

Recording Requested By, And
When Recorded Mail To:

Shea Homes Limited Partnership
9380 Station Street, Suite 600
Lone Tree, Colorado 80124
ATTN: Legal Department

(Space Above For Recorder's Use)

DECLARATION
FOR
SOLSTICE OWNERS ASSOCIATION, INC.

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**DECLARATION
FOR
SOLSTICE OWNERS ASSOCIATION, INC.**

This Declaration for Solstice Owners Association, Inc. (this "**Declaration**") is made this ^{30th} day of January, 2020, by SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership ("**Declarant**").

ARTICLE I.
GENERAL

Section 1.1 Purposes. This Declaration is executed to constitute the Declaration for Solstice Owners Association, Inc., and is executed pursuant to and in furtherance of a common and general plan (a) to protect and enhance the quality, value, desirability and attractiveness of all property which may become subject to this Declaration; (b) to provide for an association, defined hereinafter as the "Owners Association," as a vehicle to hold title to and maintain the Common Area, as hereinafter defined, for the benefit of owners of property which may become subject to this Declaration; (c) to define duties, powers and rights of the Owners Association; and (d) to define certain duties, powers and rights of owners of property which may become subject to this Declaration with respect to their respective properties, with respect to the Owners Association and with respect to the functions undertaken by the Owners Association.

Section 1.2 Declaration. Declarant, for itself, its successors and assigns, hereby declares that all property which may hereafter be made subject to this Declaration, in the manner hereinafter provided, which property shall thereby constitute Annexed Property for the purposes of this Declaration, and each part of such property, shall, from and after the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, easements, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration for the duration thereof, all of which shall run with the title to such property and be binding upon all parties having any right, title or interest in said property or any part thereof and upon their heirs, personal representatives, successors and assigns and shall inure to the benefit of each party having any such right, title or interest in said property or any part thereof.

Section 1.3 Creation of Common Interest Community Under CCIOA. The Annexed Property shall constitute a common interest community under CCIOA, as hereinafter defined, and as such may be created pursuant to CCIOA only by Recording this Declaration executed in the same manner as a deed, in Douglas County, Colorado, the county in which the entirety of the common interest community is located. The name of the common interest community is "Solstice." Solstice is a "planned community" under CCIOA. The Douglas County Clerk and Recorder is directed to index this Declaration in the Grantee's Index in the name of Solstice and in the name of the Owners Association, and in the Grantor's Index in the name of Declarant.

Section 1.4 Alternative Dispute Resolution. Declarant desires to specify an alternative dispute resolution process for addressing disputes in Solstice that do not involve an imminent threat to the peace, health or safety of Solstice, as encouraged by the Colorado General Assembly and as specified in Section 38-33.3-124 of CCIOA, including a binding arbitration provision for specific situations as provided in Article VIII of this Declaration.

ARTICLE II
DEFINITIONS

Section 2.1 Annexable Area. The “**Annexable Area**” shall mean the real property described in Exhibit A attached hereto. The Annexable Area includes all rights and easements, if any, appurtenant to the real property described in Exhibit A attached hereto. The use and enjoyment of any of such rights and easements by any person shall, from and after the date upon which the portion of the Annexable Area to which such rights and easements are appurtenant has been annexed to this Declaration as hereinafter provided, be subject to the terms and provisions of this Declaration. The Annexable Area may be contracted as provided in Section 7.3 of this Declaration.

Section 2.2 Annexed Property. “**Annexed Property**” shall mean those portions of the Annexable Property which, pursuant to the provisions hereof, have been annexed to this Declaration.

Section 2.3 Annexing Instrument. “**Annexing Instrument**” shall mean, for each particular portion of the Annexable Area, the first to occur of any of (a) the first deed (other than an “Excluded Conveyance,” as hereinafter defined), executed by the Owner of such portion, which shall be Recorded after the Recordation of this Declaration by which title to such portion of the Annexable Area shall be conveyed by such Owner to another party, or (b) another instrument, including, without limitation, an instrument entitled “Supplemental Declaration,” executed by the Owner of such portion, and if such Owner is other than Declarant, containing the executed and acknowledged written consent of Declarant to such instrument, referring to this Declaration and stating that such instrument shall constitute an Annexing Instrument for such portion of the Annexable Area for the purposes of this Declaration; provided, however, that, notwithstanding the foregoing, the term “Annexing Instrument” shall, without limitation, specifically exclude any Excluded Conveyance. “**Excluded Conveyance**” shall mean any of (i) any deed from Declarant to any other party whatsoever unless such deed shall expressly refer to this Declaration and state that such deed shall constitute an Annexing Instrument for the purposes hereof, (ii) any deed from the Owner, other than Declarant, of such portion of the Annexable Area to another party if such deed shall expressly refer to this Declaration and state that such deed shall not constitute an Annexing Instrument for the purposes hereof and, if such Owner is other than Declarant, shall contain the executed and acknowledged written consent of Declarant that such deed shall not constitute an Annexing Instrument for the purposes hereof, or (iii) any deed, subdivision plat dedication or other conveyance instrument conveying title to any portion of the Annexable Area by Declarant to any governmental or quasi-governmental entity, including, but not limited to, the County of Douglas, Colorado, the State of Colorado, or any subdivision thereof, or the Metropolitan District, unless such deed, subdivision plat, subdivision plat dedication or other conveyance instrument shall expressly refer to this Declaration and state that such deed, subdivision plat dedication or other conveyance instrument shall constitute an Annexing Instrument for the purposes hereof.

Section 2.4 Articles of Incorporation. “**Articles of Incorporation**” shall mean the Articles of Solstice Owners Association, Inc., a Colorado nonprofit corporation, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

Section 2.5 Assessment. “**Assessment**” shall mean a Common Assessment, a Special Assessment or a Reimbursement Assessment, as those terms are hereinafter defined, or any other assessment or fee levied by the Owners Association in accordance with this Declaration.

Section 2.6 Assessment Units. “**Assessment Units**” are numerical figures assigned to each Lot to fix the proportionate share of the Assessments (other than Reimbursement Assessments) levied by the Owners Association to be borne by the Owner of such Lot pursuant to Section 5.9. Each Lot shall be

assigned 1.0 Assessment Units regardless of the size, value, location or use of such Lot or the Improvements located thereon.

Section 2.7 Association. The “**Association**” or “**Owners Association**” shall mean Solstice Owners Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The Owners Association is an “association” and a “unit owners association” as defined in CCIOA.

Section 2.8 Board of Directors. The “**Board of Directors**” or “**Board**” shall mean the Board of Directors of the Owners Association. The Board of Directors is an “executive board” as defined in CCIOA.

Section 2.9 Bylaws. “**Bylaws**” shall mean the Bylaws of the Owners Association which have been or will be adopted by the Board of Directors of the Owners Association, as the same may be amended from time to time.

Section 2.10 CCIOA. “**CCIOA**” shall mean the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as the same has been, and hereafter may be, amended and/or replaced from time to time.

Section 2.11 Common Area. “**Common Area**” shall mean the real property and Improvements, including without limitation The Highline House, comprised of the real property described on the attached Exhibit B as such Exhibit may be supplemented, amended or modified from time to time, and any easements granted to the Owners Association or established for the general benefit of or as appurtenant generally to the Annexed Property, and any other real property and Improvements conveyed to the Association and designated as Common Area in such conveyance.

Section 2.12 Common Assessment. “**Common Assessment**” shall mean the Assessments made for the purpose of covering the portion of the annual costs of operating the Owners Association, including expenses incurred in connection with any authorized or required function of the Owners Association, which are to be paid by each Owner to the Owners Association for purposes as provided herein and charged to such Owner and to the Lot of such Owner.

Section 2.13 Common Household Group. “**Common Household Group**” shall mean one or more natural Persons, each related to the other by blood, marriage or legal adoption, or a group of not more than five (5) such Persons not all so related, together with his or their domestic servants, all of whom maintain a common household in a Residence on a Lot within the Annexed Property.

Section 2.14 Declarant. “**Declarant**” shall mean Shea Homes Limited Partnership, a California limited partnership, and its successors and assigns as the terms “successors and assigns” are herein limited. A party shall be deemed a “successor or assign” of Declarant only if specifically designated in a written and duly recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor or assign of Declarant under this Declaration only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument except that a party acquiring all or substantially all of the right, title and interest of Declarant in the Annexable Area by merger or consolidation or by foreclosure, judicial sale, bankruptcy proceedings or by other similar involuntary transfer, shall automatically be deemed a successor and assign of Declarant under this Declaration.

Section 2.15 Declaration. “**Declaration**” shall mean this Declaration, as the same may be amended and/or replaced from time to time. As and to the extent as provided in CCIOA, the Plat is a part of this Declaration.

Section 2.16 First Security Interest. “**First Security Interest**” shall mean a Security Interest, as hereinafter defined, that has priority of Record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments) and except as otherwise provided in this Declaration.

Section 2.17 First Security Interest Holder. “**First Security Interest Holder**” shall mean the Security Interest Holder of a First Security Interest.

Section 2.18 Improvements. “**Improvements**” shall mean all structures and any appurtenances thereto of every type or kind, including buildings, drainage systems, outbuildings, swimming pools, patio covers, awnings, pergolas, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, bicycle and/or equestrian trails, sprinkler pipes, utility lines, facilities and appurtenances, satellite dishes, antennae, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, patios, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs (but excluding any plant materials installed in any separate removable pot), poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures.

Section 2.19 Lot. “**Lot**” shall mean each lot within the Annexed Property as shown on the Plat. Each Lot constitutes a “unit” for purposes of CCIOA. The boundaries of each Lot within the Annexed Property as a unit under CCIOA are as shown on the Plat. The identifying number of each such Lot within the Annexed Property as a unit under CCIOA is the Lot number for the respective Lot as shown on the Plat. Any instrument affecting a Lot may legally describe it by the identifying number of such Lot as shown on the Plat, and any conveyance or other instrument affecting title to a Lot or any part thereof so describing such Lot shall be deemed to include and describe the entire Lot including the appurtenant interest in all of the rights or Restrictions benefiting or burdening such Lot under the terms of this Declaration.

Section 2.20 Manager. “**Manager**” shall mean any one or more Persons employed by or connected with the Owners Association who is engaged to perform any of the duties, powers or functions of the Owners Association.

Section 2.21 Member; Membership. “**Member**” shall mean the Person, or if more than one, all Persons collectively, who constitute the Owner of a Lot hereunder. “**Membership**” shall mean the rights and obligations associated with being a Member.

Section 2.22 Metropolitan District. “**Metropolitan District**” shall mean Mirabelle Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, its successors and assigns.

Section 2.23 Notice and Hearing. “**Notice and Hearing**” shall mean a written notice and a public hearing before the Board of Directors of the Owners Association or a tribunal appointed by the Board, in the manner provided in the Bylaws of the Owners Association.

Section 2.24 Other Association. “**Other Association**” shall mean any association of Owners created by a Principal Builder which encumbers a portion of the Annexed Property and whose members consist of less than all of the Owners of Lots which are subject to this Declaration.

Section 2.25 Owner. “**Owner**” shall mean the owner, or if more than one, all owners collectively, of fee simple title to a Lot, from time to time, and its or their successors and assigns.

Section 2.26 Period of Declarant Control. “**Period of Declarant Control**” shall mean the period of time commencing on the date of Recordation of this Declaration and expiring twenty years thereafter; provided, however, that the Period of Declarant Control shall terminate no later than: (a) 60 days after conveyance of 75% of the Units that May Be Created to Owners other than Declarant; (b) 2 years after the last conveyance of a Lot by Declarant in the ordinary course of business; or (c) 2 years after any right to add new Lots to this Declaration was last exercised; provided, however, that, if the Period of Declarant Control has not theretofore terminated pursuant to the foregoing provisions, the Period of Declarant Control shall in any case terminate on the date upon which all property in the Annexable Area has become part of the Annexed Property and the last Lot within the Annexed Property has been sold and conveyed by Declarant.

Section 2.27 Period of Special Declarant’s Rights. “**Period of Special Declarant’s Rights**” shall mean the period of time commencing on Recordation of this Declaration and expiring on the earlier of: (a) 10 years after substantial completion of the community described by this Declaration, including, without limitation, the Residences thereon; or (b) 30 years after the date of Recordation of this Declaration. Declarant may earlier terminate the Period of Special Declarant’s Rights in whole or in part as to any one or more of the rights of the Declarant hereunder which are effective during the Period of Special Declarant Rights, and as to the entirety of the Annexed Property or a portion thereof specified by Declarant, by written notice given by Declarant to the Owners Association.

Section 2.28 Person. “**Person**” means a natural person, a corporation, a limited liability company, a partnership, an association, a trust, a joint venture, or any other entity recognized under the laws of the State of Colorado, or any combination thereof.

Section 2.29 Plat. “**Plat**” shall mean Solstice Filing No. 1, according to the plat thereof recorded January 18, 2019, at Reception No. 2019002975, County of Douglas, State of Colorado, together with all other subdivision plats for any portion of the Annexed Property which may be recorded from time to time, as all of the same may be amended from time to time. The Plat constitutes a “plat” pursuant to CCIOA.

Section 2.30 Principal Builder. “**Principal Builder**” shall mean an Owner that (a) acquires one or more Lots for the purpose of construction of a Residence thereon for resale to the ultimate purchaser thereof and (b) is designated by the Declarant as a “Principal Builder” in a Recorded writing.

Section 2.31 Register of Addresses. “**Register of Addresses**” shall mean the register of addresses of each Owner and certain other Persons which the Owners Association is required to maintain pursuant to Section 6.16.

Section 2.32 Related User. “**Related User**” shall mean any member of the Common Household Group of an Owner who resides with such Owner; guests and invitees of an Owner; employees of an Owner; and occupants, tenants and contract purchasers residing in a Residence of an Owner who claim by, through, or under an Owner.

Section 2.33 Residence. “**Residence**” shall mean a residential building designed for occupancy by a Common Household Group on a Lot, including a garage on such Lot, but excluding any permitted accessory building.

Section 2.34 Restrictions. “**Restrictions**” shall mean covenants, conditions, restrictions, easements, limitations, reservations, exceptions and equitable servitudes affecting real property.

Section 2.35 Security Interest. “**Security Interest**” shall mean an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation and which encumbers any portion of the Annexed Property. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Owners Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 2.36 Security Interest Holder. “**Security Interest Holder**” shall mean any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest, or the current holder of, or any other successor to the interest of any such Person under, such Security Interest, and shall include for the purposes of Section 9.7 only, any insurer or guarantor of any Security Interest.

Section 2.37 Sound Easement Benefitted Property. “**Sound Easement Benefitted Property**” shall mean the Common Area. The Sound Easement Benefitted Property is benefitted by the Sound Easement pursuant to the provisions of Section 3.4 hereof.

Section 2.38 Supplemental Declaration. “**Supplemental Declaration**” shall mean a declaration executed by either the Declarant or a Principal Builder which establishes additional provisions governing and encumbering a portion of the Annexable Area owned by the Declarant or Principal Builder, as applicable. Any Supplemental Declaration shall comply with the requirements of Section 6.27.

Section 2.39 The Highline House. “**The Highline House**” shall mean a portion or portions of the Annexable Area which may be described as The Highline House in an Annexing Instrument annexing additional property to the Annexed Property, upon which Declarant may, but shall not be required to, from time to time construct facilities of such nature and design as may be determined by Declarant in its sole discretion. The Highline House shall be owned by the Owners Association, subject, however, to Declarant’s right to use the same from time to time as is more particularly provided in Section 7.5 and the rules and regulations adopted by the Owners Association.

Section 2.40 Units that May Be Created. “**Units that May Be Created**” means one thousand three hundred fifty (1,350) Lots, which is the maximum number of Lots that may be subject to this Declaration if all of the Annexable Area were to become part of the Annexed Property. However, the aforesaid number of Units that May Be Created is not a representation or guarantee by Declarant, and Declarant shall not otherwise have any obligation, as to the actual number of Lots that will ultimately be included in or constructed as part of the Annexed Property, provided that in no case may more than one thousand three hundred fifty (1,350) Lots, or such greater number of Lots that may be created pursuant to CCIOA, be made a part of the Annexed Property.

ARTICLE III VARIOUS RIGHTS AND EASEMENTS

Section 3.1 Association Easements. Declarant hereby expressly creates and grants to the Owners Association, for the benefit of the Owners Association, its designees, successors and assigns, the following easements:

(a) Easements for Encroachments. If any portion of the Common Area encroaches upon a Lot, whether as a result of construction of any Improvements (including, without limitation, as a result of architectural design or errors in construction) by Declarant, reconstruction or repair of any Improvements made in accordance with the provisions of this Declaration, or shifting, settlement, or

movement of any of such Improvements, a valid non-exclusive easement for the encroachment and for the maintenance of the same shall exist for so long as such Common Area exists.

(b) Easement to Perform Duties and Functions. The Owners Association shall have non-exclusive easements over and across each Lot as may be necessary or appropriate for the Owners Association to perform duties and functions which it is obligated or permitted to perform, and to exercise rights and remedies which it is entitled or obligated to exercise, under this Declaration, including, without limitation, the use, enjoyment, maintenance, repair, and replacement of any portion of Common Area, and for access, ingress and egress necessary for any such use, enjoyment, maintenance, repair and replacement.

(c) Utility Easements. “**Utility Easements**” shall mean non-exclusive easements for the installation, construction, use, operation, maintenance, repair, replacement and restoration of lines and facilities and related equipment and appurtenances for utility purposes, including, but not limited to, water, sanitary sewer, storm drainage, gas, electricity, telephone, cable television and other telecommunication services. The Owners Association shall have Utility Easements over, across, under and through the Common Area and the right to release or to grant use of the Utility Easements to utility companies and governmental authorities or public agencies, all as shall be necessary for the proper development and operation of the Common Area.

(d) Association Maintenance Easements. “**Association Maintenance Easements**” shall mean non-exclusive easements over, across, under and through each of the Lots (excluding any portion of the Lot occupied by a Residence) as may be necessary or appropriate for the Owners Association to perform the duties and obligations which it is obligated or permitted to perform, and to exercise rights and remedies which it is entitled to exercise, pertaining to the Common Area, under this Declaration, including, without limitation, the use, enjoyment, maintenance, repair and replacement of the Common Area, and for access, ingress and egress necessary for any such use, enjoyment, maintenance, repair or replacement. From and after the date of this Declaration, the Owners Association shall have the Association Maintenance Easements over, across, under and through each of the Lots, and each such Association Maintenance Easement is hereby designated as a part of the Common Area hereunder.

Section 3.2 General Owner Easements. Declarant hereby expressly creates and reserves for the benefit of each Lot, and for the benefit of the Owner of such Lot, the following easements:

(a) Easements for Encroachments. If any portion of the Residence on a Lot or fixtures or equipment installed in connection therewith, including, without limitation, any eaves, roof overhangs, roof support improvements and other architectural features, air conditioning condensers and related equipment, encroaches upon an adjoining Lot or adjoining Common Area, whether as a result of construction of any Improvements (including, without limitation, as a result of architectural design or errors in construction) by Declarant, reconstruction or repair of any Improvements made in accordance with the provisions of this Declaration, or shifting, settlement, or movement of any of such Improvements, a valid non-exclusive easement for the encroachment and for the maintenance of the same (each an “**Encroachment Easement**”) shall exist for so long as such Residence, fixtures or equipment, as the case may be, exists.

(b) Owners’ Rights to Use Common Area. Non-exclusive easements over and across the Common Area for the use and enjoyment of the Common Area for the purposes for which the Common Area are intended and designed to be used and enjoyed, by the Owner of any Lot, and the Related Users of such Owner, subject to the provisions of this Declaration and the rules and regulations adopted by the Owners Association, provided there is no hindrance or encroachment upon the rights of other Owners and their Related Users to the use and enjoyment of the Common Area.

Section 3.3 Declarant Easements. Declarant hereby expressly creates and reserves for the benefit of itself, its designees, successors and assigns, the following easements:

(a) Construction of Improvements on Common Area. If Declarant, at the time any tract, easement or other property constituting a part of the Common Area is conveyed, or created and granted, by Declarant, or caused to be conveyed, or created and granted, by Declarant, to the Owners Association, has not installed Improvements intended by Declarant to be installed therein or thereon or that may be required by a governmental authority having jurisdiction to be installed therein or thereon, the Declarant, for itself, its designees, successors and assigns, excepts, reserves and shall have a non-exclusive easement in, over and across such tract, easement or other property constituting a part of Common Area as may be necessary for the installation or construction of any such Improvements therein or thereon.

(b) Utility Easement. Declarant hereby creates, excepts and reserves to Declarant, its designees, successors and assigns, Utility Easements over, across, under and through the Common Area, and until the expiration of the Period of Special Declarant Rights, the right to release or to grant use of the Utility Easements to utility companies and public agencies, all as shall be necessary for the proper development and operation of the Annexable Area.

Section 3.4 Sound Easement.

(a) Purpose of Sound Easement. Declarant, the Owners Association, the Members of the Owners Association and other Persons may use the Common Area for social, cultural, entertainment, athletic and other events, all of which may produce sound or noise, such as, without limitation, noise and live or recorded music generated over sound amplification systems, which may be audible over the Annexed Property. Declarant desires to create and reserve an easement to permit the emission of sounds from the Sound Easement Benefitted Property over and across the Annexed Property, all as is more particularly hereinafter provided.

(b) Creation of Sound Easement. Declarant hereby creates and reserves a perpetual nonexclusive easement (the "**Sound Easement**") for the purpose of the transmission of sounds and noise over and across the Annexed Property, and each portion thereof, which may be emitted from time to time from the Sound Easement Benefitted Property, or any portion thereof, by any means in connection with any event, function or other use of the Sound Easement Benefitted Property or any portion thereof (including, without limitation, noise and any live or recorded music emitted from sound systems used within or without any building located on any portion of the Sound Easement Benefitted Property). The Sound Easement shall be for the benefit of the Sound Easement Benefitted Property, and for the benefit of the owner or owners of all or any portion thereof from time to time, and such owner's tenants, licensees, guests, servants, invitees, successors and assigns, and shall be appurtenant to, for the benefit of, and run with title to the Sound Easement Benefitted Property, and each portion thereof.

(c) Permitted Sounds Not a Public Nuisance. The sounds and noise which may be emitted from time to time from the Sound Easement Benefitted Property pursuant to the Sound Easement shall conclusively be deemed not to be a public or private nuisance. To the extent that any law, ordinance, rule, regulation, judicial decision or statute of Douglas County, the State of Colorado, the United States or any other governmental entity having jurisdiction (including, but not limited to, the Colorado Noise Abatement Act of 1971, C.R.S. Section 25-12-101, et seq., and any amendment or successor statute thereto), shall impose any type of regulation or restriction on the level, quality or type of sound or noise which may be emitted from the Sound Easement Benefitted Property which is more restrictive of the level, type or quality of sounds or noise which, pursuant to the Sound Easement, are permitted to be emitted over and across the Annexed Property from the Sound Easement Benefitted

Property, then the owner of the Annexed Property, and each portion thereof, and such owner's successors and assigns, shall conclusively be deemed to have waived the right to bring an action or proceeding to enforce, or otherwise to rely upon or enforce, the terms or restrictions contained in any such law, ordinance, rule, regulation, judicial decision or statute in such a manner as shall preclude or restrict the sounds which may be emitted from the Sound Easement Benefitted Property pursuant to the Sound Easement.

(d) Amendment and Termination. Notwithstanding any other provisions of this Declaration, the terms and provisions of this Section 3.4 may be amended at any time, in whole or in part, effective upon the execution and recordation in the Douglas County Records of a written instrument setting forth such amendment executed by the then current owner or owners of the Sound Easement Benefitted Property, and those portions of the Annexed Property which are affected by such amendment, and the execution or consent of no other party shall be required. Notwithstanding any other provisions of this Declaration, this Section 3.4 may be terminated at any time, in whole or in part, effective upon the execution and recordation in the Douglas County Records of a written instrument stating that this Section 3.4 and the Sound Easement created hereby is terminated by the then current owner or owners of each portion of the Sound Easement Benefitted Property, and the execution or consent of no other party shall be required.

Section 3.5 Easements Deemed Appurtenant. The easements and rights hereinabove created shall be binding upon and inure to the benefit of the party to whom the same is granted or reserved as provided above, and all conveyances of and other instruments affecting title to the Annexed Property, or any portion thereof, shall be deemed to grant and reserve the easements and rights as are provided for herein, even though no specific reference to such easements appears in any such conveyance. The easements and rights hereinabove created for the benefit of the Owners Association, Owners, the owner or owners of the Sound Easement Benefitted Property, the Declarant or any other Person as hereinabove provided shall be binding upon and inure to the benefit of the party to or for whom the same is granted or reserved as provided above, and all conveyances of and other instruments affecting title to a Lot or Common Area shall be deemed to grant and reserve such easements and rights as are provided for herein, even though no specific reference to such easements appears in any such conveyance.

ARTICLE IV HOMEOWNERS ASSOCIATION

Section 4.1 Owners Association. The Owners Association has been or will be formed as a Colorado corporation under CCIOA and the Colorado Revised Nonprofit Corporation Act. The Owners Association shall have the duties, powers and rights set forth in CCIOA, in this Declaration and in the Articles of Incorporation and Bylaws of the Owners Association and otherwise as may be provided under applicable law.

Section 4.2 Owners Association Board of Directors. The affairs of the Owners Association shall be managed by a Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Articles of Incorporation and Bylaws of the Owners Association. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Owners Association or to agents and employees of the Owners Association but such delegation of authority shall not relieve the Board of Directors of the Owners Association of the ultimate responsibility for management of the affairs of the Owners Association. Action by or on behalf of the Owners Association may be taken by the Board of Directors of the Owners Association or any duly authorized executive committee, officer, agent or employee without a vote of Members of the Owners Association, except as otherwise specifically provided in this Declaration. Notwithstanding anything to the contrary, the Board of Directors, acting on behalf of the Owners Association, shall comply with all

maintenance manuals, if any, given by the Declarant to the third-party professional community manager, managing agent, and/or the Board of Directors or the Owners Association, including those regarding maintenance, repair and/or replacement of any portion of the Annexed Property or any Improvements therein. Further, the Board of Directors shall cooperate, at no cost or expense to the Board of Directors, with all inspections that may be undertaken by or at the request of the Declarant, on or with respect to the Annexed Property and Improvements therein.

Section 4.3 Membership in the Owners Association. Each Owner of a Lot within the Annexed Property shall be a Member of the Owners Association. There shall be one such Membership in the Owners Association for each Lot within the Annexed Property. The Person or Persons who constitute the Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and the Membership appurtenant thereto shall automatically pass with fee simple title to the Lot. No Member shall, however, be entitled to resign his or her Membership. Declarant shall hold a Membership in the Owners Association for each Lot owned by Declarant and Declarant shall have the rights and obligations applicable to the Owners and Members hereunder with respect to each Lot owned by Declarant. Membership in the Owners Association shall not be assignable separate and apart from fee simple title to a Lot except that an Owner may assign some or all of his rights as an Owner and as a Member of the Owners Association to a tenant or Security Interest Holder and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but in so doing no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration. In the event a Lot is resubdivided into two or more Lots, each Lot existing after such resubdivision shall be entitled to one Membership in the Owners Association.

Section 4.4 One Class of Membership; Voting Rights of Members. The Owners Association shall have one class of voting membership. Each Owner shall be entitled to one vote for each Lot owned, except that no votes allocated to a Lot owned by the Owners Association may be cast. 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 Annexed Property. Unless otherwise addressed in this Declaration or the Articles of Incorporation for the Owners Association, the Bylaws of the Owners Association shall provide for the manner, time, place, conduct and voting procedure(s) for Member meetings; provided, however, that cumulative voting by Members in the election of Directors shall not be permitted. During the Period of Declarant Control, the Declarant or Persons appointed by the Declarant shall have the right to appoint officers and members of the Board of Directors of the Owners Association, and to remove all officers and members of the Board of Directors which have been appointed by the Declarant, as more particularly provided in Section 4.5.

Section 4.5 Declarant's Right to Appoint During Period of Declarant Control. From and after the date of Recordation of this Declaration until the date which is 60 days after the date of conveyance by Declarant of 25% of the Units that May Be Created to Owners other than Declarant, the Declarant or Persons designated by the Declarant may appoint and remove all officers and members of the Board of Directors of the Owners Association. From and after the date which is 60 days after the date of conveyance by Declarant of 25% of the Units That May Be Created to Owners other than Declarant until the date which is 60 days after the date of conveyance by Declarant of 50% of the Units That May Be Created to Owners other than Declarant, the Owners other than Declarant shall have the right to elect a number of the members of the Board of Directors of the Owners Association equal to the greater of one or 25% (rounded up or down to the nearest whole number) of the total number of the members of the Board of Directors, and the Declarant or Persons designated by Declarant may appoint and remove all officers and all other members of the Board of Directors. From and after the date which is 60 days after the date of conveyance by Declarant of 50% of the Units That May Be Created to Owners other than Declarant until the date of termination of the Period of Declarant Control, the Owners other than Declarant shall have the right to elect a number of the members of the Board of Directors of the Owners Association

equal to the greater of one or 33% (rounded up or down to the nearest whole number) of the total number of the members of the Board of Directors, and the Declarant or Persons designated by the Declarant may appoint and remove all officers and all other members of the Board of Directors. From and after the date of termination of the Period of Declarant Control, the Owners, including Declarant (if Declarant is then an Owner), shall elect a Board of Directors of the Owners Association of at least three members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. The Declarant may voluntarily surrender any or all of the foregoing rights to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Owners Association Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE V ASSESSMENTS, BUDGETS AND FUNDS

Section 5.1 Maintenance Funds to be Established. The Owners Association shall establish and maintain at least the following separate Maintenance Funds: (a) an Operating Fund; and (b) a Reserve Fund. Each of the Maintenance Funds shall be established either as one or more trust savings or trust checking accounts at any financial institution in which deposits are insured by an agency of the federal government, or as such other form of accounts and at such other institutions or in such other investment vehicles as the Board of Directors may determine, subject, however, to the applicable requirements, if any, of applicable law or any Government Mortgage Agency. The Reserve Fund shall, without limitation, include funds, at a minimum, to cover the deductible amounts of casualty insurance carried by the Owners Association pursuant to Section 6.5.

Section 5.2 Establishment of Other Funds. The Owners Association may establish other funds as and when needed and nothing herein shall limit, preclude or impair the authority of the Owners Association to establish other funds for specified purposes authorized by this Declaration. If the Owners Association establishes any additional funds, the Board of Directors of the Owners Association shall designate an appropriate title for the fund to distinguish it from the other funds maintained by the Owners Association.

Section 5.3 Deposits of Common Assessments to Maintenance Funds. Monies received by the Owners Association from Owners Association Common Assessments shall be deposited in the Maintenance Funds in accordance with the Owners Association Budget for the year.

Section 5.4 Other Deposits to Maintenance Funds. The Owners Association shall deposit monies received by the Owners Association from sources other than Common Assessments in the Maintenance Fund determined by the Board of Directors of the Owners Association to be most appropriate.

Section 5.5 Disbursements from Maintenance Funds. All amounts deposited in the Maintenance Funds shall be used solely for the common benefit of all the Members for purposes authorized by this Declaration. Disbursements from particular Maintenance Funds shall be limited to specified purposes as follows: (a) disbursements from the Operating Fund may be made for any purposes as are necessary or proper under this Declaration, except those purposes for which disbursements are to be made from the Reserve Fund; and (b) disbursements from the Reserve Fund shall be made solely for purposes of funding those functions which cannot be expected to recur on an annual or more frequent basis and for the purposes of repairs, replacements, and other restorative work.

Section 5.6 No Commingling of Maintenance Funds. The Owners Association shall not commingle any amounts deposited in any one Maintenance Fund or other fund with amounts deposited in any other Maintenance Fund or other fund.

Section 5.7 Authority for Disbursements. The Board of Directors of the Owners Association shall have the authority to make or to authorize an agent to make disbursements of any monies in the Maintenance Funds.

Section 5.8 Common Assessments. For each Fiscal Year, as hereinafter defined, the Owners Association shall levy Common Assessments against Owners of the Lots within the Annexed Property. Each Owner shall be obligated to pay the Common Assessments levied against, and allocated to, such Owner and the Lot of such Owner as hereinafter more particularly set forth. Common Assessments for a particular Fiscal Year shall be in an amount anticipated by the Board of Directors which is sufficient to cover the costs and expenses incurred or to be incurred by the Owners Association during such Fiscal Year to perform its duties and obligations hereunder as set forth in the Budget for that Fiscal Year.

Section 5.9 Apportionment of Common Assessments. The amount of the Common Assessments, payable by an Owner for the Lot of such Owner, for the first Fiscal Year of the Owners Association shall be in the annual amount set forth in Section 5.10. The amount of the Common Assessments for any Fiscal Year commencing with the second Fiscal Year of the Owners Association, payable by an Owner for the Lot of such Owner, shall be computed by multiplying the total amount to be raised by Common Assessments for that Fiscal Year, as shown in the Owners Association Budget for that Fiscal Year, by a percentage (rounded to the nearest one-tenth of one percent (0.1%)), derived from a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots (i.e., Assessment Units) in the Annexed Property as of the first day of that Fiscal Year; provided, however, that the amount of the Common Assessments, payable by an Owner for the Lot of such Owner, for the initial Fiscal Year in which Common Assessments shall first become payable for such Lot pursuant to Section 5.12, shall be in an amount determined at the same rate per Lot (i.e., per Assessment Unit) as has been established for such initial Fiscal Year pursuant to the provisions of this Section, with the annual amount of Common Assessments for such Lot for such initial Fiscal Year prorated based on the number of months of such Fiscal Year for which such Common Assessments shall be payable for such Lot.

Section 5.10 Initial Common Assessments. Until the effective date of the first Budget not vetoed by the Owners with a different amount for the Common Assessments, as provided below, the annual amount of Common Assessments for a particular Lot shall be One Thousand Two Hundred Sixty and No/100ths Dollars (\$1,260) per year. If the first Fiscal Year of the Owners Association commences on a date other than January 1, then the amount of Common Assessments payable for any particular Lot for such first Fiscal Year shall be prorated based on the number of months of such first Fiscal Year for which such Common Assessments shall be payable for such Lot.

Section 5.11 Annual Budgets. The Board of Directors of the Owners Association shall cause to be prepared and shall adopt, at least sixty (60) days prior to the commencement of each fiscal year of the Owners Association (“**Fiscal Year**”), a budget (the “**Budget**”) for such Fiscal Year. The Fiscal Year of the Owners Association shall begin on January 1 and end the succeeding December 31 except that the first Fiscal Year shall begin on the date of incorporation of the Owners Association. The Fiscal Year may, however, be changed from time to time by the Board of Directors without the approval of Members and without amending this Declaration or the Bylaws of the Owners Association. The Budget shall show, in reasonable detail, the categories of expenses and shall reflect any expected income of the Owners Association for the coming Fiscal Year and any expected surplus from the prior Fiscal Year. The Budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish or add to a fund for major capital repairs, replacements and Improvements (“**Reserve**

Fund). Within ninety (90) days after adoption of any proposed Budget (other than the Budget for the initial Fiscal Year of the Owners Association), the Board of Directors of the Owners Association shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to all the Owners and shall set a date for a meeting of the Owners to consider the Budget, which date shall be within a reasonable time after mailing or other delivery of such summary of the Budget, or as may be allowed or required in the Bylaws, and shall give notice to the Owners of such meeting as allowed for in the Bylaws. The Budget adopted by the Board of Directors does not require approval from the Owners and, unless at a meeting the Owners casting at least sixty-seven percent (67%) of the Owners Association votes veto the Budget, the Budget will be deemed approved by the Owners, whether or not a quorum is present. In the event that the proposed Budget is vetoed by the Owners, the periodic Budget last not vetoed by the Owners, or in the case of the initial Fiscal Year of the Owners Association, the Budget as approved by the Board of Directors using the initial amount of Common Assessments established pursuant to Section 5.10, shall be continued until such time as a subsequent Budget proposed by the Board of Directors is not vetoed by the Owners. The Board of Directors may revise the Budget then in effect and adjust the rate of Association assessments provided for therein any time during the period covered by such Budget, subject to the same notice requirements and veto right by the Owners set forth above in this Section 5.11.

Section 5.12 Commencement of Common Assessments. Until the Owners Association initially levies a Common Assessment, Declarant shall pay all common expenses of the Owners Association. Common Assessments of the Owners Association shall, subject to Section 5.20, commence as to each Lot within a newly annexed portion of the Annexed Property on the first day of the first month following the date of Recordation of the Annexing Instrument for such Lot. The Common Assessments for the then current Fiscal Year shall be prorated for such Lot on the basis of the number of months in such Fiscal Year remaining from the date of commencement of such Common Assessments to the end of such Fiscal Year.

Section 5.13 Payments of Assessments. Common Assessments shall be due and payable in advance to the Owners Association by the assessed Member in such manner and on such dates as the Board of Directors of the Owners Association may designate, in its sole and absolute discretion; provided, however, that in no event shall the Board of Directors of the Owners Association require payment of Common Assessments more than once each calendar month; provided further, however, that if and to the extent, and during such periods of time as, a Government Mortgage Agency holds, insures or guarantees any Security Interest encumbering any Lot within the Annexed Property and such Government Mortgage Agency requires that Common Assessments be payable monthly, Common Assessments shall be payable monthly. Notice of the amount of the Common Assessments shall be given to each Member prior to the first day of each Fiscal Year.

Section 5.14 Failure to Fix Assessment. The failure by the Board of Directors of the Owners Association to levy an Assessment for any Fiscal Year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent Fiscal Year. In the event of such failure, the amount of Common Assessments for the immediately preceding period shall continue in effect until a new amount has been established as provided in this Declaration. No abatement of Common Assessments or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to any Common Area, from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

Section 5.15 Special Assessments for Capital Expenditures. In addition to Common Assessments, the Board of Directors may, subject to the provisions of this Section, levy special assessments for the purpose of raising funds, not otherwise provided under the Budget from Common

Assessments, to construct or reconstruct, repair or replace Improvements upon any Common Area, including the costs of necessary personal property related thereto or to provide for necessary facilities and equipment to offer the services authorized in this Declaration (“**Special Assessments**”). The Board of Directors shall not levy Special Assessments without the vote of Members of the Owners Association representing at least two-thirds (2/3) of the voting power residing in the Owners of Lots subject to the Special Assessments (exclusive of the voting power exercisable by Declarant) and, during the Period of Declarant Control, with the consent of Declarant. Special Assessments for Improvements shall be levied solely on the basis of, and in proportion to, the Assessment Units attributable to Lots of the Members. The Owners Association shall notify Members in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable and the Members shall pay any such Special Assessment in the manner so specified.

Section 5.16 Reimbursement Assessments. The Board of Directors of the Owners Association may, subject to the provisions hereof, levy an Assessment against any Member of the Owners Association if the willful or negligent failure of the Member or a Person claiming through the Member to comply with this Declaration, the Articles of Incorporation, or the Bylaws of the Owners Association or rules and regulations adopted by the Owners Association shall have resulted in the expenditure of funds to cause such compliance, or as may otherwise expressly be permitted pursuant to the provisions of this Declaration. Such Assessments shall be known as “**Reimbursement Assessments**” and shall be levied only after Notice and Hearing as defined in this Declaration. The amount of the Reimbursement Assessments shall be due and payable to the Owners Association thirty (30) days after notice to the Member of the decision of the Board of Directors of the Owners Association that the Assessment is owing.

Section 5.17 Association Funding by Declarant. The Declarant (in addition to paying any assessments to the Association required to be paid by Declarant as the Owner of a Lot) may, but shall not be required to, cover certain Association costs, fees, and other amounts, by payment from time to time of any amount(s), as determined by Declarant in its sole discretion, which shall constitute a loan or loans from the Declarant to the Association, with such loan(s) to be repaid by the Association to the Declarant, without interest, as may be determined by the Declarant; provided, however, that the portion of any such loans which have not been repaid to the Declarant shall constitute advances (and may be offset by Declarant) against amounts (including, without limitation, assessments) then or thereafter due to the Association from the Declarant pursuant to this Declaration or otherwise in connection with the community governed by this Declaration. If the Declarant elects to loan any amounts as provided in this Section, Declarant shall not, under any circumstances, be obligated to continue loans, payment or funding of any amount(s) in the future.

Section 5.18 Late Charges and Interest. If any Assessment or any installment thereof is not paid within twenty-five (25) days after it is due, the Member obligated to pay the Assessment may be required to pay a reasonable late charge to be determined by the Board of Directors of the Owners Association. Any Assessment or installment of an Assessment which is not paid within twenty-five (25) days after the date of any Notice of Default given under Section 5.21 and prior to the Recordation of Notice of Lien under Section 5.24 hereof shall bear interest from the date such Assessment became due and payable until paid or satisfied at the highest rate then established by statute in Colorado for interest on damages for personal injury or on judgments in other actions, whichever is higher, but in no event less than eight percent (8%) per annum simple interest (unless required by the provisions of applicable law to be less, in which case the highest amount permissible under such provisions of applicable law shall constitute the applicable rate) and not more than twenty-one percent (21%) per annum simple interest.

Section 5.19 Surplus Funds. Any surplus funds of the Owners Association remaining after payment of or provision for common expenses and any prepayment of or provision for reserves, may, at

the option of the Board of Directors, be retained by the Owners Association as reserves and need not be paid to the Members in proportion to their Common Assessment liability or credited to them to reduce their future Common Assessments.

Section 5.20 Working Capital Contribution. “**Working Capital Contribution**” shall mean funds which shall be collected by Declarant or the Owners Association and used to meet unforeseen expenditures or to purchase equipment, property or services. The Working Capital Contribution shall be funded by a non-refundable contribution for each Lot within the Annexed Property in an amount equal to two (2) times the current monthly installment of the Common Assessments (regardless of whether or not Common Assessments have commenced as provided in Section 5.12) payable for such Lot. The Working Capital Contribution shall be funded by the contribution of the first Owner (other than Declarant) of any Lot who purchases that Lot from Declarant and shall be collected and transferred to the Owner’s Association upon the later of (i) at the time of conveyance of the Lot by Declarant to such Owner, or (ii) the date upon which such Lot shall become annexed to this Declaration. Such contribution to the Working Capital Contribution shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the transfer of a Member’s Lot, nothing herein shall preclude a Member from reaching an agreement with his transferee for such transferee to reimburse such Member for the aforesaid contribution to such Working Capital Contribution theretofore paid by such Member either to the Owners Association or to the Person from whom such Member acquired such Lot. Nothing herein shall, however, obligate the Owners Association to refund to any such Member any such contribution to the Working Capital Contribution theretofore paid to the Owners Association for such Member’s Lot.

Section 5.21 Notice of Default and Acceleration of Assessments. If any Assessment or any installment thereof is not paid within twenty-five (25) days after its due date, the Board of Directors of the Owners Association may mail a notice of default to the Owner and to the First Security Interest Holder of the Lot who has requested a copy of the notice (“**Notice of Default**”). The Notice of Default shall specify (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is mailed to the Member, by which such default must be cured; and (d) that a failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Assessment or the installments of the Assessment for the then current Fiscal Year and the filing and foreclosure of the lien for the Assessment against the Lot of the Member. If the delinquent Assessment or installment and any late charges or interest thereon are not paid in full on or before the date specified in the Notice of Default, the Board of the Owners Association, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Declaration, subject to the protection afforded to Security Interest Holders under this Declaration.

Section 5.22 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner or Member against whom the same is assessed; provided, however, that the personal liability of such Owner or Member shall not pass to a successor in title or interest to the Lot of such Owner or Member unless assumed by such successor; provided further, however, that the lien of the Owners Association for such Assessment may be enforced against such Lot, whether such Lot is then owned by such Owner or Member or its successors, as and to the extent as provided in Section 5.24, Section 5.25 and Section 5.26. In the event of a default in payment of any Assessment or installment thereof, the Board of Directors of the Owners Association may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Owners Association by suit or by filing and foreclosure of a lien as hereinafter provided.

Section 5.23 Lawsuit to Enforce Assessments. The Board of Directors of the Owners Association may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in

such action shall include any late charge, interest, and other costs of enforcement including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Owner or Member.

Section 5.24 Lien to Enforce Assessments. The Owners Association has a statutory lien on a Lot for any Assessment or fine levied against such Lot or the Owner thereof. Recording of this Declaration constitutes Record notice and perfection of the lien. However, the Board of Directors of the Owners Association may also elect to file a claim of lien against the Lot of the delinquent Owner or Member by Recording a notice ("**Notice of Lien**") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the Lot against which the lien is claimed and (d) the name of the Record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Owners Association or other duly authorized agent of the Owners Association. The lien on a Lot shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied and shall not be affected by a sale or transfer of such Lot, except as is otherwise provided in Section 9.9. When all amounts claimed under the Notice of Lien, and all other costs and assessments which may have accrued subsequent to the Recording of the Notice of Lien, have been fully paid or satisfied, the Owners Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors of the Owners Association to cover the cost of preparing and recording the release of the lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado.

Section 5.25 Priority of the Owners Association Lien.

- (a) A lien under this Article V is prior to all other liens and encumbrances on a Lot except:
- (i) Liens and encumbrances Recorded before the Recordation of this Declaration;
 - (ii) A First Security Interest 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 Security Interests described in the preceding subsection (a)(ii) to the extent of an amount (the "**Six Months Priority Amount**") equal to the sum of the Common Assessments payable for such Lot based on the most recent Budget adopted by the Owners Association, as provided above, which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Owners Association or any party holding a lien senior to any part of the Owners Association lien created under this Article, of an action or nonjudicial foreclosure either to enforce or extinguish the lien, plus any fees or charges related to the collection of the foregoing amount that accrued prior to the time that such First Security Interest Holder so acquired title to such Lot.
- (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 Owners Association. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S., as amended, or to the provisions of Section 15-11-201, C.R.S. 1973, as amended.

Section 5.26 Certificate of Status of Assessments. The Owners Association shall furnish to an Owner or such Owner's designee (including, without limitation, a prospective purchaser from or Security Interest Holder of such Owner), or to a Security Interest Holder or its designee, upon written request, delivered personally or by certified mail, first class, postage prepaid, return receipt, to the Owners Association's registered agent, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and shall be binding on the Owners Association, the Board of Directors of the Owners Association, and every Owner. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally or by certified mail, first class, postage prepaid, return receipt requested, to the inquiring party, then the Owners Association shall have no right to assert a lien upon the Lot for unpaid Assessments which were due as of the date of the request. The Owners Association shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 5.27 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Owners Association or the Board of Directors of the Owners Association is not properly exercising its duties and powers under this Declaration.

ARTICLE VI DUTIES AND POWERS OF THE HOMEOWNERS ASSOCIATION

Section 6.1 General Duties and Powers of Association. The Owners Association has been formed to further the common interests of the Members of the Owners Association. The Owners Association, acting through the Board of Directors of the Owners Association or Persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members of the Owners Association, to maintain, improve and enhance the Common Area.

Section 6.2 Duty to Accept Property and Facilities Transferred by Declarant. The Owners Association shall accept the title to any Common Area transferred to, or caused to be transferred to, the Owners Association by Declarant, or which Declarant has caused to be transferred to the Owners Association directly from another party, together with the responsibility to perform any and all of the functions set forth in this Declaration in connection therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Real property interests transferred by Declarant to the Owners Association shall consist only of fee simple title to or easements rights with respect to the Common Area. Except as otherwise specifically approved by resolution of the Board of Directors of the Owners Association, no Common Area transferred to the Owners Association by Declarant, or caused to be transferred by Declarant, and no personal property transferred to the Owners Association by Declarant, shall impose upon the Owners Association any obligation to make monetary payments to Declarant nor any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge or fee. The interest in property transferred to the Owners Association by Declarant shall not impose any unreasonable or special burden on the Owners Association; provided, however, that the duties applicable to the Owners Association set forth in this Declaration shall not be deemed to impose any unreasonable or special burdens on the Owners Association.

Section 6.3 Duty to Manage and Care for Common Area. In addition and subject to any obligation of the Owners Association pertaining to any specific item of the Common Area contained in this Declaration, upon commencement of the Assessments and following the installation of the Common Area, the Owners Association generally shall manage, operate, care for, maintain, repair and replace the Common Area, and any Improvements located thereon, and keep the Common Area, and such Improvements, in a neat, healthy, attractive and desirable condition, at least to a level of quality consistent

with similar facilities maintained by other common interest community associations in Douglas County, Colorado and in accordance with applicable law, but shall not be liable to any Owner for failure to do so. The duties of the Owners Association hereunder with respect to the Common Area shall include the duty to perform any and all obligations pertaining to the Common Area, or any portion thereof, that may be set forth on the applicable Plat, and the Owners Association hereby assumes and agrees, and shall be deemed to have assumed and agreed, to perform any and all such obligations that may be set forth on the applicable Plat. Notwithstanding any other provisions of this Declaration, however, if any Improvements constituting a part of the Common Area hereunder are installed by Declarant in a tract shown on the Plat before such tract is annexed to the Annexed Property and such tract or such Improvements are designated as, or become, Common Area hereunder, the Owners Association shall, if requested by Declarant, manage, operate, care for, maintain, repair and replace the same just as if such tract had been so annexed and such tract or such Improvements had been designated as, or otherwise had become, Common Area hereunder. In such event, and until such tract is so annexed and such tract or such Improvements are designated as, or otherwise become, Common Area hereunder, the Owners Association shall have an easement over and across any such tract to permit the Owners Association to perform its duties as aforesaid.

Section 6.4 Duty to Pay Taxes and Assessments. The Owners Association shall be obligated to pay all taxes and assessments, if any, levied on any property or facilities transferred to or acquired and owned in fee by the Owners Association except taxes and assessments applicable to the period prior to transfer of such property or facilities by Declarant which shall be prorated as of the time of such transfer and paid by Declarant. The Owners Association may contest the validity or applicability of any such taxes, assessments or impositions so long as such contest does not jeopardize the title of the Owners Association to any such property or facilities.

Section 6.5 Duty to Maintain Casualty Insurance. The Owners Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, casualty, fire and extended coverage insurance with respect to the Common Area and all insurable real property owned by the Owners Association, including coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable property shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost.

Section 6.6 Duty to Maintain Liability Insurance. The Owners Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, broad form comprehensive liability insurance covering public liability of the Owners Association for bodily injury and property damage including, if the Owners Association owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles, and claims against the Owners Association related to employment contracts of the Owners Association. Public liability insurance shall, to the extent reasonably obtainable, have limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence.

Section 6.7 General Provisions Respecting Insurance. Insurance obtained by the Owners Association may contain such deductible provisions as good business practice may dictate and shall comply with all applicable requirements of CCIOA. Insurance obtained by the Owners Association shall, to the extent reasonably possible without undue cost, cover each Member without each Member necessarily being specifically named. Insurance obtained by the Owners Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Owners Association, each Member and any Person claiming by, through or under such Member and as against any officer, director, agent or employee of any of the foregoing, and shall cover each Member without each Member necessarily being specifically named. Insurance obtained by the Owners Association shall, to

the extent reasonably possible, and provided Declarant reimburses the Owners Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Board of Directors of the Owners Association to ascertain whether coverage under the policies is sufficient in light of the possible or potential liabilities of the Owners Association. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the insurable Improvements and property of Declarant. All insurance policies carried by the Owners Association and the actions of the Owners Association taken in connection with insurance of the Owners Association and the Members hereunder in connection therewith shall at all times comply with the applicable provisions of CCIOA. If and to the extent that any provisions of CCIOA require insurance coverage, or for the Owners Association to take certain actions in connection with insurance of the Owners Association or the Members in connection therewith, in a manner which is different from the insurance coverage required, or from the actions required to be taken by the Owners Association, pursuant to the provisions of this Declaration, such provisions of CCIOA shall control and the Owners Association shall comply with the applicable requirements of CCIOA.

Section 6.8 Deductibles. The Association may adopt and establish written non-discriminatory rules and regulations or policies and procedures relating to the responsibility for deductibles. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association, may be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, and/or may be apportioned among the Persons sharing in a joint duty of repair and maintenance, and/or may be partly or wholly borne by the Association, and/or may be shared by any such Person(s) and the Association, all at the election of the Board of Directors; provided that, until termination of the entirety of the Special Declarant's Rights as provided in this Declaration, a deductible, or any portion thereof, may not be apportioned to the Declarant without the prior, written approval of the Declarant. Subject to the foregoing regarding the Declarant: after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners; and upon said determination by the Association, any such loss, or any portion thereof, may be assessed to the Owner(s) in question and the Association may collect such amount(s) from said Owner(s) in the same manner as any assessment.

Section 6.9 Fidelity Bonds Required. The Owners Association shall obtain and keep in force at all times a fidelity bond or bonds, or employee dishonesty insurance coverage, for every Person handling funds of the Owners Association including, but not limited to, employees of any Manager. Each such bond, or such employee dishonesty insurance coverage, shall name the Owners Association as obligee, or as the insured thereunder, as the case may be, and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Owners Association or the Manager, as the case may be, at any given time during the term of each bond or insurance coverage. However, in no event may the aggregate amount of such bonds, or such employee dishonesty insurance coverage, be less than the greater of (a) \$50,000.00, (b) a sum equal to three (3) months' aggregate Common Assessments plus reserve funds held by the Owners Association at such time, (c) an amount as determined to be appropriate by the Board of Directors, or (d) such other amount as may be required by the provisions of CCIOA or other applicable law or any of Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corp., or any other governmental or quasi-governmental agency which performs (or may in the future perform) functions similar to any of those currently performed by any of such entities ("**Government Mortgage Agencies**").

Section 6.10 Other Insurance and Bonds. The Owners Association shall obtain such other insurance as may be required by CCIOA or the provisions of other applicable law, including workmen's

compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Owners Association shall deem necessary or desirable.

Section 6.11 Insurance and Bonds Required by Government Mortgage Agencies. The Owners Association shall obtain and keep in full force and effect such insurance and bonds, in such amounts, with such coverages, containing deductibles in such amounts, from such insurance or bond carriers, and otherwise meeting the requirements of, Government Mortgage Agencies to the extent that any such Government Mortgage Agency holds, or has agreed to insure or to guarantee, any Security Interest on any Lot within the Owners Association, except to the extent such insurance or bond is not available or has been waived in writing by such Government Mortgage Agency.

Section 6.12 Duty as to Budgets. The Owners Association shall prepare and adopt, and submit to the Members, annual Budgets for the Owners Association as elsewhere provided in this Declaration.

Section 6.13 Duty to Levy and Collect Assessments. The Owners Association shall levy and collect Assessments as elsewhere provided in this Declaration.

Section 6.14 Duty to Provide Audit. From and after the end of the Fiscal Year during which 50% of the Lots contained in the Owners Associations Annexable Area have become Annexed Property, the Owners Association shall provide for an annual audit of the accounts of the Owners Association. Such audit shall be of a type, and performed by such party, as shall be determined by the Board of Directors in its discretion, subject, however, to any applicable requirements of CCIOA; provided, however, that if required by a Government Mortgage Agency, such audit shall be an independent audit. Copies of the report of the audit shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same, and shall be made available to First Security Interest Holders as more particularly provided in Section 9.7(c).

Section 6.15 Duty to Keep Records. The Owners Association shall keep current copies of this Declaration, the Articles of Incorporation, the Bylaws, the rules and regulations of the Owners Association, and the books, records and financial statements of the Owners Association available during normal business hours for inspection, and for copying at a reasonable cost, by Owners and First Security Interest Holders.

Section 6.16 Duty to Maintain Register of Addresses and Notify of Address Change. The Owners Association shall maintain a "**Register of Addresses**" which contains the address (which shall include the facsimile number, if any, and, if the recipient desires to receive notices from the Owners Association by e-mail, the e-mail address) of each Owner, each First Security Interest Holder who has given notice to the Association as provided in Section 9.7, the Owners Association and Declarant. The initial address for each Owner in the Register of Addresses shall be the address for such Owner set forth in the deed or other instrument of Record conveying the Lot to such Owner, or, if no such address is set forth, the Lot of such Owner. The initial address for the Declarant and the Owners Association in the Register of Addresses shall be 9380 Station Street, Suite 600, Lone Tree, Colorado 80124. The initial address for such First Security Interest Holder shall be the address provided by the First Security Interest Holder to the Owners Association pursuant to Section 9.7. Any Person may change its address in the Register of Addresses by giving notice to the Owners Association of a new address in accordance with Section 9.15, and the Owners Association shall update the Register of Addresses in accordance with any such notice. The Owners Association shall provide the address for each Person as listed in the Register of Addresses to any Person who requests such information and certifies to the Owners Association in writing that they intend to use such information to give notice to Owners under this Declaration. The Owners Association shall have no liability to any Person (including, without limitation, any Owner, Declarant,

and any First Security Interest Holder) for providing the address as listed in the Register of Addresses, regardless of whether such address is correct or whether any director, officer, employee or agent of the Owners Association has knowledge, actual or imputed, that the address in the Register of Addresses is not correct. No information with respect to Declarant's, any First Security Interest Holder's or any Owner's address shall be imputed to the Owners Association or any director, officer, employee or agent of the Owners Association, and the Owners Association shall be entitled to rely solely on the initial address determined in accordance with this Section 6.16 or the most recent address, if any, furnished to the Owners Association by Declarant, any First Security Interest Holder, or any Owner by notice given in accordance with Section 9.15. Upon any change in the address of the Owners Association, the Owners Association shall execute and file for Recording an instrument which refers to this Declaration and sets forth a new address expressly for purposes of giving notice to the Owners Association under this Declaration.

Section 6.17 Power to Adopt Rules and Regulations. The Owners Association may adopt, amend, repeal and enforce rules and regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Owners Association, and the use of any property within the Annexed Property, including Common Area and Lots and otherwise for the benefit of the Owners Association and the Owners. Any such rules and regulations shall be reasonable and uniformly applied. Such rules and regulations shall be effective only upon adoption by resolution of the Board of Directors of the Owners Association. Notice of the adoption, amendment or repeal of any rule or regulation shall be given in writing to each Member of the Owners Association at the address for notices to Members as elsewhere provided in this Declaration or the Bylaws of the Owners Association, and copies of the currently effective rules and regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such rules and regulations and shall see that Related Users of such Member comply with such rules and regulations. Such rules and regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the rules and regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 6.18 Power to Enforce Declaration and Rules and Regulations. The Owners Association shall have the power to enforce the provisions of this Declaration and of its rules and regulations and shall take such action as the Board of Directors of the Owners Association deems necessary or desirable to cause such compliance by each Member of the Owners Association and each Related User, subject, however, to the Restrictions contained in Article VIII. Without limiting the generality of the foregoing, the Owners Association shall have the power to enforce the provisions of this Declaration and of rules and regulations of the Owners Association by any one or more of the following means: (a) by entry upon any property within the Annexed Property after Notice and Hearing as defined in this Declaration (unless an "Emergency Situation," as hereinafter defined in Section 9.18, exists), without liability to the Owner thereof, for the purpose of enforcement or of causing compliance with this Declaration or rules and regulations of the Owners Association; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the rules and regulations of the Owners Association, by mandatory injunction or otherwise, subject, however, to the Restrictions contained in Article VIII; (c) by commencing and maintaining actions and suits to recover damages for breach of any of this Declaration or the rules and regulations of the Owners Association, subject, however, to the Restrictions contained in Article VIII; (d) if and to the extent permitted by CCIOA, by suspension, after Notice and Hearing as defined in this Declaration, of the voting rights of a Member of the Owners Association during and for up to sixty (60) days following any breach by such Member or a Related User of such Member of this Declaration or such rules and regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (e) by levying and collecting, after Notice and Hearing, a Reimbursement Assessment against any Member of the Owners Association for breach of this Declaration or such rules and regulations by

such Member or a Related User of such Member; and (f) by levying and collecting, after Notice and Hearing as defined in this Declaration, reasonable and uniformly applied fines and penalties, established in advance in the rules and regulations of the Owners Association, from any Member of the Owners Association for breach of or failure to comply with this Declaration or such rules and regulations by such Member or a Related User of such Member.

Section 6.19 Power to Contract with Other Associations or the Metropolitan District for Services. The Owners Association shall have the power to contract, in writing, with one or more Other Associations and the Metropolitan District for services (each a “**Contracting Servicer**”). Such contract shall provide, as appropriate, for the payment by the Owners Association to the Contracting Servicer of the reasonably estimated expenses of the Contracting Servicer of providing such services to the Owners Association including a fair share of the overhead expenses of the Contracting Servicer. Services which may be provided to the Owners Association may include, without limitation (a) the construction, care, operation, management, maintenance, repair and replacement of the Common Area, Improvements thereon or other property; (b) the enforcement of the provisions of the Declaration for, on behalf of, and in the name of the Owners Association; (c) the collection of Assessments for, in the name of, and on behalf of the Owners Association; (d) the payment of taxes for the Owners Association with funds of the Owners Association; (e) the obtaining of insurance for the Owners Association; and (f) the appointment and supervision of a Manager or Managers for the Owners Association.

Section 6.20 Power to Employ Managers. The Owners Association shall have the power to retain and pay for the services of a Manager or Managers to undertake any of the management or functions for which the Owners Association has responsibility under this Declaration to the extent deemed advisable from time to time by the Board of Directors of the Owners Association, and may delegate any of its duties, powers or functions to any such Manager. Notwithstanding the foregoing, however, any such contract or agreement with any such Manager which is executed by the Owners Association during the Period of Declarant Control shall be terminable by the Owners Association without cause at any time after the expiration of the Period of Declarant Control. Any such contract or agreement shall be for a term of no more than one (1) year but may be subject to renewal for succeeding terms of no more than one (1) year each. Notwithstanding any delegation to a Manager of any duties, powers or functions of the Owners Association, the Owners Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, powers and functions. Any agreement or contract with a Manager shall contain any other provisions which are required to be contained therein by any Government Mortgage Agency.

Section 6.21 Power to Engage Employees, Agents and Consultants. The Owners Association shall have the power to hire and discharge employees, agents and consultants and to retain and pay for legal, accounting and/or other professional services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Owners Association under this Declaration.

Section 6.22 Power to Acquire Property and Construct Improvements. The Owners Association shall have the power to acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The Owners Association shall have the power to construct Improvements on such property and may demolish Improvements owned by the Owners Association.

Section 6.23 Power to Provide Special Services for Members. The Owners Association shall have the power to provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, or through one or more Annexing Instruments, which shall provide for payment to the Owners Association by such Member

or group of Members of the reasonably estimated costs and expenses of the Owners Association of providing such services, including a fair share of the overhead expenses of the Owners Association and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members and that the payment for such services shall be secured by a lien on the property of the Member or group of Members. Any such agreement or Annexing Instrument may provide that payments to the Owners Association for special services shall be payable by Members benefitted on the basis of the Assessments Units attributable to the Lots benefitted by the special services.

Section 6.24 Power to Borrow and Mortgage. The Owners Association shall have the power to borrow money, to mortgage and grant security interests in the Common Area and to assign its right to future income, including, without limitation, its right to receive Assessments, as security for any such borrowing; provided, however, that the Owners Association may not borrow money, mortgage or grant a security interest in any of the Common Area, or so assign its right to future income, unless the same is approved by Members holding at least two-thirds (2/3) of the voting power in the Owners Association present in person or by proxy (exclusive of the voting power of Declarant) at a duly constituted meeting of Members.

Section 6.25 Power to Commence and Maintain Legal Actions. The Owners Association shall have the power to commence and maintain legal actions and suits, and mediation and binding arbitration proceedings, regarding such issues and against such parties as may be deemed appropriate by the Board of Directors and as may be permitted pursuant to CCIOA; subject, however, to the Restrictions contained in Article VIII.

Section 6.26 General Corporate Powers. The Owners Association shall have all of the ordinary powers and rights of a Colorado nonprofit corporation formed under CCIOA and the Colorado Revised Nonprofit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or Bylaws of the Owners Association, CCIOA or the Colorado Nonprofit Corporation Act. The Owners Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration, the Articles of Incorporation or Bylaws of the Owners Association, CCIOA or the Colorado Revised Nonprofit Corporation Act and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Owners Association under this Declaration, the Articles of Incorporation or Bylaws of the Owners Association, CCIOA or the Colorado Revised Nonprofit Corporation Act.

Section 6.27 Other Associations. No Supplemental Declaration or other document creating an Other Association shall be adopted and/or Recorded during the Special Declarant Rights Period by an entity other than Declarant unless the Supplemental Declaration has been approved in writing by the Declarant, not to be unreasonably withheld, which approval shall be evidenced by a consent to the Supplemental Declaration, executed by the Declarant and Recorded. Any Supplemental Declaration which is Recorded and does not contain the executed consent required by the terms of this Section shall be void and of no effect. In the event of any inconsistency between the conditions and Restrictions contained in this Declaration and any Supplemental Declaration, this Declaration shall control.

ARTICLE VII ANNEXATION OF PROPERTY AND SPECIAL DECLARANT RIGHTS

Section 7.1 Annexation of the Annexable Area. Property located within the Annexable Area may, at Declarant's option, be annexed to the Annexed Property and made subject to this Declaration by

Declarant without the consent of the Owners Association, any Owners, any Security Interest Holder or any other Person, until the expiration of the Period of Special Declarant's Rights; provided, however, that, if and to the extent that a Government Mortgage Agency holds, insures or guarantees any Security Interest encumbering any Lot within the Annexed Property and such Government Mortgage Agency requires that such annexation be subject to the prior written consent of such Government Mortgage Agency, then such annexation shall be subject to obtaining such consent and, if and to the extent so required, to a determination by such Government Mortgage Agency that the annexation is in accord with the general plan for the development of the Annexable Area approved by it and that the Residences to be located on the Lots within such annexed property will be of comparable style, quality, size and cost to the Residences located on the existing Lots. The Declarant may exercise its rights of annexation or development rights in all or any portion of the Annexable Area over which such rights have not already been exercised, and no assurances are made by Declarant as to the boundaries of or timing or order of exercise of any such rights. Further, exercise by Declarant of its rights of annexation or development rights with respect to any portion(s) of the Annexable Area does not require that such rights of annexation or development rights must be exercised in all or any other portion(s) of the remainder of the Annexable Area. Finally, in addition to the foregoing, the Declarant may amend this Declaration at any time during the Period of Special Declarant's Rights, in order to add additional real estate to the Annexed Property from such locations as the Declarant may elect, in its sole discretion, so long as the total additional real estate so annexed to the Annexed Property pursuant to this sentence, and which is not part of the Annexable Area, does not exceed ten percent (10%) of the total area that is the Annexable Area as set forth on the attached Exhibit A.

Section 7.2 Manner and Effect of Annexation. Portions of the Annexable Area may, from time to time, become part of the Annexed Property and subject to this Declaration, and thereby constitute Annexed Property for the purposes of this Declaration, effective upon the Recordation of an Annexing Instrument for such portion of the Annexable Area in the office of the Clerk and Recorder of Douglas County, Colorado. Upon Recordation of an Annexing Instrument for a portion of the Annexable Area as aforesaid, such portion shall thereupon, automatically and without any further action by any other party, constitute Annexed Property and thereafter be subject to the Restrictions and other provisions set forth in this Declaration, for the duration thereof. Conversely, unless and until an Annexing Instrument for a portion of the Annexable Area is Recorded, such portion of the Annexable Area shall not be subject to this Declaration, none of the Restrictions in this Declaration shall be construed to affect, encumber, apply to or constitute a cloud upon title to such portion of the Annexable Area, and the Owner of such portion of the Annexable Area shall not, by virtue of such ownership, be entitled to any of the rights and benefits to which Members of the Owners Association are entitled pursuant to this Declaration. Consequently, it is the express intention of Declarant in executing this Declaration that the Restrictions and other provisions set forth in this Declaration which apply to Annexed Property shall apply to the Annexable Area, or portion thereof, only from and after the date the Annexable Area, or portion thereof, becomes Annexed Property in accordance with the foregoing provisions. The property described in an Annexing Instrument may be made subject to additional and different Restrictions which are set forth in the Annexing Instrument provided such Restrictions are no less restrictive than those contained in this Declaration and, if required, are approved in writing by the Federal Housing Administration and the Veterans Administration. In addition, each Annexing Instrument shall be deemed to include each of the following provisions even if some (or all) of such provisions are not expressly set forth in such Annexing Instrument: shall state that the grantee of such Annexing Instrument is the Owner of the Lot or Common Area, as the case may be, conveyed thereby; shall assign an identifying number to each Lot which shall be the lot number for the respective Lot as shown on the Plat; the property conveyed thereby shall constitute Lot(s) unless such Annexing Instrument expressly provides that some or all of such property is Common Area; if such Annexing Instrument contains one or more Lots, then each such Lot shall be obligated to pay Assessments for the initial Fiscal Year in which Assessments shall first become payable for such Lot pursuant to Section 5.12 at the same rate per Lot as has been established for such initial Fiscal Year

pursuant to Section 5.9, with the annual amount of Assessments for such initial Fiscal Year prorated based on the number of months of such Fiscal Year for which such Assessments shall be payable for such Lot, and the proportionate responsibility for payment of Assessments for each Fiscal Year following such initial Fiscal Year shall automatically be reallocated for each Lot in the Annexed Property (including each such Lot annexed by such Annexing Instrument), in the manner as is more particularly provided in Section 5.9, and each such Lot shall have one vote in the Owners Association; and may include such other provisions as the Declarant may deem appropriate from time to time.

Section 7.3 No Annexation Required; Contraction of the Annexable Area. Notwithstanding any other provision of this Declaration to the contrary, nothing in this Declaration shall be construed to obligate the Annexable Area, or any portion thereof, to be made subject to this Declaration. Declarant expressly reserves the right, in its sole discretion, to determine not to make the Annexable Area, or any portion thereof, subject to this Declaration. Additionally, the Annexable Area may, in Declarant's sole discretion, from time to time be contracted to delete any portion of the Annexable Area, provided that such portion has not theretofore been made a part of the Annexed Property as provided herein, effective upon the Recordation of a written instrument, executed by Declarant, referring to this Declaration, describing such portion and declaring that such portion shall thereafter be deleted from the Annexable Area under this Declaration.

Section 7.4 Declarant's Rights to Complete Development of the Annexable Area. No provision of this Declaration shall be construed to prevent or limit Declarant's rights, and Declarant expressly reserves the right, to complete development of property within the boundaries of the Annexable Area; to construct or alter Improvements on any property owned by Declarant within the Annexable Area; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any Lot owned by Declarant within the Annexable Area and on any and all Common Area; to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the boundaries of the Annexable Area; and for itself, and its designees, to have access over the Common Area, including, without limitation, the Common Areas, as reasonably shall be necessary to exercise any of its rights, or to perform any of its duties, under this Declaration. No such model home, or construction, sales or leasing office located on a Lot owned by Declarant shall constitute a Common Area or common property of, or otherwise be owned by, the Owners Association or any other Member of the Owners Association; rather, such property (with Improvements thereon) shall constitute a Lot. Additionally, no such model home, construction, sales or leasing office located on any Common Area shall constitute a Common Area or common property of, or otherwise be owned by, the Owners Association or any other Member of the Owners Association. Declarant may maintain management offices, storage areas, construction yards, parking areas, signs, model homes, construction offices, trailers and sales offices, in such numbers, of such sizes and at such locations, as Declarant may determine in its reasonable discretion from time to time. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals (a) to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or (b) to use any structure on any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within the boundaries of the Annexable Area, or (c) to require Declarant to seek or obtain the approval of the Owners Association for any such activity or Improvement to Property by Declarant on any property owned by Declarant. Declarant reserves the right, prior to the time that a particular lot or tract within, or other portion of, the Annexable Area has been annexed to and made subject to this Declaration and so long as Declarant is the Owner of such lot, tract or other portion, to resubdivide or change the boundaries of such lot, tract or other portion without the same constituting an amendment of this Declaration and without the consent, approval or vote of any other party, including, without limitation, the Members of the Owners Association; provided, however, that if Declarant does so subdivide or change the boundaries of any such lot, tract or other portion, Declarant shall prepare and record an amendment to the Plat depicting such resubdivision or change in boundary in

connection with the amendment to this Declaration by which such lot, tract or other portion shall, if at all, be annexed to and made subject to this Declaration. Nothing in this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

Section 7.5 Declarant's Right to Use The Highline House and Surrounding Improvements. Declarant hereby reserves, and shall have, the right, until the expiration of the Period of Special Declarant's Rights, to use all or a portion of The Highline House, pool area and surrounding improvements in the Common Area from time to time, for such purposes as Declarant may desire, including, without limitation, for Declarant's promotional and business development purposes and for the use and enjoyment of The Highline House by Declarant's officers, partners, employees, agents, customers and invitees, by giving the Association prior written notice of such use. Declarant shall not be obligated to pay any amounts to the Association for any such use of The Highline House; provided, however, that Declarant shall pay all expenses pertaining to its use of all or a portion of The Highline House, including without limitation, a pro rata share (based on square footage) of real property taxes and assessments payable for The Highline House during such period of Declarant's use and a pro rata share (based on square footage) of the expenses for utilities consumed at The Highline House, in connection with such use by Declarant of The Highline House, and, so long as Declarant shall so use all or a portion of The Highline House, Declarant, and not the Association, shall be responsible, at its expense, to manage, operate, care for, maintain, repair and replace The Highline House (or the relevant portion thereof), and all Improvements in connection therewith.

Section 7.6 Period of Special Declarant's Rights. Declarant shall have the rights and easements set forth and reserved in this Article VII, in Article VIII, and in Section 3.3, Section 3.4, Section 4.5, Section 6.2, Section 9.2, Section 9.5, Section 9.16 and Section 9.18 (collectively, the "**Special Declarant Rights**"), during the Period of Special Declarant's Rights. The Special Declarant's Rights shall be prior and superior to any other provisions of this Declaration. The Special Declarant's Rights may not, notwithstanding any other provision of this Declaration, be modified, amended, rescinded or affected by any amendment of this Declaration made or to be made during, or otherwise to have any effect with respect to, the Period of Special Declarant Rights without Declarant's prior written consent.

Section 7.7 Additional Declarant's Rights. Declarant shall have the right, but not the obligation, to attend meetings of the Owners Association, including meetings of the Board of Directors of the Owners Association and meetings of the Members of the Owners Association, for 10 years after the last conveyance of a Lot by Declarant in the ordinary course of business, and such right may not, notwithstanding any other provision of this Declaration, be modified, amended, rescinded or affected by any amendment of this Declaration without Declarant's prior written consent. The Owners Association shall provide 14 days' notice of each such meeting to Declarant.

ARTICLE VIII ALTERNATIVE DISPUTE RESOLUTION

Section 8.1 Intent, Applicability, and Applicability of Statutes of Limitation. Each Party or Parties (as defined below) agrees to encourage the swift and amicable resolution of disputes that constitute Claims (as defined below), without the financial costs and delay of litigation. Accordingly, each Party covenants and agrees to submit all Claims such Party alleges to have to the procedures set forth in this Article VIII and not to a court of law. By acceptance of a deed for a Lot within the Annexed Property, each Owner agrees to abide by the terms of this Article VIII. No Claim may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose. Each Party acknowledges and agrees that by being bound by this Article VIII: (a) such Party, including each Owner and the Owners Association, is freely and knowingly waiving any rights it might possess to have a Claim litigated in a court or jury trial;

(b) such Party's discovery and appeal rights will be limited; (c) an Owner's election to purchase a Lot subject to this Declaration and this Article VIII is voluntary and the Owner understands its Restrictions; (d) if a Claim involves property or Common Area owned or managed by the Owners Association, the procedures set forth herein bind the Owners Association and are acceptable and mandatory for resolving Claims with respect to such matters; (e) each Owner and the Owners Association will take all actions necessary to secure participation by other appropriate parties who are not bound by this Declaration in the dispute resolution procedures set forth herein, including any other Party which consents to such participation or which is required to participate pursuant to its contract, and each Owner and the Owners Association are deemed to have consented to consolidation of any such third-party claims asserted by any Party against any other person or entity; and (f) the Owners Association and the interest of all Owners in the Owners Association will be bound by the dispute resolution procedures described in this Article VIII. Declarant, and any other construction professionals involved in the Community, as defined by C.R.S. § 13-20-802.5(4) (2016) or any successor statute, are hereby deemed a third-party beneficiary of this Article VIII after the expiration of the Period of Special Declarant's Rights.

Section 8.2 Definitions. For the purposes of this Article VIII only, the following terms shall have the meanings as set forth in this Section.

(a) AAA. "**AAA**" shall mean the American Arbitration Association.

(b) Arbitrator. "**Arbitrator**" shall mean, with respect to a particular Claim to be resolved by arbitration in accordance with Section 8.7(d), the arbitrator agreed to by all of the Parties to such Claim, or if such Parties fail to agree upon an arbitrator within ten (10) days after initiation of the arbitration for such Claim, the arbitrator selected by the District Court in and for Douglas County, Colorado upon petition of the Claimant. Unless otherwise agreed by all of the Parties to a Claim, there shall be one arbitrator who, to the extent reasonably feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

(c) Claimant. "**Claimant**" shall mean any Party having a Claim.

(d) Claim. "**Claim**" shall mean, except as excluded or exempted by the terms of this Article VIII, any claim, grievance or dispute between one Party and another, that arises out of or pertains to the Annexed Property, any Improvements thereon, the Governing Documents or the sale or transfer of any portion of the Annexed Property by a Party to another Party, including, without limitation, those arising out of or pertaining to (i) the interpretation, application, or enforcement of any of the Governing Documents or the rights, obligations, and duties of any Party under any of the Governing Documents, (ii) the design, engineering, construction, installation, use, operation, maintenance, repair or replacement of any Improvements within the Annexed Property, (iii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party pertaining to the Annexed Property or any of the Governing Documents, and (iv) any claim, grievance or dispute between one Party and another that arises, or is made, under or pursuant to CCIOA (including C.R.S. § 38-33.3-302(1)(d) or any successor statute) and that pertains to the Annexed Property, any Improvements thereon, the Governing Documents or the sale or transfer of any portion of the Annexed Property by a Party to another Party.

(e) Dispute Resolution Act. "**Dispute Resolution Act**" shall mean the Colorado Dispute Resolution Act contained in Part 3 of Article 22 of Title 13 of the Colorado Revised Statutes (as the same may be amended and/or replaced from time to time).

(f) Governing Documents. “**Governing Documents**” shall mean this Declaration, the Articles of Incorporation, the Bylaws, and any and all rules and regulations of the Owners Association.

(g) Mediator. “**Mediator**” shall mean, with respect to a particular Claim submitted to mediation in accordance with Section 8.7(c), the mediator agreed to by all of the Parties to such Claim, or if such Parties fail to agree upon an arbitrator within ten (10) days after request by any Party to such Claim, the mediator selected by the District Court in and for Douglas County, Colorado upon petition of the Claimant.

(h) Parties. “**Party**” or “**Parties**” shall mean each of the following: Declarant, its officers, directors, partners, members, employees, and agents; Declarant’s successors or assigns; the Owners Association, its officers, directors, and committee members; all persons subject to this Declaration; any Owner of a Lot; any builder who constructs any Residences within the Annexed Property, its officers, directors, partners, members, employees, and agents; and any person not otherwise subject to this Declaration who agrees to submit to this Article VIII, including without limitation, architects, contractors, subcontractors, developers, builders, builder vendors, engineers, inspectors, and others who performed or furnished any engineering, design, planning, supervision, inspection, construction, or observation of the construction of any improvement in the Annexed Property.

(i) Respondent. “**Respondent**” shall mean any Party against whom a Claimant asserts a Claim.

(j) Termination of Mediation. “**Termination of Mediation**” shall mean that a particular mediation initiated in connection with a Claim pursuant to Section 8.7(c) either (i) has been voluntarily terminated by all of the Parties to such mediation, or (ii) has automatically terminated on the date which is sixty (60) days (or such other period of time as determined by the Mediator or to which the Parties to such Claim may have agreed) after the Mediator for such mediation has been agreed upon by the Parties or appointed by the District Court in and for Douglas County, Colorado, as the case may be, because the Parties have not resolved the Claim by such date.

(k) Uniform Arbitration Act. “**Uniform Arbitration Act**” shall mean the Colorado Uniform Arbitration Act contained in Part 2 of Article 22 of Title 13 of the Colorado Revised Statutes (as the same may be amended and/or replaced from time to time); provided, however, that the terms and provisions of the Uniform Arbitration Act shall, for the purposes of this Article VIII and unless the Claimant and Respondent of a Claim otherwise agree, be deemed supplemented by the terms and provisions (but if and only to the extent that such terms and provisions are not inconsistent with the terms and provisions of the Uniform Arbitration Act and this Article VIII) of the AAA’s Commercial or Construction Industry Arbitration Rules, as shall be appropriate for the particular Claim.

Section 8.3 Exclusions from “Claim”. Unless specifically exempted by this Article VIII, all Claims between any of the Parties shall be subject to the Restrictions in this Article VIII. Notwithstanding the foregoing, unless all Parties to the action, suit or proceeding otherwise agree, “**Claim**” does not include the following, whether the same are brought by lawsuit, counterclaim, cross-claim, mediation, arbitration, or in any other manner, and the same shall not be subject to the Restrictions in this Article VIII: (a) an action by the Owners Association to enforce any Restrictions in Article V of this Declaration against an Owner, in its capacity as an Owner, including, without limitation, any action or suit to collect unpaid Assessments payable by an Owner to the Owners Association or to foreclose the lien of the Owners Association in connection therewith; (b) an action by the Owners Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enforce any of the Restrictions in Article III

of this Declaration, or of the rules and regulations of the Owners Association, against an Owner, or the Related Users of an Owner; and (c) any suit between or among Owners, which does not include Declarant or the Owners Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents.

Section 8.4 Approval Required for Association Actions. The Owners Association may only bring action on any Claim, assert a Notice of Claim pursuant to C.R.S. § 13-20-803.5 (2016) or any successor statute, enter into an engagement with a law firm for the purpose of bringing an action on any Claim, and/or agree to incur fees, costs, and/or expenses in excess of \$10,000 in furtherance of bringing any Claim, to the extent permitted by, and in accordance with the Restrictions in, this Declaration. Subject to Section 8.6 of this Declaration, the approval of sixty-seven percent (67%) of the voting power in the Owners Association by votes cast by Owners voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot and the approval of fifty-one percent (51%) of First Security Interest Holders, must be obtained before the Owners Association shall have the power to enter into an engagement agreement with a law firm for the purpose of bringing an action on any Claim, agree to incur fees, costs, and/or expenses in excess of \$10,000 in furtherance of bringing any Claim, and/or institute action on any Claim pursuant to this Article VIII, to assert a Notice of Claim pursuant to C.R.S. § 13-20-803.5 (2016) or any successor statute, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 8.5 of this Declaration.

Section 8.5 Notice for Owners Association Actions. Written notice of any meeting of Owners which includes a vote pursuant to Section 8.4 of this Declaration shall be sent to all Owners and Declarant not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. The Owners Association shall permit the Declarant, or any designee thereof, to address the Owners at any such meeting prior to the vote being taken pursuant to Section 8.6. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information: (a) a statement regarding the nature of the Claim, which shall include, without limitation, the name(s) of the proposed Respondent(s), a detailed description of the basis and reasons for the Claim, the likelihood of success in the Claim by the Owners Association, the impact, if any, which such Claim may have upon the market value of the Lots, and the Residences and other Improvements located thereon, or other portions of the Annexed Property, and any other information necessary to adequately explain the nature of the proposed Claim; (b) a good-faith estimate of the costs and fees, including the fees of consultants, expert witnesses and attorneys, reasonably anticipated to be incurred by or for the Owners Association in prosecuting the Claim, with such estimate prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf, and the impact that such costs and fees may have on the resources of the Owners Association and whether a special assessment or depletion of reserves will be required in connection therewith or as a result thereof; (c) a statement as to whether an offer of settlement has theretofore been received by the Owners Association from a Respondent in connection with such Claim, and if such a settlement offer has been received, the material terms and provisions of such settlement offer, and an explanation of the reasons why the Owners Association believes why such settlement offer should or should not be accepted; (d) a good-faith estimate of the manner in which any monies reasonably anticipated to be recovered from the Claim will be distributed or paid to consultants, expert witnesses, the Owners Association, its attorney(s) and any others, prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; (e) a good-faith estimate of the projected time frame for resolution of the Claim; and (f) the material terms and provisions of the agreement between the Owners Association and the attorney(s) the Board proposes to have prosecute the Claim. If the agreement is a contingent fee agreement, the Board must describe how such an agreement works and how it affects, if at all, the recoverability of sufficient funds necessary to make necessary repairs.

Nothing in this Section 8.5 shall, however, require the disclosure in such notice, or the disclosure to any Owner, of attorney-client communications or other privileged information, permit such notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in such notice, or to limit or impair the authority of the Board to contract for legal services, once it has approval to do so, or limit or impair the ability to enforce such a contract for legal services, once it is duly executed. Each Owner shall comply with all lawful requirements of the Owners Association pertaining to confidential or privileged information or communications as may be set forth in such notice. If the Owners so approve the initiation of a Claim by the Owners Association, then during the course of all proceedings with respect to such Claim, the Board shall advise the Owners of each settlement offer received by the Owners Association from a Respondent in connection with such Claim, and shall inform the Owners whether the Board believes such settlement offer shall be accepted and the reasons therefor, subject, however, to the Restrictions in this Section regarding confidentiality and privileged information. The decision to accept or reject any settlement offer shall be made by the Owners. Once an offer is made, the Owners Association shall permit any offering party to address the Owners at a meeting called for the purpose of explaining the offer, or otherwise communicate with the Owners, and the Owners Association shall accept the offer upon approval of fifty-one percent (51%) of the voting power of the Owners Association by votes cast by Owners voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot.

Section 8.6 Right to Inspect. Prior to any vote contemplated by Section 8.4 and prior to any Party commencing any proceeding involving a Claim to which another Party is a party, including, but not limited to, an alleged defect of any Improvement, the Respondent shall have the right to be heard by the Claimant and, if any Claimant is the Owners Association, by the Owners, and shall have any rights allowed under Colorado law to access, inspect, or correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged; provided, however, that any correction to, or redesign of, an Improvement shall be made upon terms and conditions acceptable to all affected Parties. The exercise of such inspection rights shall be in full compliance with Colorado law.

Section 8.7 Mandatory Procedures for Claims.

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

(b) Notice. Prior to proceeding with any Claim against a Respondent, each Claimant shall give a notice (a “**Notice of Claim**”) to each Respondent, which notice shall state plainly and concisely: (i) the nature of the Claim, including all persons involved and Respondent’s role in the Claim, (ii) the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises), and (iii) the specific relief and/or proposed remedy sought.

(c) Mediation. If the Parties do not resolve the Claim through negotiations within sixty (60) days after delivery of the Notice of Claim to the Respondent(s), the Claimant shall have an additional thirty (30) days to submit the Claim to mediation under the Dispute Resolution Act. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be released and discharged from any and all liability to the Claimant on account of such Claim; provided, however, that nothing herein shall release or discharge the Respondent from any liability to any person other than the Claimant. Any settlement of the Claim through mediation shall be documented in writing by the Mediator and signed by the Parties. If a Termination of Mediation occurs, the Mediator shall issue a

notice of termination of mediation. The termination of mediation notice shall set forth that the Parties are at an impasse, and state the date that mediation was terminated. Each Party shall bear its own fees and costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the Mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 8.7(a) or this Section 8.7(c) and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section 8.7. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred (excluding, however, any portion of the attorneys' fees incurred by the enforcing Party) in enforcing such agreement, including, without limitation, court costs.

(d) Binding Arbitration. Upon Termination of Mediation, if the Claimant desires to pursue the Claim, the Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the Uniform Arbitration Act. Colorado law shall apply to the arbitration proceedings. Any judgment upon the award rendered by the Arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Each Party shall bear its own fees, costs and expenses, including, without limitation, attorneys' fees and an equal share of the Arbitrator's and administrative fees of arbitration. In any arbitration proceeding, the Arbitrator shall have no authority to require one Party to pay all of a portion of another Party's attorneys' fees, and each Party shall bear its own attorneys' fees. Notwithstanding the foregoing, if a Party contests the validity or scope of arbitration in a court of law, the Arbitrator or the court may award expenses incurred (but not attorneys' fees), including those incurred in trial or on appeal, to the substantially prevailing Party. To the extent permitted under Colorado law, all decisions respecting the arbitrability of any Claim shall be decided by the Arbitrator. The award of the Arbitrator shall be accompanied by detailed written findings of fact and conclusions of law, which findings shall be issued within thirty (30) days after completion of the arbitration, which shall be conducted pursuant to applicable Colorado statutory and common law, including the Colorado Rules of Evidence. Except as may be required by law or for confirmation of an award, neither a Party nor an Arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties to the Claim.

Section 8.8 Liability for Failure of Owners Association to Maintain an Action. No director or officer of the Owners Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (a) the director or officer was acting within the scope of his duties, (b) the director or officer was acting in good faith, and (c) the act or omission was not willful, wanton or grossly negligent.

Section 8.9 Severability. All Restrictions in this Article VIII are severable. Invalidation of any of the Restrictions in this Article VIII, by judgment, court order or otherwise, shall in no way affect or limit any other Restrictions in this Article VIII which shall remain in full force and effect.

Section 8.10 Inconsistencies Between Article VIII Restrictions and Other Restrictions in Declaration. In the event of any inconsistency between the Restrictions contained in this Article VIII and the Restrictions contained elsewhere in this Declaration, the Restrictions in this Article VIII shall control.

Section 8.11 Inconsistencies Between Article VIII and C.R.S. § 38-33.3-303.5. In the event of any inconsistency between the requirements of this Article VIII and the requirements of C.R.S. § 38-33.3-303.5, as it may be amended from time to time, the more restrictive requirement shall control, except to the extent CCIOA requires the applicable requirement of C.R.S. § 38-33.3-303.5 to control, in which case such requirement shall control.

ARTICLE IX
MISCELLANEOUS PROVISIONS

Section 9.1 Term of Declaration and Termination. This Declaration and the planned community created hereby may be terminated by obtaining the vote, by written ballot, of Members holding at least sixty-seven percent (67%) of the voting power of Members of the Owners Association. The agreement of the Owners to terminate this Declaration and the planned community created hereby shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the terms and conditions, and otherwise satisfying the requirements, of Section 38-33.3-218 of CCIOA. Upon the Recordation in the office of the Clerk and Recorder of Douglas County, Colorado of the termination agreement, the planned community created hereby shall be terminated, this Declaration shall have no further force or effect, and the Owners Association shall, upon satisfaction of its obligations set forth in such termination agreement, be dissolved.

Section 9.2 Amendment of Declaration by Declarant. Until the first Lot within the Annexable Area has been annexed to the Annexed Property by an Annexing Instrument Recorded in the office of the County Clerk and Recorder of Douglas County, Colorado, any of the provisions or Restrictions contained in this Declaration may be amended or terminated by Declarant by the Recordation of a written instrument, executed by Declarant, setting forth such amendment or termination. Declarant also hereby reserves and is granted the right and power to make and, where required, to Record technical amendments to this Declaration, the Articles of Incorporation and the Bylaws of the Owners Association at any time prior to the expiration of the Period of Special Declarant's Rights, for the purposes of correcting spelling, grammar, dates, cross references, typographical errors or other similar technical errors, or as may otherwise be required to clarify the meaning of any provision of any or all such documents. Additionally, and notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Owners Association shall be necessary in order for existing or future Security Interests to be acceptable to, or to comply with the requirements, standards or guidelines of, any of the Government Mortgage Agencies, then, subject to the following sentence of this Section, Declarant shall have and hereby specifically reserves the right and power to make, execute and Record any such amendments without obtaining the approval of any Owners or Security Interest Holders (a "**Declarant Government Mortgage Agency Amendment**"). Each such Declarant Government Mortgage Agency Amendment shall be made, if at all, by Declarant prior to the expiration of the Period of Special Declarant's Rights, and each such Declarant Government Mortgage Agency Amendment must contain thereon the written approval of the applicable Government Mortgage Agency, to the extent required by such Government Mortgage Agency.

Section 9.3 Amendment of Declaration by Members. Except as is otherwise provided in this Declaration or as is otherwise provided in CCIOA, any provision or Restriction contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members of the Owners Association holding at least sixty-seven percent (67%) of the voting power of the Owners Association. To the extent permitted by Colorado law, any provision contained in Article VIII may only be amended upon approval by the Declarant and all other Parties. The amendment or repeal shall be effective upon the Recordation in the office of the Clerk and Recorder of Douglas County, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Owners Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the Members as herein provided. Further, an amendment to this Declaration shall be applicable only to disputes, issues, circumstances, events, claims or causes of action that arose out of circumstances or events that occurred after the Recording of such amendment; and no amendment to this Declaration shall be applied retroactively to any earlier occurring disputes, issues, events, circumstances, actions, claims or causes of action.

Section 9.4 Amendment Required by Government Mortgage Agencies. Notwithstanding the provisions of Section 9.3 hereof requiring approval of an amendment or repeal by Members holding at least sixty-seven percent (67%) of the voting power of the Owners Association, any provision or Restriction contained in this Declaration which any Government Mortgage Agency requires to be amended or repealed, except as otherwise provided in Section 9.2, may be amended or repealed by vote of Members holding more than fifty percent (50%) of the voting power of the Owners Association. Any such amendment or repeal shall be effective upon the Recordation in the office of the Clerk and Recorder of Douglas County, Colorado, of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Owners Association setting forth the amendment or repeal in full and certifying that the amendment or repeal has been approved by the vote of the Members as herein provided.

Section 9.5 Required Consent of Declarant to Amendment or Termination. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment, repeal or termination of any provision of this Declaration, including but not limited to Article VIII, shall not be effective unless Declarant has given its written consent to such amendment, repeal or termination, which consent may be withheld in Declarant's sole discretion, and which consent may be evidenced by the execution by Declarant of a certificate of amendment, repeal or termination. The foregoing requirement for consent of Declarant to any amendment, repeal or termination shall terminate upon the expiration of the Period of Special Declarant's Rights.

Section 9.6 Amendment of Articles and Bylaws. The Articles of Incorporation and Bylaws for the Owners Association may be amended in accordance with the provisions set forth in such instruments or, in the absence of such provisions, in accordance with the applicable provisions of CCIOA and the Colorado Revised Nonprofit Corporation Act.

Section 9.7 Special Rights of First Security Interest Holders. Any First Security Interest Holder of a First Security Interest encumbering any Lot in the Annexed Property, upon filing a written request therefor with the Owners Association, stating both the First Security Interest Holder's name and address and the legal description or street address of the Lot encumbered by such First Security Interest Holder's First Security Interest, shall be entitled to (a) receive written notice from the Owners Association of any default by the Owner of such Lot in the performance of the Owner's obligations under this Declaration or the Articles of Incorporation, the Bylaws or the rules and regulations of the Owners Association (including, without limitation, any failure to pay Assessments), which default is not cured within sixty (60) days after the Owners Association learns of such default; (b) examine current copies of this Declaration, the Articles of Incorporation, the Bylaws, the rules and regulations of the Owners Association, and the books, records and financial statements of the Owners Association during normal business hours; (c) receive a copy of financial statements of the Owners Association including any annual audited financial statement within one hundred twenty (120) days following the end of any Fiscal Year of the Owners Association; (d) receive written notice of any damage to the Common Area if the cost of reconstruction exceeds ten thousand dollars (\$10,000), and of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Area; (e) receive written notice from the Owners Association of any condemnation or casualty loss which affects the Lot encumbered by such First Security Interest Holder's Security Interest or a material portion of the Common Area; (f) receive written notice from the Owners Association of a lapse, cancellation or material modification of any insurance policy maintained by the Owners Association; and (g) receive written notice from the Owners Association at least thirty (30) days prior to the effective date of any proposed material amendment to this Declaration, the Articles of Incorporation or Bylaws of the Declaration, or a termination of this Declaration pursuant to Section 9.1.

Section 9.8 First Security Interest Holder Exemption from Rights of First Refusal. Any First Security Interest Holder who obtains title to any Lot within the Annexed Property pursuant to the remedies provided in the First Security Interest held by such First Security Interest Holder or pursuant to any foreclosure of the First Security Interest or by deed or assignment in lieu of foreclosure shall be exempt from any right of first refusal if any such right of first refusal is ever contained in this Declaration.

Section 9.9 Priority of First Security Interest Over Assessments. Each First Security Interest Holder of a First Security Interest encumbering a Lot within the Annexed Property who obtains title to such Lot pursuant to the remedies provided in the First Security Interest, by judicial foreclosure, or by deed or assignment in lieu of foreclosure shall, except as otherwise provided in Section 5.25, take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such holder acquires title to such Lot, other than allocation of any deficiency prorated among all Members of the Owners Association.

Section 9.10 First Security Interest Holder Right to Pay Taxes and Insurance Premiums. Any First Security Interest Holder or any First Security Interest Holders, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may or have become a charge against the Owners Association or property owned by the Owners Association and may pay any overdue premiums on hazard insurance policies paid for by the Owners Association, and the First Security Interest Holder making such payments shall be entitled to immediate reimbursement therefor from the Owners Association.

Section 9.11 Agreements with Government Mortgage Agencies. The Owners Association may enter into such contracts or agreements on behalf of the Owners Association as may be required in order to satisfy the requirements, standards or guidelines of any Government Mortgage Agency so as to allow for the purchase, guarantee or insurance, as the case may be, by a Government Mortgage Agency of First Security Interests encumbering Lots within the Annexed Property. Each Owner hereby agrees that it will benefit the Owners Association and the Members thereof, as a class of potential mortgage borrowers and potential sellers of Lots within the Annexed Property if Government Mortgage Agencies approve the Annexed Property or parts thereof as qualifying under their respective policies, rules and regulations as adopted from time to time.

Section 9.12 Association Right to Security Interest Information. Each Owner hereby authorizes any First Security Interest Holder holding a First Security Interest on such Owner's Lot within the Annexed Property to furnish information to the Owners Association concerning the status of such First Security Interest and the loan which it secures.

Section 9.13 FHA/VA Approval. During the Period of Declarant Control, and provided further that the VA or FHA is insuring or guaranteeing or has agreed to insure or guarantee loans in any portion of the Annexed Property with respect to initial sales of Lots by Declarant, or its successors or assigns, the following actions shall, if and to the extent required by either the VA or FHA, require the prior review of the VA or FHA, in accordance with the procedure set forth herein: (a) dedication of any of the Common Area; (b) annexation of any additional real property to the Annexed Property; (c) material amendments of this Declaration, the Articles of Incorporation or Bylaws of the Owners Association; (d) merger or consolidation of the Owners Association with another association; (e) mortgaging of any of the Common Area; (f) dissolution of the Owners Association; and (g) termination of this Declaration pursuant to Section 9.1. Prior to any such proposed action, Declarant shall give written notice of such proposed action to the FHA and VA, and for sixty (60) days following the receipt of such notice, the FHA or VA shall have the power to prohibit such action by written notice to Declarant. If no written notice of veto is received by Declarant within such sixty (60) day period, then such approval shall be deemed given

and Declarant may proceed as if such approval was obtained with respect to the request contained in such notice.

Section 9.14 Evidence of Required Approvals. Whenever the validity of any amendment to or revocation of this Declaration is conditioned upon voting by a stated percentage of Members, the consent of Declarant and approval by First Security Interest Holders or Government Mortgage Agencies, or any or all of the same, the Recorded document implementing the amendment or revocation shall contain both the consent of Declarant thereon (to the extent required hereby) and a certification by the Secretary of the Owners Association that the approvals of the required percentages of Members, First Security Interest Holders and Government Mortgage Agencies were obtained. The Secretary shall keep on file in the offices of the Owners Association such proxies, letters, minutes of meetings or other documentation as may be required to evidence compliance with applicable approval requirements, but the consent of Declarant (if so required) and the Secretary's certificate on the Recorded instrument shall be sufficient public notice of compliance.

Section 9.15 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and shall be deemed properly given and received on the earlier of: (a) when actually received if delivered personally, by messenger service, by fax or telecopy delivery, by e-mail delivery (but only in the case where the notice recipient has indicated its desire pursuant to Section 6.16 to receive notices from the Owners Association by e-mail delivery by registering its e-mail address with the Owners Association) or otherwise; (b) on the next business day after deposit for delivery (specifying next day delivery) with any recognized overnight courier service; (c) three (3) business days after mailing, by registered or certified mail, return receipt requested; or (d) five (5) business days after mailing by regular United States mail. All such notices shall be furnished with delivery or postage charges, if any, paid, addressed (which term, for purposes of this Section 9.15, shall include the facsimile number in the case of a notice given by facsimile, or the e-mail address in the case of a notice given by e-mail) as follows: (i) to the Owners Association at the address set forth for the Owners Association herein, or at such other address as may be specified in an instrument of Record which refers to this Declaration and sets forth a new address expressly for the purpose of giving notice under this Declaration; and (ii) to an Owner of a Lot, Declarant, or a First Security Interest Holder at the address for such Person in the Register of Addresses; provided, however, that if the Owners Association does not provide an address for an Owner, Declarant or a First Security Interest Holder to any Person following a request therefor in accordance with Section 6.16, then notice to such Person may be given in any manner in which notice is permitted to be given to a Person under the law of the State of Colorado in connection with the foreclosure of mortgages, including publication. Each Owner, Declarant and First Security Interest Holder shall give notice to the Owners Association of its mailing or street address (or facsimile number or, in the case where a notice recipient desires to receive notices by e-mail, its e-mail address) and, with each change of its address, shall give notice of such change promptly, in the manner provided for giving notice to the Owners Association in this Section 9.15.

Section 9.16 Persons Entitled to Enforce Declaration. The Owners Association, acting by authority of the Board, any Member of the Owners Association, and Declarant shall have the right to enforce any or all of the Restrictions and other provisions contained in this Declaration, the Articles of Incorporation and Bylaws against any property within the Annexed Property and the Owner thereof, and against any other Person, including the Owners Association, who is bound by such Restrictions and other provisions, subject, however, to the Restrictions in Article VIII. Additionally, and the owner or owners of the Sound Easement Benefitted Property shall have the right to enforce the Sound Easement pursuant to Section 3.4. The right of enforcement shall include the right to bring an action for damages as well as any action to enjoin any violation of any provision of this Declaration, the Articles of Incorporation and Bylaws, subject, however, to the Restrictions in Article VIII.

Section 9.17 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, Restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 9.18 Enforcement by Self Help. Declarant, the Owners Association, or any authorized agent of either of them, may enforce, by self help, Restrictions contained in this Declaration, provided such self help is (except in the event of an "Emergency Situation," as hereinafter defined) preceded by Notice and Hearing as set forth in the Bylaws for the Owners Association. An "Emergency Situation" shall mean a situation in which prompt action is required to be taken in order to prevent or to reduce the effect of any imminent or threatened damage or harm to person or property, to preserve property or to prevent or minimize the effects of any negative impacts on surrounding property from any condition existing on the property upon which the entry is to occur. Any such self help by Declarant or the Owners Association may include entering upon the affected portion of the Annexed Property and taking such actions as Declarant or the Owners Association, as the case may be, determines are necessary or desirable to cause compliance with this Declaration, all without liability to the Owner of the affected property and without any further notice or opportunity to cure afforded to such Owner, in which case Declarant or the Owners Association, as the case may be, shall be entitled to recover from such Owner, in addition to all other amounts to which Declarant or the Owners Association, as the case may be, shall be entitled, all costs and expenses incurred by Declarant or the Owners Association, as the case may be, in so doing, subject, however, to the Restrictions in Article VIII; provided, however, that in no case shall such activities taken by Declarant or the Owners Association include the right to alter or demolish any items of construction and no such items of construction may be so altered or demolished unless pursuant to a court order in connection with judicial proceedings instituted to seek the right to alter or demolish such items of construction. The Owners Association shall have the right to levy a Reimbursement Assessment against such Owner and such Owner's Lot for all such costs and expenses incurred by the Owners Association. Declarant hereby creates and reserves a non-exclusive easement for the benefit of each of Declarant and the Owners Association over and across each Lot within the Annexed Property as shall reasonably be necessary for the Declarant or the Owners Association, or any authorized agent of any of them, as the case may be, to exercise its rights under this Section.

Section 9.19 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Annexed Property is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 9.20 Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

Section 9.21 Costs and Attorneys' Fees. In any action or proceeding under this Declaration, the prevailing party shall, except as may otherwise be provided in Article VIII, be awarded its costs and expenses in connection therewith including reasonable attorneys' fees.

Section 9.22 Limitation on Liability. Except as may otherwise be provided by law, the Owners Association, its Board of Directors, Declarant and any member, officer, director, agent or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

Section 9.23 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its officers, directors, partners, agents or employees in connection with any portion of the Annexed Property, or any

Improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as may be specifically set forth in writing. ANY AND ALL WARRANTIES WITH RESPECT TO ANY PORTION OF THE HOMEOWNERS ASSOCIATION AREA, AND ANY IMPROVEMENTS THEREON, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY SPECIFICALLY DISCLAIMED.

Section 9.24 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 9.25 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 9.26 Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial enforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 9.27 Interpretation. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. The term "including," unless otherwise specified, shall be interpreted in its broadest sense to mean "including without limitation."

Section 9.28 Captions for Convenience. The titles, headings and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

Section 9.29 Restrictions Imposed. The Annexed Property shall, without limitation, be subject to all of the Restrictions and other provisions contained in this Declaration, the applicable Plat, and the applicable Annexing Instrument. In addition, the Annexed Property, or portion(s) thereof, as applicable, shall, without limitation, be subject to the easements, licenses, and other matters contained in the documents listed on Exhibit C attached hereto and incorporated herein by this reference.

Section 9.30 No Dedication of Common Area. Declarant in recording this Declaration contemplates that it might designate certain areas of land as Common Area intended for the common use and enjoyment of Owners. Any Common Area hereafter owned by the Owners Association will not be dedicated for use by the general public, but upon conveyance to the Owners Association, will be deemed to have been dedicated to the common use and enjoyment of the Owners as more fully provided in this Declaration.

Section 9.31 Inconsistencies Between Laws and Instruments. In the event of any inconsistency between this Declaration, the Articles of Incorporation or Bylaws of the Owners Association, this Declaration shall control. In the event of any inconsistency between CCIOA and any of this Declaration, the Articles of Incorporation or Bylaws of the Owners Association, CCIOA shall control.

Section 9.32 Title to Common Area on Dissolution of Owners Association. In the event of dissolution of the Owners Association, the Common Area shall, to the extent reasonably possible, and after obtaining any approvals required by this Declaration, be conveyed or transferred to an appropriate

public or governmental agency or agencies or to a nonprofit corporation, association, trust or other organization, to be used for the common benefit of Owners for similar purposes for which the particular Common Area was held by the Association. To the extent that the foregoing is not possible, the Common Area shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Members in such fair and equitable manner as the Owners Association determines to be appropriate under the circumstances.

Section 9.33 Third-Party Beneficiary. Declarant is hereby designated to be a third-party beneficiary under this Declaration, and from a period of eight (8) years after the later of: (i) termination of the Period of Special Declarant Rights; or (ii) the date upon which a certificate of occupancy is issued to permit the occupancy of the Residence on all Lots owned by Declarant, Declarant shall have the right, but not the obligation, to attend meetings of the Members and Board and to receive copies of minutes or notices of action from meetings of the Board, Members or any permanent or standing committee of the Board. In addition, during such period of time, Declarant shall have standing to enforce Article VIII of this Declaration and any violation of that adversely affects Declarant's rights specified in this Declaration.

Section 9.34 Waiver of Liability for Use of Common Area. EACH OWNER, AND EACH OF THE RELATED USERS OF SUCH OWNER, BY TAKING TITLE TO A LOT WITHIN THE ANNEXED PROPERTY OR USING ANY OF THE COMMON AREA: (A) ACKNOWLEDGES AND AGREES THAT THE USE OF THE COMMON AREA, AND IMPROVEMENTS THEREON (INCLUDING, WITHOUT LIMITATION, SWIMMING POOLS, EQUESTRIAN FACILITIES, AND OTHER FACILITIES), BY SUCH OWNER, AND THE RELATED USERS OF SUCH OWNER, INVOLVES AN INHERENT DEGREE OF RISK OR DANGER AND COULD RESULT IN INJURY OR ILLNESS CAUSED BY ACCIDENTS, FORCES OF NATURE, FORESEEABLE AND UNFORESEEABLE CAUSES, THE ALLEGED OR ACTUAL NEGLIGENCE OF DECLARANT OR THE ASSOCIATION, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, OWNERS, MEMBERS, EMPLOYEES, AGENTS, OR OF OTHER OWNERS, OR THEIR RELATED USERS; (B) ACCEPTS SUCH INHERENT RISKS AND RELEASES EACH OF DECLARANT AND THE ASSOCIATION AND THEIR RESPECTIVE DIRECTORS, OFFICERS, PARTNERS, OWNERS, MEMBERS, EMPLOYEES, INSURERS AND AGENTS (THE "RELEASED PARTIES") FROM ANY AND ALL LOSS, COST, DAMAGE, CLAIMS AND LIABILITY FOR ANY INJURIES OR DAMAGES SUSTAINED BY SUCH OWNER, OR ITS RELATED USERS, AS A RESULT OF SUCH INHERENT RISKS OR OTHERWISE AS A RESULT OF THE USE OF THE COMMON AREA AND IMPROVEMENTS THEREON BY SUCH OWNER, AND ITS RELATED USERS; AND (C) IRREVOCABLY AND PERMANENTLY WAIVES, DISCLAIMS, AND RELEASES ANY CLAIMS THAT SUCH OWNER, AND ITS RELATED USERS, MAY HAVE AT ANY TIME AGAINST THE RELEASED PARTIES FOR ANY INJURY OR DAMAGE, AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS EACH OF THE RELEASED PARTIES FROM AND AGAINST ANY AND ALL LOSS, COST, DAMAGE, CLAIMS AND LIABILITY THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY OF THE RELEASED PARTIES, ARISING OR RESULTING FROM THE USE OF THE COMMON AREA BY SUCH OWNER, OR ITS RELATED USERS.

Section 9.35 Prohibition on Short Term Lodging. No Residence or portion thereof (unless it is subject to financing through a FHA or VA program) may be used for short term lodging, home share arrangements, home exchange arrangements, vacation rental, or any similar temporary lodging or living quarter arrangement (collectively, "**Short Term Lodging**"). For the avoidance of doubt, no such arrangement with a single group of people consisting of no more than six persons and that has a bona fide valid term longer than 60 days which is adhered to shall be viewed as Short Term Lodging. The failure to comply with the terms of this Section shall be a default under the applicable lease, and in addition to the right to immediately terminate the lease, the Declarant, any applicable architectural review committee

and/or the Owners Association, or any authorized agent of any of them, shall have the rights and remedies provided under Section 9.18.

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EXHIBIT A
TO
DECLARATION
FOR
SOLSTICE OWNERS ASSOCIATION, INC.

Legal Description of the Annexable Area

PARCEL ONE:

THAT PORTION OF SECTION 18, TOWNSHIP 6 SOUTH, RANGE 68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF DOUGLAS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 18, WHENCE THE SOUTHWEST CORNER OF SAID SECTION 18 BEARS SOUTH 89°56'00" WEST 30.00 FEET, SAID POINT BEING ALSO ON THE EAST RIGHT-OF-WAY LINE OF ROXBOROUGH PARK ROAD (60.00 FEET WIDE); THENCE ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 00°19'10" WEST 2644.53 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL (100.00 FEET WIDE), AS DESCRIBED IN BOOK K, PAGE 404, DOUGLAS COUNTY RECORDS; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE THE FOLLOWING COURSES: SOUTH 88°56'30" EAST 64.20 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 334.31 FEET; THENCE EASTERLY, AND SOUTHEASTERLY 141.08 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24°10'43"; THENCE SOUTH 64°39'40" EAST 486.60 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1248.28 FEET; THENCE SOUTHEASTERLY 248.74 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°25'01"; THENCE SOUTH 53°15'02" EAST 775.09 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1882.89 FEET; THENCE SOUTHEASTERLY 408.52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°25'52"; THENCE SOUTH 40°50'26" EAST 2022.42 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 18; THENCE ALONG SAID SOUTH LINE SOUTH 89°53'10" WEST 559.44 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 18; THENCE ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 18 SOUTH 89°56'00" WEST 2521.33 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OF THAT PORTION DESCRIBED IN SOLSTICE FILING NO. 1, AS PER THE PLAT THEREOF RECORDED JANUARY 18, 2019 AT RECEPTION NO. 2019002975, COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL TWO:

THAT PORTION OF SECTION 13, TOWNSHIP 6 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF DOUGLAS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13, WHENCE THE SOUTHEAST CORNER OF SAID SECTION 13 BEARS NORTH 89°43'22" EAST 30.00 FEET, SAID POINT BEING ALSO ON THE WEST RIGHT-OF-WAY LINE

OF ROXBOROUGH PARK ROAD (60.00 FEET WIDE); THENCE ALONG SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 13 SOUTH 89°43'22" WEST 2235.15 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL, AS DESCRIBED IN BOOK N, PAGE 132 AND BOOK 3, PAGE 430, DOUGLAS COUNTY RECORDS; THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY OF THE HIGHLINE CANAL (150 FEET WIDE) THE FOLLOWING COURSES: NORTH 16°49'35" EAST 1689.99 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 350.32 FEET; THENCE NORTHERLY, AND NORTHEASTERLY 163.63 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°45'41"; THENCE NORTH 43°44'38" EAST 518.66 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 498.54 FEET; THENCE NORTHEASTERLY 164.75 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°56'03"; THENCE NORTH 62°46'10" EAST 727.66 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 446.92 FEET; THENCE NORTHEASTERLY, AND EASTERLY 221.23 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°21'44"; THENCE SOUTH 88°49'09" EAST 299.30 FEET TO SAID WEST RIGHT-OF-WAY LINE OF ROXBOROUGH PARK ROAD; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE SOUTH 00°19'10" EAST 2595.92 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OF THAT PORTION DESCRIBED IN SOLSTICE FILING NO. 1, AS PER THE PLAT THEREOF RECORDED JANUARY 18, 2019 AT RECEPTION NO. 2019002975, COUNTY OF DOUGLAS, STATE OF COLORADO.

AND FURTHER EXCEPTING THEREFROM THAT PORTION DESCRIBED IN SPECIAL WARRANTY DEED RECORDED MARCH 19, 2019 AT RECEPTION NO. 2019013801.

PARCEL THREE:

THAT PORTION OF SECTION 13, TOWNSHIP 6 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF DOUGLAS, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 13; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 13 SOUTH 89°56'12" WEST 862.21 FEET TO THE EASTERLY BOUNDARY OF THE CHATFIELD TAKING AS DESCRIBED IN BOOK 203, PAGE 383, DOUGLAS COUNTY RECORDS, THENCE ALONG SAID EASTERLY BOUNDARY THE FOLLOWING COURSES: NORTH 00°05'15" WEST 400.01 FEET; THENCE NORTH 72°12'59" WEST 490.35 FEET; THENCE NORTH 73°37'21" WEST 521.65 FEET; THENCE NORTH 32°54'50" WEST 295.45 FEET; THENCE NORTH 80°27'27" EAST 314.22 FEET; THENCE NORTH 22°28'02" EAST 390.32 FEET; THENCE NORTH 71°50'46" EAST 315.25 FEET; THENCE NORTH 00°06'28" WEST 494.93 FEET; THENCE NORTH 72°19'04" WEST 630.13 FEET; THENCE NORTH 20°38'08" WEST 476.37 FEET; THENCE NORTH 62°31'39" EAST 750.40 FEET; THENCE NORTH 00°05'28" WEST 30.84. FEET; THENCE NORTH 89°15'09" EAST 1334.41 FEET; THENCE NORTH 89°16'08" EAST 2611.69 FEET TO THE WEST RIGHT-OF-WAY LINE OF ROXBOROUGH PARK ROAD (60.00 FEET WIDE); THENCE ALONG SAID WEST RIGHT-OF-WAY LINE SOUTH 00°14'35" EAST 256.20 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL (150 FEET WIDE) AS DESCRIBED IN BOOK N, PAGE 132 AND BOOK 3, PAGE 430, DOUGLAS COUNTY RECORDS; THENCE ALONG THE NORTHERLY AND NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID HIGHLINE CANAL THE FOLLOWING COURSES; NORTH 88°48'03" WEST 295.57 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 596.92 FEET; THENCE WESTERLY AND

SOUTHWESTERLY 296.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°26'16"; THENCE SOUTH 62°43'25" WEST 726.39 FEET TO THE BEGINNING OF TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 648.54 FEET; THENCE SOUTHWESTERLY 215.11 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°00'16"; THENCE SOUTH 43°48'03" WEST 518.99 FEET TO THE BEGINNING OF TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 500.32 FEET; THENCE SOUTHWESTERLY AND SOUTHERLY 235.59 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 26°58'46"; THENCE SOUTH 16°48'56" WEST 1734.60 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 13; THENCE ALONG SAID SOUTH LINE SOUTH 89°41'30" WEST 234.51 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OF THAT PORTION DESCRIBED IN SOLSTICE FILING NO. 1, AS PER THE PLAT THEREOF RECORDED JANUARY 18, 2019 AT RECEPTION NO. 2019002975, COUNTY OF DOUGLAS, STATE OF COLORADO.

AND FURTHER EXCEPTING THEREFROM THAT PORTION DESCRIBED IN SPECIAL WARRANTY DEED RECORDED MARCH 19, 2019 AT RECEPTION NO. 2019013801.

PARCEL FOUR:

LOTS 1 THROUGH 238, INCLUSIVE,
LOTS 243 THROUGH 245, INCLUSIVE, AND
TRACTS A THROUGH O, INCLUSIVE,
SOLSTICE FILING NO. 1, AS PER THE PLAT THEREOF
RECORDED JANUARY 18, 2019 AT RECEPTION NO. 2019002975,
COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL FIVE:

LOTS 239A THROUGH 242A, INCLUSIVE,
SOLSTICE FILING NO. 1, 1ST AMENDMENT, AS PER THE PLAT THEREOF
RECORDED OCTOBER 10, 2019, AT RECEPTION NO. 2019067235,
COUNTY OF DOUGLAS, STATE OF COLORADO.

EXHIBIT B
TO
DECLARATION
FOR
SOLSTICE OWNERS ASSOCIATION, INC.

Legal Description of the Common Area

None initially.

EXHIBIT C
TO
DECLARATION
FOR
SOLSTICE OWNERS ASSOCIATION, INC.

Easements, Licenses and Other Matters of Record

1. Taxes and assessments for the current year and subsequent years, a lien, but not yet due or payable.
2. Exception of water rights and ground water granted to Highlands Ranch Development Corporation by Mission Viejo Company in Quit Claim Deed and Assignment dated September 26, 1980, recorded October 20, 1980, in Book 396 at Page 520; in Quit Claim Deed, Assignment and Bill of Sale dated December 27, 1988, recorded December 27, 1988, in Book 834 at Page 63; in Quit Claim Deed and Assignment dated February 17, 1989, and recorded March 14, 1989, in Book 844 at Page 1139; in Quit Claim Deed and Assignment dated April 11, 1990, and recorded April 25, 1990, in Book 908 at Page 1205, a portion of which water rights and ground water were granted to Centennial Water and Sanitation District by Highlands Ranch Development Corporation in Special Warranty Deed, Assignment and Bill of Sale dated December 17, 1988, and recorded December 27, 1988, in Book 834 at Page 84; Special Warranty Deed and Assignment dated February 17, 1989, and recorded March 14, 1989, in Book 844 at Page 1142; Special Warranty Deed and Assignment dated April 11, 1990, and recorded April 25, 1990, in Book 908 at Page 1196 and re-recorded May 18, 1990, in Book 912 at Page 613.

Relinquishment of surface rights in connection with this item dated December 20, 1988, by Centennial Water and Sanitation District recorded December 27, 1988, in Book 834 at Page 119.
3. Minerals and mineral rights granted to Highlands Ranch Development Corporation by Mission Viejo Company in Mineral Deed dated September 26, 1980, and recorded October 20, 1980, in Book 396 at Page 514.
4. Waiver of rights for claims for loss or damage by reason or leakage, seepage, overflow from canal and laterals of Northern Colorado Irrigation Company (Highline Canal) as contained in Contract recorded December 3, 1887, in Book S at Page 319.
5. Right of way for John F. Letner Ditch as shown on the Statement and Map filed March 25, 1889, Filing No. 63. NOTE: Decree shown change of point of diversion, as shown in Decree, recorded in Book 172 at Page 395.
6. Right of way for roads as disclosed by plats recorded July 17, 1882, in Book 1 of Plats at Pages 8 and 28 and recorded in Book 2 of Plats at Page 22.

7. An easement for utilities and incidental purposes granted to Public Service Company of Colorado, by the instrument recorded December 28, 1988, in Book 834 at Page 276, upon the terms and conditions set forth in the instrument.
8. Any and all canal and creek rights of way and the public use of same.
9. Any change in the location of the Highline Canal.
10. Terms, conditions, provisions, agreements and obligations contained in the Easement as granted to Centennial Water and Sanitation District recorded July 13, 1994, in Book 1207 at Page 2194.
11. Reservations as contained in General Warranty Deed between Mission Viejo Company, a California corporation, and Sand Creek Cattle Company, a Colorado corporation, as recorded January 20, 1984, in Book 505 at Page 639.
12. Correction to instruments as recorded March 29, 1995, in Book 1254 at Page 892.
13. The following Items as reflected and shown on the ALTA/ACSM survey as prepared by Aztec Consultants, Inc. Dated August 8, 2007, Job No. 10707-27:
 - A) The location of fence lines and any right title or claim resulting from said locations.
 - B) Dirt roads and trails traversing across subject property and any right of access to well sites related thereto.
14. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the Mirabelle Metropolitan District No. 1 as evidenced by instrument(s) recorded July 14, 2017 at Reception No. 2017047679.

Note: Disclosure to Purchasers recorded October 15, 2019 at Reception No. 2019068208.
15. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the South Metro Fire Rescue Fire Protection District, as evidenced by instrument(s) recorded September 26, 2016 at Reception No. 2016067190.

Note: Corrected Order of Inclusion recorded October 28, 2016 at Reception No. 2016077341.
16. Terms, conditions, provisions, agreements and obligations contained in the Resolution No. R-016-108 as set forth below:

Recording Date: October 14, 2016

Recording No.: Reception No. 2016073332
17. Terms, conditions, provisions, agreements and obligations contained in the Resolution NO. R-016-113 as set forth below:

Recording Date: October 26, 2016

Recording No.: Reception No. 2016076366

18. Terms, conditions, provisions, agreements and obligations contained in the Plum Creek Planned Development as set forth below:

Recording Date: October 28, 2016

Recording No.: Reception No. 2016077525

19. Terms, conditions, provisions, agreements and obligations contained in the Order and Decree Organizing Mirabelle Metropolitan district No. 2 as set forth below:

Recording Date: December 2, 2016

Recording No.: Reception No. 2016087858

Note: Special District Public Disclosure recorded July 14, 2017 at Reception No. 2017047680.

Note: Disclosure to Purchasers recorded October 15, 2019 at Reception No. 2019068208.

20. Terms, conditions, provisions, agreements and obligations contained in the Order and Decree Organizing Mirabelle Metropolitan district No. 3 as set forth below:

Recording Date: December 2, 2016

Recording No.: Reception No. 2016087859

Note: Special District Public Disclosure recorded July 14, 2017 at Reception No. 2017047681.

Note: Disclosure to Purchasers recorded October 15, 2019 at Reception No. 2019068208.

21. Terms, conditions, provisions, agreements and obligations contained in the Order and Decree Organizing Mirabelle Metropolitan district No. 4 as set forth below:

Recording Date: December 2, 2016

Recording No.: Reception No. 2016087860

Note: Special District Public Disclosure recorded July 14, 2017 at Reception No. 2017047682.

Note: Disclosure to Purchasers recorded October 15, 2019 at Reception No. 2019068208.

22. Terms conditions, provisions, agreements, and obligations as contained in Order of Inclusion recorded December 7, 2017 at Reception No. 2017082580.

Note: Order Clarifying Corrected Order of Inclusion recorded January 5, 2018 at Reception No. 2018001259.

23. Terms, conditions, provisions, agreements, and obligations as contained in Comprehensive Development Agreement For Plum Creek Planned Development recorded December 6, 2017 at Reception No. 2017082210.
24. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the Mirabelle Metropolitan District No. 2, as evidenced by instrument(s) recorded August 7, 2018 at Reception No. 2018047606.
25. Note: Special district Public Disclosure recorded August 8, 2018 at Reception No. 2018047839.
26. Note: Disclosure to Purchasers recorded October 15, 2019 at Reception No. 2019068208.
27. Terms, conditions, provisions, easements, agreements and obligations contained in the Resolution No. R-018-104 as set forth below:

Recording Date: October 12, 2018

Recording No.: Reception No. 2018062522
28. Terms, conditions, provisions, agreements and obligations contained in the Declaration of Terms and Provisions for Grants of Easements on Plats as set forth below:

Recording Date: December 12, 2018

Recording No.: Reception No. 2018074460
29. Easements, notes, terms, conditions, provisions, agreements and obligations as shown on the plat of Solstice Filing No. 1 recorded January 18, 2019 at Reception No. 2019002975.
30. Terms, conditions, provisions, agreements and obligations contained in the Easement Agreement as set forth below:

Recording Date: July 26, 2019

Recording No.: Reception No. 2019045442
31. Terms, conditions, provisions, agreements and obligations contained in the Grant of Easement Mirabelle Service Project as set forth below:

Recording Date: April 15, 2019

Recording No.: Reception No. 2019019642

32. Easements, notes, terms, conditions, provisions, agreements and obligations as shown on the plat of Solstice Filing No. 1, 1st Amendment recorded October 10, 2019 at Reception No. 2019067235.
33. Terms, conditions, provisions, agreements and obligations contained in the Grant of Easement Storm Drainage as set forth below:

Recording Date: October 24, 2019

Recording No.: Reception No. 2019071523

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