, "B-B" guns, pellet guns, knives, swords, cross-bows and other firearms or other weapons of all types, regardless of size.



(e) Nuisances. No Owner shall engage in any activity which materially disturbs or destroys the vegetation, wildlife, or air quality within the Community or which results in unreasonable levels of sound or light pollution.

(f) Garages and Driveways. Garage doors shall remain closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons. Garages shall be used only for parking vehicles and storage, and shall not be used or converted for living or recreational activities.

(g) Storage of Goods. Storage (except in approved structures or containers) of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels on the Common Area (except by the Association), or, if not in active use, any portion of a Lot which is visible from outside the Lot is prohibited. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Parcel, except: (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction or modification) of a building, appurtenant structures of other Improvements; and (ii) that which Declarant or Association may permit or require for the development, operation and maintenance of the Community.

(h) Prohibited Conditions. The following conditions, structures, or activities are prohibited on any Lot:

(i) Dog runs and animal pens of any kind, if such structures are Visible from Neighboring Property;

(ii) Storage sheds, shacks or other structures of a temporary nature on any Lot except as may be authorized by Declarant during the initial construction of improvements within the Community. Temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair;

(iii) Permanent sport goals, basketball standards, backboards or similar structure or device which are or would be Visible from Neighboring Property; provided, portable sport goals may be used on a Lot without prior approval, but must be stored so as not to be Visible from Neighboring Property overnight or otherwise when not in use. No swing sets, trampolines or other play structures shall be placed or constructed on any Lot without the prior approval of the Reviewer (including, without limitation, approval as to appearance and location);

(iv) Statues, lawn ornaments and yard decorations of any size or type must be placed in compliance with the Design Guidelines and so as not to be Visible from Neighboring Property; and

(v) Outside clotheslines or other outside facilities for drying or airing clothes, if the same are Visible from Neighboring Property.



In any event, and notwithstanding the above list of prohibited conditions, as set forth in Article IV, any structure, improvement, or thing proposed for construction, erection, installation, or placement on a Lot requires prior Reviewer approval unless otherwise specifically exempt under this Declaration, the Design Guidelines or under applicable law.

(i) Quiet Enjoyment. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other Lots. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Community, which in the Board's reasonable determination tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants and invitees of other Lots.

(j) Signs. No sign shall be erected within the Community, except those required by legal proceedings, including posters, circulars, and billboards; provided, the following types of signs may be erected on a Lot without the Reviewer's written consent: (i) residential identification signs of a face area of 75 square inches or less for identification of the occupant and its address, in the number, size, color, design, message content and location designated by the ARC; (ii) one temporary sign of customary size, as determined by the ARC, for the purpose of advertising the Lot for sale or rent, and which shall not be allowed to remain on a Lot or Parcel for more than a total of ninety (90) days during any 365 day period; (iii) temporary "open house" signs indicating that a Lot is available for inspection by interested parties, but such signs may only be erected or maintained during the hours of 10:00 a.m. through 6:00 p.m. on Saturdays, Sundays, legal holidays or other days designated by the ARC; (iv) one temporary sign identifying the Person installing landscaping or a pool on the Lot, but only during the period that such installation is in progress; (v) security signs of a face area of 75 square inches or less, in a style and location designated by the Design Guidelines or approved by the ARC; (vi) such construction job identification signs, business identification signs and subdivision identification signs which are in conformance with the requirements of the municipality having jurisdiction over the property and which have been approved in writing by the Reviewer as to number, size, color, design, message content and location; and (vii) "political signs" as defined in the Act which are displayed by an Owner or occupant on such Owner's or occupant's lot or in a window of such Owner's or occupant's home that are displayed in conformance with ordinances of the City and County of Broomfield and the Act. This restriction shall not apply to entry, directional, and marketing signs installed by Declarant or a Builder. The Board and Declarant shall have the right to erect signs as they, in their discretion, deem appropriate.

(k) Holiday Decorations. Owners may display holiday decorations located or visible from outside their Dwelling Units if the decorations are of the kinds normally displayed in single family residential neighborhoods, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Holiday decorations may be displayed in season only from November 15 to January 15 and, during other times of the year, from ten (10) days before to ten (10) days after any nationally recognized holiday. Illumination of holiday lighting shall be allowed only from Thanksgiving Day through January 5th.

(l) Antennas and Satellite Dishes. Except as may otherwise be permitted by the Reviewer, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction in the Community. Notwithstanding the foregoing, neither the restrictions nor the requirements of this Section shall apply to those antennae (which may include some satellite dishes and other devices) that are specifically covered by the Telecommunications Act of 1996, as amended from time to time. As to antennae which are specifically covered by the Telecommunications Act of 1996, as amended, the Association shall be empowered to adopt rules and regulations governing the types of antenna that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance. Residents are encouraged to place any satellite dish antenna in the back yard, below the wall level, if reception is available at that location. If not, then placement should be on the back or side of the house below the roofline, if reception is available at that location. If an acceptable signal is not available in either of those locations, then placement may be above the roofline or in the front of the house. Any front of house or front yard installation should be screened from view to the extent practicable.

(m) Trash Containers and Collection. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage, trash or recycling pickup. Such containers shall not be Visible from Neighboring Property except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. No outdoor incinerators shall be kept or maintained on any Lot.

(n) Pool Equipment. All pool equipment stored on any Lot shall be screened so as to be neither Visible from Neighboring Property nor able to be seen through any view fence.

(o) Unsightly or Unkempt Conditions. All portions of a Lot outside enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate within, upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Community.

Woodpiles or other material shall be stored in a manner so as not to be Visible from Neighboring Property and not to be attractive to rodents, snakes, and other animals and to minimize the potential danger from fires. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Community. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace.



(p) Landscaping. Pursuant to Section 5.1 of the Declaration, initial landscaping shall be installed, as approved, in the front, rear and side yards of a Lot within one hundred eighty (180) days from the date of the initial closing of the purchase of the Lot or the issuance of a certificate of occupancy on the Lot, whichever is later, or within any extension of that time period set forth in the Design Guidelines or granted by the Reviewer.

(q) Vehicles and Parking. The term "vehicles," as used in this Section, shall include, without limitation, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles.

No person shall park any recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, stored vehicles, and unlicensed vehicles or inoperable vehicles within the Community other than in enclosed garages; provided, boats, watercraft and snowmobiles may be kept or stored on a Lot so long as they are not Visible from Neighboring Property. This Section shall not apply to emergency vehicle repairs.

Notwithstanding the above, for purposes of cleaning, loading, unloading, and short term parking, recreational vehicles may be parked on the Lot's driveway for period not exceeding twenty-four (24) hours no more frequently than four such periods every thirty (30) days. The Association may require Owners to obtain a recreational vehicle permit for such short term parking from the Association office. Short term recreational vehicle parking may be allowed on the street by special permit from the Association office.

(r) Wetlands, Lakes, and Other Water Bodies. All wetlands, lakes, ponds, and streams within the Community, if any, shall be aesthetic amenities only, and no other active use of lakes, ponds, streams, or other bodies of water within the Community is permitted, unless the Association has granted the use prior authorization. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Community.

(s) Solar Equipment. No solar heating equipment or device is permitted outside the Dwelling Unit except such devices whose installation and use is protected by federal or State law. Notwithstanding such protection, an application for such equipment or device must be submitted for approval under Article IV prior to installation and approval will be granted only if:

(i) First, such equipment or device is designed for minimal visual intrusion when installed (*i.e.*, is located in a manner which minimizes visibility from the street or an adjacent Lot and is consistent with the Community-Wide Standard); and

(ii) Second, the equipment or device complies to the maximum extent feasible with the Design Guidelines within the confines of the applicable governmental regulations.

(t) Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or appurtenant equipment may be mounted, installed or maintained



on the roof of any Dwelling Unit or other building so as to be Visible from Neighboring Property.

(u) Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on any Lot or Parcel unless such tanks are buried underground. Nothing herein shall be deemed to prohibit use or storage upon any Lot or Parcel of an aboveground propane or similar fuel tank with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace or a spa or "hot tub," so long as any such tank either: (a) has a capacity of ten (10) gallons or less; or (b) is appropriately stored, used and/or screened, in accordance with the Rules or as to otherwise approved by the Reviewer, so as not to be Visible from Neighboring Property.

EXHIBIT "D"

Licenses and Easements

The Community is or may be subject to the recorded easements, licenses and other matters listed below, which are recorded in the office of the clerk and recorder of the City and County of Broomfield.

1. The right of a proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises, as reserved in United States Patent recorded February 25, 1899 in Book 32 at Page 551 (Jefferson County records).
2. Rights of way for ditches either as set forth in or disclosed by instruments recorded December 10, 1906 in Book 125 at Page 552 and September 5, 1905 in Book 127 at Page 49 (Jefferson County records).
3. Reservation of minerals and mineral rights as set forth in Deeds recorded May 28, 1910 in Book 128 at Page 537, September 20, 1949 in Book 648 at Page 193 and March 5, 1970 in Book 2165 at Page 571 (Jefferson County records).
4. An easement for utilities and incidental purposes granted to Mountain States Telephone and Telegraph Company, as set forth in an instrument recorded February 25, 1920 in Book 219 at Page 36 (Jefferson County records).
5. An easement for pipelines and incidental purposes granted to Cheyenne-Wyoming Gas Co., as set forth in an instrument recorded August 12, 1952 in Book 771 at Pages 239 and 446.
6. An easement for pipelines and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded October 13, 1955 in Book 956 at Page 249.
7. An easement for water pipelines and incidental purposes granted to City of Broomfield, as set forth in an instrument recorded June 20, 1963 in Book 1606 at Page 465.
8. An easement for utilities and incidental purposes granted to City of Broomfield, as set forth in an instrument recorded April 28, 1965 in Book 1791 at Page 231.
9. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Avigation Easement recorded January 11, 1968 in Book 1992 at Page 212 (Jefferson County records).
10. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Agreement and Easement recorded November 29, 1972 in Book 2450 at Page 249.
11. Terms, conditions, provisions, obligations, easements and agreements as set forth in the



Agreement and Easement recorded February 14, 1973 in Book 2473 at Page 767.

12. An easement for utilities and incidental purposes granted to County of Jefferson, as set forth in an instrument recorded June 5, 1984 at Reception No. 84051664.
13. An easement for utilities and incidental purposes granted to County of Jefferson, as set forth in an instrument recorded June 5, 1984 at Reception No. 84051665.
14. The effect of Ordinance No. 601 recorded January 28, 1985 at Reception No. 85008516 (Jefferson County records).
15. The effect of Ordinance No. 753 recorded March 7, 1988 at Reception No. 88021682 (Jefferson County records).
16. The effect of Ordinance No. 756 recorded March 5, 1991 at Reception No. 91017694 (Jefferson County records).
17. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded May 14, 1997 at Reception No. F0413470 and as amended by instrument recorded April 27, 1998 at Reception No. F0599057.
18. An easement for utilities and incidental purposes granted to Public Service Company, as set forth in an instrument recorded July 20, 1998 at Reception No. F0654158.
19. An easement for ditches and incidental purposes granted to City of Broomfield, as set forth in an instrument recorded December 7, 2000 at Reception No. F1154247.
20. Any tax, lien, fee or assessment by reason of inclusion of subject property in the North Metro Fire Rescue District, as evidenced by instrument recorded December 26, 2000 at Reception No. F1162352 (Jefferson County records).
21. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Ditch Easement and Vacation Agreement recorded February 9, 2001 at Reception No. F1182493.
22. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Great Western Park Filing No. 1, recorded February 9, 2001 at Reception No. F1182497.
23. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Great Western Park Filing No. 2, recorded February 9, 2001 at Reception No. F1182498.
24. Terms, conditions, provisions, obligations and agreements as set forth in the Master Development and Reimbursement Agreement for Great Western Park/MCDATA Corporate Campus recorded February 9, 2001 at Reception No. F1182500.



25. First Amendment to Master Development and Reimbursement Agreement for Great Western Park/MCDATA Corporate Campus in connection therewith recorded May 1, 2003 at Reception No. 2003008311.
26. Reimbursement Agreement Regarding Lot 13 Sewer Line in connection therewith recorded May 19, 2003 at Reception No. 2003009419.
27. Second Amendment to Master Development and Reimbursement Agreement for Great Western Park/MCDATA Corporate Campus in connection therewith recorded April 6, 2009 at Reception No. 2009004074.
28. Terms, conditions, provisions, obligations and agreements as set forth in the Subdivision Improvement Agreement for Great Western Park/MCDATA Corporate Campus recorded February 9, 2001 at Reception No. F1182501 (Jefferson County records).
29. Terms, conditions, provisions, obligations and agreements as set forth in the Vesting Agreement for Great Western Park/MCDATA Corporate Campus recorded April 25, 2001 at Reception No. F1223766.
30. First Amendment Vesting Agreement for Great Western Park/MCDATA Corporate Campus in connection therewith recorded March 23, 2006 at Reception No. 2006003421.
31. Terms, conditions, provisions, obligations and agreements as set forth in the Cooperative Road Construction Agreement recorded July 31, 2001 at Reception No. F1287995.
32. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Great Western Park Filing No. 3, recorded November 28, 2001 at Reception No. 200100178.
33. Terms, conditions, provisions, obligations and agreements as set forth in the Order and Decree Creating District recorded January 4, 2002 at Reception No. F1394292 (Jefferson County) and January 4, 2002 at Reception No. 2002000189.
34. Terms, conditions, provisions, obligations and agreements as set forth in the Great Western Park P.U.D Plan-1st Amendment and Preliminary Plat recorded February 11, 2002 at Reception No. 2002001918 and Great Western Park P.U.D Plan-2nd Amendment recorded April 6, 2009 at Reception No. 2009004073.
35. Terms, conditions, provisions, obligations and agreements as set forth in the Resolution of The Great Western Park Metropolitan District recorded April 10, 2002 at Reception No. F1460947 (Jefferson County) and re-recorded May 3, 2002 at Reception No. 2002006347, and Amended and Restated Resolution recorded May 3, 2004 at Reception No. 2004006313 and re-recorded May 10, 2004 at Reception No. F2022332.
36. An easement for utility lines and incidental purposes granted to Public Service Company of Colorado, as set forth in an instrument recorded November 21, 2002 at Reception No. 2002017811.



37. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Easement Agreement recorded August 2, 2004 at Reception No. 2004011566 and re-recorded August 9, 2004 at Reception No. 2004011959.
38. Terms, conditions, provisions, obligations, easements and agreements as set forth in the Easement Agreement recorded August 2, 2004 at Reception No. 2004011570 and re-recorded August 9, 2004 at Reception No. 2004011957.
39. Any tax, lien, fee or assessment by reason of inclusion of subject property in the Great Western Park Metropolitan District No. 2, as evidenced by instrument recorded March 31, 2009 at Reception No. 2009003714.
40. Easements, notes, covenants, restrictions and rights-of-way as shown on the plat of Great Western Park Filing No. 4, recorded April 6, 2009 at Reception No. 2009004077.
41. Terms, conditions, provisions, obligations and agreements as set forth in the City and County of Broomfield Subdivision Improvement Agreement for Great Western Park Filing No. 4 recorded April 6, 2009 at Reception No. 2009004078 and First Amendment recorded April 3, 2013 at Reception No. 2013004770.
42. Terms, agreements, provisions, conditions and obligations as contained in Resolution No. 2001-14 recorded February 9, 2001 at Reception No. F1182499 (Jefferson County) records.
43. Unrecorded Grazing Lease dated March 15, 2001 by and between Great Western Park project, Lake Powell Land Company, LLC and Charles C. McKay DBA Church Ranch, Church Ranch Cattle Operation.
44. Terms, agreements, provisions, conditions and obligations as contained in Order for Inclusion recorded August 16, 2002 at Reception No. 2002011643 (Broomfield County) records. Order for Exclusion recorded September 29, 2008 at Reception No. 2008011431 (Broomfield County) records, but, subject to Levy of Taxes for payment of its proportionate share of any indebtedness of the District and Interest thereon outstanding immediately prior to the effective date of this Order for Exclusion.
45. Terms, agreements, provisions, conditions and obligations as contained in Great Western Park - Filing No. 4 Site Development Plan recorded April 6, 2009 at Reception No. 2009004079 (Broomfield County) records. Any effects of Excel Energy (Public Service Company) letter recorded November 15, 2012 at Reception No. 2012014904 pertaining to the above item matter.
46. Terms, agreements, provisions, conditions and obligations as contained in Agreement recorded April 6, 2009 at Reception No. 2009004081 (Broomfield County) records.
47. Terms, agreements, provisions, conditions and obligations as contained in Release of



Easement recorded October 16, 2009 at Reception No. 2009013613.

48. Terms, agreements, provisions, conditions and obligations as contained in Agreement Regarding Allocation of Development Costs (Latana) recorded October 3, 2011 at Reception No. 2011010189 and re-recorded October 4, 2011 at Reception No. 2011010252.
49. Terms, agreements, provisions, conditions and obligations as contained in Quitclaim Deed recorded November 19, 2012 at Reception No. 2012015059.
50. Notes and easements as shown on the Plat of Great Western Park Filing No. 4, Replat A recorded April 3, 2013 at Reception No. 4764 in Plat Book 13 at Page 6 and Site Development Plan Amendment recorded April 3, 2013 at Reception No. 2013004767.
51. Terms, agreements, provisions, conditions and obligations as contained in City and County of Broomfield Subdivision Improvement Agreement for Great Western Park Filing No. 4 Replat A and Replat C recorded April 3, 2013 at Reception No. 2013004769.
52. Terms, agreements, provisions, conditions and obligations as contained in Resolution No. 2013-47 recorded July 7, 2013 at Reception No. 2013008146.
53. Terms, agreements, provisions, conditions and obligations as contained in Grant of Ditch Easement recorded August 8, 2013 at Reception No. 2013011673.
54. Terms, agreements, provisions, conditions and obligations as contained in First Amendment to Ditch Agreement recorded August 8, 2013 at Reception No. 2013011638.
55. Terms, agreements, provisions, conditions and obligations as contained in Agreement recorded April 3, 2013 at Reception No. 2013004768.
56. Terms, agreements, provisions, conditions and obligations as contained in Street Light Utility Easement recorded May 16, 2013 at Reception No. 2013007006.
57. Notes and easements as shown on the Plat of Great Western Park - Filing No. 4 recorded April 6, 2009 in Plat Book 9 at Page 19 (Broomfield County) records.
58. Notes and easements as shown on the Plat of Great Western Park - Filing No. 4, Replat C recorded April 3, 2013 at Reception No. 4766 in Plat Book 13 at Page 8.
59. Terms, agreements, provisions, conditions and obligations as contained in Release of Easement recorded May 3, 2013 at Reception No. 2013006473.
60. Terms, agreements, provisions, conditions and obligations as contained in Release of Easement recorded May 3, 2013 at Reception No. 2013006475.

61. Any tax, lien, fee or assessment by reason of inclusion of subject property in the Great Western Park Metropolitan District No. 3, as evidenced by instrument recorded September 22, 2011 at Reception No. 2011009700.
62. Terms, agreements, provisions, conditions and obligations as contained in Ditch Agreement recorded August 8, 2013 at Reception No. 20130011637.
63. An easement for perpetual non-exclusive and incidental purposes granted to Public Service Company of Colorado by the instrument recorded November 19, 2012 at Reception No. 2012015058 upon the terms and conditions set forth in the instrument.
64. Terms, agreements, provisions, conditions and obligations as contained in Public Service Company of Colorado Easement recorded May 16, 2013 at Reception No. 2013007008.