

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
THE TOWNHOMES AT CHIMNEY PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE Townhomes at Chimney Park ("Declaration") are made and entered into this 24th day of May, 2019 by Chestnut Street Holdings, LLC, a Colorado limited liability company, ("Declarant"), upon the following terms and conditions:

RECITALS

WHEREAS, The Declarant is the owner of that certain real property located in the County of Weld, within the Town of Windsor, State of Colorado, legally described on *Exhibit A* attached hereto and incorporated herein by reference, as supplemented and amended from time to time ("Real Estate"); and

WHEREAS, The Declarant has caused to be incorporated under the laws of the State of Colorado The Townhomes at Chimney Park Owners Association, Inc. a Colorado nonprofit corporation ("Association") for the purpose of exercising the functions herein set forth; and

WHEREAS, the covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other charges set forth herein are in addition to the laws of any and all applicable governmental entities with jurisdiction over the Real Estate, including but not limited to the Town of Windsor and Weld County, Colorado; and

WHEREAS, The Declarant desires to create a planned community ("Community") in which Portions of the Real Estate will be designated for separate ownership and the remainder of which will be owned by the Association, pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et seq., as it may be amended from time to time ("Act"); and

WHEREAS, The Declarant desires that the Association enforce the covenants, conditions, restrictions, easements, and provide design review services as set forth herein, for the Real Estate and Improvements in the County of Weld, State of Colorado, which is described on *Exhibit A*, attached hereto and incorporated herein by this reference ("Real Estate"); and

WHEREAS, This Declaration shall run with the land and be binding on and inure to the benefit of all the parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-kind, and assigns.

ARTICLE I. SUBMISSION OF REAL ESTATE

The Declarant hereby publishes and declares that the Real Estate shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors, and assigns.

ARTICLE II. DEFINITIONS

1. "Act" means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et seq., as amended and supplemented from time to time, or any successor legislation to these statutes.
2. "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.
3. "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.
4. "Association" shall mean and refer to The Townhomes at Chimney Park Owners Association, Inc., a Colorado nonprofit corporation, its successors and assigns, organized and existing under the laws of the State of Colorado.
5. "Board" shall mean and refer to the Board of Directors of the Association.
6. "Buildings" shall mean and refer to all buildings constructed within the Community, which Buildings shall include the Residences and/or Garages.
7. "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.
8. "Clerk and Recorder" shall mean and refer to the office of the Clerk and Recorder of Weld County, Colorado.
9. "Common Elements" shall mean and refer to that certain real property and the Improvements presently located thereon or subsequently constructed thereon owned by the Association and located in the County of Weld, State of Colorado, legally described on the plat, *Exhibit B*, which is attached hereto and incorporated herein by reference.

10. "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Lot pursuant to this Declaration.
11. "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. These expenses for the operation of the Community include, but are not limited to:
 - (a) Expenses of administering, maintaining, repairing, improving, insuring, or replacing the Common Elements.
 - (b) Expenses of maintaining, repairing, improving, insuring, and replacing the Buildings.
 - (c) Expenses of maintaining, repairing, improving, and replacing the Landscaping outside of the fenced areas of the Lots.
 - (d) Expenses of snow removal.
 - (e) Premiums for the insurance to be procured and maintained by the Association.
 - (f) Expenses declared to be Common Expenses by this Declaration.
 - (g) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements, Buildings, Landscaping, or any other real or personal property acquired or held by the Association.
12. "Community" shall mean and refer to the Real Estate.
13. "Declarant" means, Chestnut Street Holdings, LLC, a Colorado limited liability company, or its successors or assigns, including any Successor Declarant to the extent rights of Declarant are assigned to the Successor Declarant, as provided in this Declaration below.
14. "Declaration" shall mean and refer to this Declaration, including any amendments hereto, and also including, but not limited to, the Plat.
15. "Documents" shall mean and refer to this Declaration, the Plat, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as supplemented or amended from time to time.
16. "First Mortgage" means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

17. "First Mortgagee" means the holder of a First Mortgage.
18. "Garage" shall mean and refer to a garage unit constructed on a Lot, located in Tract A, B, or C, which may be attached to one or more other garage units on the adjacent Lots by one or more common walls, the adjacent units being included within one or more Buildings.
19. "Identifying Number" shall mean and refer to a symbol or address that identifies only one (1) Lot in the Community.
20. "Improvements" means all Buildings, parking areas, sidewalks, fences, walls, hedges, plantings, lighting, poles, driveways, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" include(s) both original improvements and all later changes and improvements.
21. "Insurer" shall mean and refer to any governmental agency or authority that insures or guarantees a Mortgage and that has provided actual written notice of such interest to the Association. Recording of a Mortgage, deed of trust, or other Security Interest in the office of the Clerk and Recorder, shall not be considered actual written notice to the Association of a Security Interest.
22. "Landscaping" shall mean and refer to all trees, shrubs, grasses, flowers, and other plants and plant materials, decorative rock and other landscape materials on the Lots and Common Elements.
23. "Lots" shall mean and refer to a physical portion of the Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Plat. The term "Lots" shall not mean or include the Common Elements.
24. "Mortgage" means any mortgage, deed of trust, or other document which is recorded in the office of the Clerk and Recorder, and which encumbers any portion of the Real Estate or interest therein as security for payment of a debt or obligation.
25. "Mortgagee" shall mean and refer to any Person who has a Security Interest in a Lot and who has provided actual written notice of such Security Interest to the Association. Recording of a Mortgage, deed of trust, or other Security Interest in the office of the Clerk and Recorder, shall not be considered actual written notice to the Association of a Security Interest.
26. "Notice" shall mean and refer to any notice required or desired to be given pursuant to the Documents. Unless otherwise provided in the Documents, all notices shall be in writing

and may be personally delivered; mailed, certified mail, return receipt requested; sent by facsimile with a hard copy sent by regular mail; sent by a nationally recognized receipted overnight delivery service, including, by example and not limitation, United Parcel Service, Federal Express, or Airborne Express; or sent by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by facsimile or electronic mail, on the day sent if sent on a business day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next business day; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses, telephone numbers, and electronic mail addresses for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided.

27. "Owner" shall mean and refer to any Person who owns a Lot but does not include a Person having an interest in a Lot solely as security for an obligation.
28. "Party Wall" shall mean and refer to a wall dividing two Residences and/or decks and patios on adjacent Lots.
29. "Period of Declarant Control" shall mean and refer to the period during which Declarant (or any Successor Declarant) may appoint and remove Directors and officers of the Association as permitted under the Act. The Period of Declarant Control will begin on the date this Declaration is recorded in the office of the Clerk and Recorder, and will end no later than (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that may be created within the Real Estate to Owners other Declarant (or any Successor Declarant), (ii) two (2) years after the last conveyance of a Lot by Declarant (or any Successor Declarant) in the ordinary course of business, or (iii) the date on which Declarant (or any Successor Declarant) voluntarily terminates the Period of Declarant Control by recording a notice to that effect in the office of the Clerk and Recorder, whichever of the foregoing dates or events occurs first. Notwithstanding the foregoing, the Period of Declarant Control will be extended at the option of Declarant (1) if the Act is amended to allow for the extension of the Period of Declarant Control beyond the limiting dates outlined in this Section above, or (2) if the Period of Declarant Control is reinstated or extended by agreement between Declarant and the Association. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will have all the rights and duties ordinarily given to Members under this Declaration.
30. "Person" shall mean and refer to a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or combination thereof.

31. "Plat" shall mean and refer to the Plat of the CHIMNEY PARK SUBDIVISION, 5th Filing, recorded on the 1st day of February, 2019, at Reception No. 4463910 in the office of the Clerk and Recorder, and all recorded amendments thereto.
32. "Related User" shall mean and refer to any Person who: (a) resides with an Owner within a Lot; (b) is a guest or invitee of an Owner; (c) is an occupant or tenant of a Lot; or (d) is a family member, guest, invitee or cohabitant of the foregoing.
33. "Residence" shall mean and refer to a Single Family residential dwelling unit constructed on a Lot, which may be attached to one or more other dwelling units on the adjacent Lots by one or more common walls, the adjacent dwelling units being included within one or more Buildings.
34. "Residential Use" shall mean and refer to use of a Residence as a dwelling by a Single Family.
35. "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Community, including any amendment to those instruments.
36. "Security Interest" shall mean and refer to an interest in real property created by contract or conveyance which secures payment or performance of an obligation if the Association is given actual written notice of such interest. The term includes a lien created by Mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation of which the Association has been given actual written notice. "First Security Interest" shall mean and refer to a Security Interest in a Lot of which the Association has been given actual written notice prior to all other Security Interests, except the Security Interest for real property taxes and assessments made by Weld County, Colorado, or other governmental authority having jurisdiction over the Community. For purposes of this Declaration, the recording of any document or instrument in the office of the Clerk and Recorder, shall not be considered actual written notice to the Association of any Security Interest created by the recording of such document or instrument.
37. "Single Family" shall mean and refer to any individual or group of persons related by blood or marriage or any unrelated group of not more than three (3) persons living together in a Residence.
38. "Special Declarant Rights" is defined as set forth in Article V of this Declaration below.
39. "Special Declarant Rights Period" means the period beginning the date this Declaration is recorded in the office of the Clerk and Recorder and ending the date on which Declarant

shall have conveyed to parties (other than a Successor Declarant) all Lots originally owned by Declarant in the Community.

40. "Successor Declarant" means any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, and evidenced by an assignment or deed of record in the office of the Clerk and Recorder, designating such party as a Successor Declarant, signed by the transferor and the transferee, and otherwise complying with the requirements of the Act. Upon such recording, Declarant's rights and obligations under the Declaration will cease and terminate to the extent provided in such document.
41. Other terms in this Declaration may be defined in specified provisions contained herein and shall have the meaning assigned by such definition.

ARTICLE III. COMMUNITY

1. Name. The name of the Community is The Townhomes at Chimney Park.
2. Association. The name of the Association is The Townhomes at Chimney Park Owners Association, Inc.
3. Planned Community. The Community is a planned community.
4. County. The name of every county in which any part of the Community is situated is Weld County, Colorado.
5. Legal Description. A legal description of the Real Estate included in the Community is set forth on *Exhibit A* attached hereto.
6. Maximum Number of Lots. The maximum number of Lots that may be created within the Community is seventy (70).
7. Boundaries of Lots. The boundaries of each Lot are set forth on the Plat. The Plat sets forth each Lot's Identifying Number.
8. Allocated Interests. The Common Expense Liability and votes in the Association shall be allocated among the Owners as follows:
 - (a) Subject to Section 3 of Article XII of this Declaration, and except as provided in Subsection 8(b) of Article III below, each Residential Owner's share of the Common Expenses shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Residential Lots in existence within the Community on the date of the assessment. For the purposes of

determining a Residential Owner's share of Common Expenses, a Lot shall not be considered in existence until a Residence is constructed thereon and a Certificate of Occupancy is issued for the same.

- (b) There will be only one meter for each Residential Building to measure the usage and charges for water and sewer, and the Residences shall not be separately metered. Each Residential Owner's share of the Common Expenses for water and sewer allocated to the Building in which the Owner's Residence is located shall be a fraction, the numerator of which shall be the number of bedrooms initially designed and installed in the Owner's Residence and the denominator of which shall be the total number of bedrooms initially designed and installed in the Building in which the Owner's Residence is located. The Board shall have the right to make assessments for the Common Expenses for water and sewer consistent with this Subsection in such manner and frequency as determined by the Board from time to time.
 - (c) Each Residential Owner shall be entitled to one (1) vote for each Residential Lot owned.
 - (d) Each Garage Owner shall be entitled to one (1) vote for each Garage Lot owned.
9. Recording Data. All easements and licenses to which the Community is presently subject are shown on the Plat, *Exhibit B* attached hereto.

ARTICLE IV. ASSOCIATION

1. Purpose. The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are as follows: (a) to operate the Community; (b) to promote the health, safety, welfare, and common benefit of the residents of the Community; (c) to maintain, repair, replace and improve the Common Elements; (d) to maintain, repair, replace, and improve the exterior of the Buildings; (e) to maintain, replace, and improve the Landscaping on the Lots; (f) to procure and maintain insurance and to act as an insurance trustee and attorney-in-fact for the Owners in the application of insurance proceeds to repair the Buildings, including structural components thereof, in the event of damage or destruction, and (g) to do any and all permitted acts, and to have and exercise any and all powers, rights, and privileges which are granted to an association under the laws of the State of Colorado, this Declaration, and the Bylaws, Rules and Regulations, and other governing documents of the Association.

2. Voting Rights and Assignment of Votes. The effective date for assigning votes to Lots created pursuant to this Declaration shall be the date on which this Declaration is recorded in the records of the Clerk and Recorder.

3. Authority. The business and affairs of the Community shall be managed by the Association. The Association shall be governed by this Declaration and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as amended from time to time.

4. Powers. The Association shall have all of the powers and authority permitted by the Act, by other applicable law, and pursuant to the Documents which are necessary and proper to manage the business and affairs of the Community.

5. Membership. Each and every Owner shall be a Member of the Association. By acquiring title to a Lot, the Owner of the Lot shall be deemed to have consented to become a Member of the Association. Membership in the Association shall be appurtenant to the Lot owned. No Owner of a Lot may transfer such Owner's Membership Interest in the Association, or any right arising therefrom except as appurtenant to the transfer of such Owner's Lot.

6. Board Powers and Duties. The Board may act in all instances on behalf of the Association. The Board shall have, subject to the limitations contained in this Declaration, the powers and duties necessary for the administration of the affairs of the Association and of the Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws.
- (b) Adopt and amend Rules and Regulations.
- (c) Adopt and amend budgets for revenues, expenditures, and reserves.
- (d) Collect Common Expense assessments from Lot Owners.
- (e) Hire and discharge independent contractors, employees, and agents including, but not limited to, a professional manager, managing agent or property management company to manage the business and affairs of the Association.
- (f) Institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association.
- (g) Make and enter contracts and incur liabilities.
- (h) Regulate the use of the Common Elements.
- (i) Maintain, repair, replace, and improve the Common Elements, Buildings, and Landscaping within the Community.
- (j) Cause additional Improvements to be made as a part of the Common Elements.
- (k) Acquire, hold, encumber, and convey in the Association's name any right, title, or interest to real estate or personal property, but the Common Elements may

be conveyed or subjected to a Security Interest only pursuant to this Declaration and applicable law.

(l) Grant easements for any period of time, including permanent easements, leases, licenses, and concessions through or over the Common Elements, subject to the restrictions and limitations of this Declaration and applicable law.

(m) Impose and receive a fee or charge for the use, rental, or operation of the Common Elements and for services provided to Lot Owners.

(n) Impose a reasonable charge for late payment of assessments and levy a reasonable fine for violation of the Documents.

(o) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid assessments.

(p) Provide for the indemnification of the Association's officers and the Board and maintain directors' and officers' liability insurance.

(q) Procure and maintain insurance as provided below in this Declaration and act as an insurance trustee and attorney-in-fact for the Owners in the application of insurance proceeds to repair the Buildings, including structural components thereof, in the event of damage or destruction.

(r) Assign the Association's right to future income, including the right to receive Common Expense assessments, but only upon Approval of the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(s) Exercise any other powers conferred by the Act or the Documents.

(t) Exercise any other power that may be exercised in the state of Colorado by a non-profit corporation.

(u) Exercise any other power necessary and proper for the governance and operation of the Association.

(v) By resolution, establish permanent and standing committees of Members to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees established by the Board must provide information from their committees to the Board for review and then the Board will include the information in the Board Meeting Minutes. Actions taken by any committee established by the Board may be appealed to the Board by any Lot Owner within forty-five (45) days of publication of a notice of the committee action. If an appeal is made, the committee's action must be ratified, modified, or rejected by the Board at its next regular meeting.

7. Professional Management and Contract Termination Provisions. The Association may utilize professional management in performing its duties hereunder.
8. Board Limitations. The Board may not act on behalf of the Association to amend this Declaration, to terminate the Community, or to elect members of the Board or determine their qualifications, powers, and duties or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term. All Board members must be in good standing with the Association.
9. Indemnification. To the full extent permitted by law, each officer and member of the Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party or in which they may become involved by reason of their being or having been an officer or member of the Board of the Association, or any settlement thereof, whether or not they are an officer or a member of the Board of the Association at the time such expenses are incurred, except in such cases where such officer or member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

**ARTICLE V. DEVELOPMENT RIGHTS, SPECIAL DECLARANT RIGHTS, AND
ADDITIONAL RESERVED RIGHTS**

1. Appointment of Officers and Directors by Declarant. Until the expiration of the Period of Declarant Control and subject to the limitations of the Act, Declarant will retain the exclusive powers to appoint and remove Directors and officers of the Association. Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove Directors and officers of the Association before the end of the Period of Declarant Control by providing a notice to that effect to the Association and otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws and in the Act. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Period of Declarant Control, Declarant may require that specified actions of the Association or the Board, as described in an instrument executed and recorded by Declarant in the office of the Clerk and Recorder, be approved by Declarant before those actions become effective.
2. Special Declarant Rights. Until the expiration of the Special Declarant Rights Period, Declarant will have the following Special Declarant Rights with respect to all of the Real Estate:
 - (a) Completion of Improvements. The right to complete Improvements as indicated on any Plat filed with respect to the Real Estate.
 - (b) Development Rights. The right to exercise all "development rights" as defined from time to time in the Act (and so referred to here as "Development Rights"),

including, without limitation, the right or combination of rights hereby reserved by Declarant, as follows:

- (i) The right to add any adjacent real estate to the Real Estate.
 - (ii) The right to create Lots or Common Elements on the Real Estate, subject to the limitations of Section 6 of Article III.
 - (iii) The right to subdivide Lots or convert Lots into Common Elements on any part of the Real Estate, subject to the limitations of Section 6 of Article III.
 - (iv) The right to add a dog run in the common elements of the property.
 - (v) The right to withdraw real estate from the Real Estate as permitted by the Act. The property withdrawn from the Real Estate shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Real Estate remaining subject to this Declaration. Declarant shall prepare and record in the real property records of Weld County, Colorado, whatever documents are necessary to evidence such easements.
- (c) Sales Efforts. The right to maintain sales offices, management offices, signs advertising the Community, and model Residences within the Real Estate.
 - (d) Easements. The right to use easements through the Common Elements for the purpose of making Improvements within the Community or within the real estate that may be added to the Community.
 - (e) Master Association. The right to make the Community subject to a master association.
 - (f) Merger. The right to merge or consolidate the Community with a common interest community of the same form of ownership.

3. Order of Exercise of Declarant's Rights. The fact that Declarant may exercise one (1) or more of Declarant's Development Rights or other Special Declarant Rights on one (1) portion of the Real Estate will not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Real Estate, and Declarant may exercise its Development Rights or Special Declarant Rights in any order or sequence it deems appropriate.

4. Supplemental Provisions Regarding Declarant's Rights. Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Rights or any other Special Declarant Rights to the extent permitted by the Act, and Declarant

also reserves the additional rights retained for the benefit of Declarant in other provisions of this Declaration.

ARTICLE VI. EASEMENTS

1. Encroachments. A valid easement shall exist for the following encroachments and for the maintenance of the same: (a) in the event that any portion of a Residence encroaches upon any other Lot or upon any portion of the Common Elements; or (b) in the event any encroachment shall occur in the future as a result of settling of a Building or repair or restoration of a Building after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Buildings are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances, either on the Common Elements or on the Lots, for purposes of marketability of title or other purposes.

2. Blanket Easement. There is hereby created a blanket easement for the benefit of the Association across, over, and under all Lots for improving, replacing, repairing, and maintaining the Buildings and Landscaping, and performing any further maintenance, replacements, repairs or services to be provided by the Association under this Declaration.

3. Utility Easements. Declarant hereby reserves, for itself and the Association, and for any governmental entities or utility companies providing utility services to the Real Estate, a general easement upon, across, over, in, and under the Real Estate for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, and electrical, cable and other communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under and over the Real Estate, subject to the restrictions contained in this Section. No water, sewer, gas, telephone, electrical, communications or other utility or service lines, systems or facilities may be installed or relocated on the surface of the Real Estate, unless approved by the Declarant prior to the expiration of the Special Declarant Rights Period, or by the Board after such expiration. These items may be temporarily installed above ground during construction, if approved by the Declarant, or after the Special Declarant Rights Period, if approved by the Board, subject to the requirements, if any, of Weld County, the City of Windsor, or any other authority having jurisdiction over the Real Estate. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any structure or other Improvement, other than under a Residence or in the attic area of a Residence as approved by the Declarant, or after the Special Declarant Rights Period, as approved by the Board. Any damage to any such structure or other Improvement resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably

interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or the Owner's Related User.

4. Drainage Easements. Declarant reserves for itself and its successors and assigns an easement to enter on any portion of the Real Estate for the purpose of modifying the grade of any drainage channels on the Real Estate to improve the drainage of water. Every Lot shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Real Estate; provided, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Real Estate without the consent of the Board and the Owner of the affected property.

5. General Provision. Any entity using these general easements provided under Sections 3 and 4 of this Article VI shall use its best efforts to install and maintain the easements for utilities or drainage without disturbing the uses of the Owners, the Association and Declarant; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and in the case of utility work, shall restore the surface to its original condition as soon as possible after completion of its work, and shall comply with all requirements of the Board. Should any entity furnishing a service covered by these general easements request a specific easement by separate recordable document, either Declarant or the Board shall have, and are hereby given the right and authority, to grant such easement upon, across, over, or under any part or all of the Real Estate without conflicting with the terms of this Declaration. This general easement shall in no way affect, void, extinguish, or modify any other recorded easement affecting the Real Estate.

6. Reservation for Construction. Declarant hereby reserves for itself and its successors and assigns a perpetual easement and right-of-way over, upon and across the Real Estate for construction, utilities, drainage, and ingress and egress. The location of these easements and rights-of-way may be made certain by Declarant or the Board by instruments recorded in Weld County, Colorado.

7. Rights Incidental to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, in Lots owned by it, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the Consent or Approval of any Owner or Mortgagee. Declarant reserves an easement through the Real Estate as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey Improvements within those easements anywhere in the Real Estate.

8. Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Real Estate, and all portions thereof, shall be subject to the easements as shown on any recorded Plat of the Real Estate, or any portion thereof. Further, the Real Estate, or portions thereof, is now or may hereafter be subject to the easements,

licenses and other recorded documents, or any of them, set forth on *Exhibit B* attached hereto and incorporated herein by this reference.

9. Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon the Real Estate in the proper performance of their duties.

10. Easements Deemed Appurtenant. Any and all conveyances made by Declarant to any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements and rights created herein for an Owner shall be deemed appurtenant to the Lot owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

ARTICLE VII. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION

No labor performed or materials furnished and incorporated in a Residence with the consent of or at the request of the Owner, his or her agents, contractors, or subcontractors, shall be the basis for filing a lien against the Residence of any other Owner not expressly consenting to or requesting the same or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners, from and against all liability arising from the claim of any lien against the Residence of any other Owner or against the Common Elements for construction performed or for labor, material, services, or other products incorporated in the Owner's Residence at such Owner's request. Notwithstanding the foregoing, any Mortgagee of a Lot who shall become the Owner of such Lot pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other Owner against liability for claims arising prior to the date such Mortgagee becomes an Owner.

ARTICLE VIII. RESERVATION FOR ACCESS, MAINTENANCE, REPAIR, AND EMERGENCIES

1. Access to Lots. The Association shall have the irrevocable right, to be exercised by the Association's Board, its employees, contractors and managing agent, to have access to each Lot from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Buildings, Landscaping, or other Improvements to be maintained by the Association, or at any hour for making emergency repairs, maintenance, or inspection necessary to prevent damage to a Building.

2. Damage to Residence. Damage to the interior of any part of a Residence resulting from the maintenance, repair, emergency repair, or replacement of any Building at the insistence of

the Association shall be a Common Expense; provided, however, that if the damage to be repaired is caused by negligent or tortious acts of an Owner, his or her agents, employees, invitees, or tenants, then such Owner shall be responsible and liable for all of such damage, and the cost thereof shall become said Owner's obligation. All damaged Improvements shall be restored substantially to the extent reasonably practical to the same condition in which they existed prior to the damage. All maintenance, repairs, and replacement of the Buildings shall be the Common Expense of all of the Owners (unless necessitated by the negligence, misuse, or tortious act of an Owner, in which case such expense shall be charged to such Owner). However, the Association shall not be obligated to seek redress for damages caused by a negligent Owner, and this covenant shall not abrogate the insurance provisions of this Declaration.

3. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance or repair of the Common Elements, any Improvements located thereon, any Building, or any Landscaping is caused by the willful or negligent act, omission, or misconduct of any Lot Owner or by the willful or negligent act, omission, or misconduct of any Lot Owner's Related User, the costs of such repair and maintenance shall be the personal obligation of such Lot Owner, and any costs, expenses, and Fees incurred by the Association for such maintenance, repair, or reconstruction shall be added to and become a part of the assessment to which such Owner's Lot is subject and shall be a lien against such Owner's Lot as provided in this Declaration. A determination of the willful or negligent act, omission, or misconduct of any Lot Owner or any Lot Owner's Related User, and the amount of the Lot Owner's liability therefor shall be determined by the Board after notice to the Lot Owner and the right to be heard before the Board in connection therewith.

ARTICLE IX. MAINTENANCE AND SERVICE RESPONSIBILITY

1. Owner.

(a) For maintenance purposes, an Owner, at the Owner's expense, shall be responsible for the windows, storm windows, window wells, skylights, doors, storm doors, garage door openers and garage doors (except for the painting of the exterior of the garage doors, which shall be the maintenance responsibility of the Association); the interior nonsupporting walls, floors, and ceilings of the Residence or Garage; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring, and other materials which make up the finished surfaces of the perimeter walls, ceiling, and floors within the Residence or Garage; and the repair or replacement of all concrete surfacing and flatwork, including patios, driveways, and walkways, located on the Lot or immediately adjacent thereto and directly benefiting the Lot. All other maintenance and repair of the Residence or Garage and the Residence Lot not expressly assumed by the Association in Article IX (2).

An Owner, however, shall not be deemed to own the pipes, wires, conduits, or systems running through his or her Residence or Garage which serve the adjacent Residence or Garage, except as a tenant in common with the Owner of the adjacent Residence or Garage ("Common Utilities").

Such Common Utilities shall not be disturbed or relocated by an Owner without the prior written Consent and Approval of the Board and the Owner of the adjacent Residence or Garage. Common Utilities shall be maintained by the Owners of the Residences served by such Common Utilities as such Owners shall agree between themselves, and absent such agreement, the costs of such maintenance shall be borne equally by the Owners utilizing the Common Utilities.

(b) An Owner, at the Owner's expense, shall maintain and keep in repair the interior of his or her own Residence or Garage, including the fixtures, utility lines, systems and facilities (except the Common Utilities located therein), to the extent current repair shall be necessary in order to avoid damaging another Residence or Garage. All fixtures, equipment, and utilities installed within the Residence or Garage and serving such Residence or Garage, commencing at a point where the fixtures, equipment, and utilities enter the Residence or Garage, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness of the Building or impair the proper functioning of the Common Utilities.

(c) An Owner, at the Owner's expense, shall be responsible for the maintenance, repair, replacement and improvement of all fixtures, such as air conditioning units, located on the exterior of such Owner's Residence or Garage which serve such Owner's Residence or Garage.

(d) An Owner, at the Owner's expense, shall be responsible for the installation, maintenance, repair, replacement and improvement of the fenced yard area on the Owner's Lot, which shall include, but is not limited to, the Landscaping systems located therein, and the gate and latch on the fence enclosing the yard. No fence installation or other improvement within the Community shall be commenced until the plans and specifications thereof have been approved by the Board.

(e) Notwithstanding anything to the contrary in this Declaration, the Owner of each Lot, at the Owner's expense, shall be responsible for the maintenance, repair, replacement and improvement of all exterior concrete surfacing, porches, patios, decks, landings, and stairs of such Owner's Lot; provided, however, the Association shall be responsible for snow removal from the sidewalks within the Community. For clarification, and not in limitation of the foregoing, each Owner shall be responsible for snow removal from the porches and the driveway located on his or her Lot.

2. Association. The Association shall have the duty of maintaining and repairing: the exterior of the Buildings, including painting, and roof repair and replacement; the Landscaping outside of the fenced area of each Lot (for purposes of clarification, the Owners are responsible for Landscaping located within the fenced area of the Owners' Lots), the sewer lines from the connection of the main line in the street up to the point where the line connects to the foundation of the Residence; fences on the Residents Lots initially installed by the Declarant, an Affiliate of the Declarant, or a builder with the express written consent of the Declarant, or a late approved by the Architectural Control Committee and for which the Association has undertaken maintenance

responsibility; and snow removal from the sidewalks, walkways and driveways on the Residents Lots or immediately adjacent thereto except to the extent such maintenance is to be performed by individual Owners as provided in Section 1 of this Article IX; and trash removal. The cost of all maintenance and repair performed by the Association shall be a Common Expense of all of the Owners.

ARTICLE X. INSURANCE

1. To Be Obtained by the Association. The Association shall obtain and maintain at all times, to the extent obtainable at reasonable cost, policies involving standard premium rates established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado covering the risks set forth below. The Association shall not obtain any policy where: (1) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against a Mortgagee or Mortgagee's designee; or (2) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees or Owners from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows:

(a) Fire Insurance. The Association shall maintain fire insurance with extended coverage and standard all-risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Such policy shall also include an agreed amount endorsement and, if available, an inflation guard endorsement. If requested by a First Mortgagee or an insurer or guarantor of a First Mortgage, such policy shall also include construction code endorsements such as demolition cost endorsement, a contingent liability from operation of building laws endorsement, and an increased cost of construction endorsement. Said casualty insurance shall insure all Buildings, including all of the Residences, any fixtures, equipment, or other property within the Residences which are to be maintained by the Association. All policies shall contain a standard noncontributory mortgage clause in favor of each Mortgagee of a Residence which shall provide that the loss, if any, thereunder shall be payable to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. The Association shall hold any proceeds of insurance in trust for the use and benefit of the Owners and Mortgagees as their interests may appear.

(b) Liability Insurance. The Association shall maintain public liability and property damage insurance in such limits as the Board may from time to time determine but not in an amount less than One Million Dollars (\$1,000,000) per injury, per person, per occurrence, and umbrella liability limits of One Million Dollars (\$1,000,000) per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements, Buildings, and Landscaping. Said policy shall also contain a "severability of interest" endorsement. Coverage under such policy shall include, without limitation, legal liability of the insureds for property

damage, bodily injuries, and death of persons in connection with the operation, maintenance, or use of the Common Elements, Buildings, and Landscaping and legal liability arising out of lawsuits related to employment contracts of the Association.

(c) Workers' Compensation Insurance. The Association shall maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Officers' and Directors' Insurance. To the extent such insurance can be obtained at reasonable cost, the Association shall maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the managing agent has the responsibility of handling or administering funds of the Association, the managing agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the managing agent at any given time during the term of each bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate Common Expense assessments on all Lots plus reserve funds. Such bonds shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of employees or similar terms or expressions. The premiums on all bonds required hereunder, except those maintained by the managing agent, shall be paid by the Association as a Common Expense.

(e) Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as shall be deemed appropriate.

2. Requirements of Insurance. All policies of insurance, to the extent obtainable, shall contain waivers of subrogation, and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be cancelled or modified without at least thirty (30) days' prior written notice to all of the insureds, including the Association and all Mortgagees. If requested, duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to all Mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners, which policy or policies shall identify the interest of each Owner (Owner's name and Lot number designation) and First Mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverage described herein to provide each Owner and Mortgagee a certificate of insurance in regard to such Owner's individual Residence.

3. Attorney-in-Fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. All of the Owners hereby irrevocably constitute the

Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose.

4. To Be Obtained by Owners. Each Owner shall maintain public liability insurance in such limits as the Board may from time to time determine to be reasonably necessary but not less than Three Hundred Thousand Dollars (\$300,000) per injury per person per occurrence covering all claims for bodily injury or property damage. Owners may carry other insurance for their benefit and at their expense, including, but not limited to, insurance to meet the requirements of an Owner's maintenance responsibilities under Section 1(a) of Article IX above. All such policies shall be primary coverage, shall contain waiver of subrogation and shall provide that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such insurance carried by any Owner. Insurance coverage on furnishings or other property belonging to an Owner shall be the sole and direct responsibility of the Owner thereof, and the Board, Association, and/or the managing agent of the Association shall have no responsibility therefor.

5. Notice to Mortgagees. In the event that there shall be any damage or destruction to, loss of, or taking of a Residence which exceeds Twenty Thousand Dollars (\$20,000) or any damage or destruction to, loss of, or taking of the Common Elements which exceeds Fifty Thousand Dollars (\$50,000), notice of such damage, loss, or taking shall be given by the Association to each First Mortgagee of said Residence within sixty (60) days after the occurrence of such event.

ARTICLE XI. DESTRUCTION OR DAMAGE

1. Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact in the event of the destruction or damage, including the repair, replacement, and improvement of any Building which has been so destroyed or damaged. Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead, for the purposes herein provided. As attorney-in-fact, the Association, by its president and secretary or other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days of either such event. At such meeting, a new attorney-in-fact shall be appointed to deal with the destruction or damage of any Building. Said appointment must be approved by the Owners representing more than fifty percent (50%) of the votes in the Association. Repair and reconstruction of the Improvements as used in the succeeding paragraphs means restoring the Improvements to substantially the same condition in which they existed prior

to the damage and all Improvements being reconstructed or repaired in conformance with the Community's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration, reconstruction, or replacement unless the Owners of the Residences included within the Building and First Mortgagees agree not to rebuild.

2. Insurance Proceeds Sufficient for Restoration. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the Improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the Improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and restoration of the Improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

3. Insurance Proceeds Insufficient for Restoration. If the insurance proceeds are insufficient to repair and reconstruct the Improvements, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against the Owners of all Lots. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair, replacement, or restoration of the Improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his or her Lot. Assessments for Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association interest at the rate of eighteen percent (18%) per annum on the amount of the assessment and all reasonable attorney's fees incurred in collecting the delinquent assessment.

ARTICLE XII. ASSESSMENT FOR COMMON EXPENSES

1. Creation of Lien and Personal Obligation for Assessments. Each Owner, including the Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments and other charges, fines, fees, interest, late charges and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments and other charges, fees and fines, together with interest, late charges, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without setoff or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each assessment, charge, fee and all other amounts under this Declaration, together with interest, late

charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who was the owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration and the Documents, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

3. Apportionment of Annual Assessments. Generally, each Residential Owner shall be responsible for that Residential Owner's share of the Common Expenses which shall, except as provided below, be divided equally among the Residential Lots included in the Community under this Declaration from time to time. Accordingly, at any given time, a Residential Owner's share of Common Expenses shall be determined as a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots in existence within the Community on the date of the assessment. For the purposes of determining a Residential Owner's share of common expenses, a Lot shall not be considered in existence until a Residence is constructed thereon and a Certificate of Occupancy is issued for the same. The foregoing apportionment is subject to the following:

(a) Any Common Expenses (including, but not limited to, costs of maintenance, repair and replacement relating to Buildings and Landscaping on fewer than all Lots) which benefit fewer than all of the Owners may be assessed exclusively against the Lots benefited. By way of example, and not in limitation of the foregoing, a Residence and/or Lot requiring greater or special maintenance needs and expenses may be assessed accordingly by the Association.

(b) The costs of insurance may be assessed in proportion to risk.

(c) Each Garage Owner shall be responsible for that Garage Owner's share of the Common Expenses. Each Garage Owner's assessment shall be equal to ten percent (10%) of a Residential Owners assessment rate.

(c) The charges for water and sewer shall be allocated and assessed as provided in Section 8(b) of Article III above.

(d) All Assessments relating to Residences or Garages shall be assessed only following the conveyance of the initial Lot, by deed, to a third party other than the Declarant, and vacant Lots shall not be assessed any portion of the maintenance, repair or replacement of the exterior of Buildings, Landscaping, or any other expenses specifically attributable to completed Residences.

4. Date of Commencement of Annual Assessments. Until the Association makes an annual assessment, which shall commence at such time as the Board may determine in its discretion, the Declarant shall pay all Common Expenses. After any annual assessment has been made by the Association, annual assessments shall be based on a budget adopted by the Association as provided below. A budget shall be so adopted by the Association no less frequently than annually in accordance with the Bylaws. The annual assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board may determine in its discretion from time to time; provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

5. Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures and reserves for the Association's next fiscal year as proposed by the Board. A summary of the proposed budget approved by the Board shall be mailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Owners (or, in the alternative, together with a ballot and information sufficient to satisfy the provisions of Section 109 of the Colorado Revised Nonprofit Corporation Act). Unless sixty-seven percent (67%) of the total votes in the Association reject the proposed budget, the budget is ratified. There are no quorum requirements for this meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratify a subsequent budget proposed by the Board as provided above.

6. Special Assessments. In addition to the annual assessments authorized in this Article, the Board may levy, in any fiscal year, with the Approval of the votes of two-thirds (2/3rds) of the Owners voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvement, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests therefor. A meeting of the Owners called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 7 of this Article XII.

7. Notice and Quorum for Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article XII shall be sent to all Owners not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty percent (50%) of all the membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at

the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8. Lien for Assessments.

(a) The Association shall have a lien on a Lot for any assessment levied against that Lot or for fines imposed against its Owner. Fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

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

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

9. Priority of Association Lien.

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

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

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

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

(b) A lien under this Section is also prior to the First Mortgage described in the preceding Subsection 9(a)(ii) to the extent of an amount equal to the annual assessment based on a periodic budget adopted by the 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 Association or any party holding a lien senior to any part of the Association lien created under this Section of an action or a non-judicial foreclosure either to enforce or to extinguish the lien.

(c) This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not

subject to the provisions of Part 2 of Article 41 of Title 38, C.R.S., as amended, or to the provisions of C.R.S. §15-11-201, as amended.

10. Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the arbiter may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The arbiter may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments.

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

12. Effect of Non-Payment of Assessments; Remedies of Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board, and the Board may in addition assess thereon a late charge in an amount set by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include a reasonable attorneys' fee to be fixed by the arbiter, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of the assessments by abandonment of the Lot against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.

13. Working Capital Fund. The Association or Declarant shall require the first Lot Owner, other than the Declarant, that purchases a Lot from the Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly Common Expense Assessment against the Lot in effect on the date of delivery of the deed conveying the Lot in question. Thereafter, upon each subsequent conveyance of any Lot by any Owner to the next third-party purchaser thereof, the purchaser shall make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly Common Expense Assessment against the Lot in effect on the date of the delivery of the deed conveying such Lot. The contributions paid pursuant to the Section shall be used for the purpose of creating working capital and reserves for the Association to help cover the Common Expenses and for such other or additional purposes as may be consistent with the Association's budget. The working capital fund contribution shall be in

addition to the Common Expense Assessments, and shall not relieve the Townhome Owners from the obligation to pay the Common Expense Assessments as they come due. For purposes of this Section, no contribution to the Association will be required as a result of any conveyance: (i) that arises from the foreclosure of a First Mortgage or a conveyance to the First Mortgagee or its designee in lieu of any such foreclosure; (ii) by a Lot Owner to such Owner's spouse or any parent, brother, sister, or child of such Lot Owner, or trusts for the benefit of the Lot or such Lot's Owner's spouse, or any brother, sister or child of such Lot Owner, or any combination of the foregoing.

13. Surplus Funds. Subject to the limitations of the Act, any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves may, at the election of the Board, (i) be retained by the Association as reserves, (ii) paid to the Owners in proportion to their Common Expense Liability, or (iii) credited to the Owners to reduce their future assessments.

14. Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that Common Expense exclusively against such Owner and his or her Lot.

ARTICLE XIII. COMMON ELEMENTS

1. Rules and Regulations. The Board shall have the right to adopt reasonable Rules and Regulations governing the use of the Common Elements, provided such Rules and Regulations apply to all Owners in a nondiscriminatory manner.

2. Owners' Easements of Enjoyment. Each Lot Owner shall have a right and easement of enjoyment in and to the Common Elements, appurtenant to his or her Lot, subject to the following provisions:

(a) The right of the Association to promulgate and publish reasonable Rules and Regulations as provided in this Declaration.

(b) The right of the Association, acting through the Board, to dedicate or transfer any part of the Common Elements to any public, quasi-public, or cooperative agency, authority, utility, or other entity.

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

3. Delegation of Use. A Lot Owner may delegate his or her right of enjoyment to the Common Elements to the Lot Owner's Related Users subject to the terms and provisions of the Documents.

ARTICLE XIV. USE RESTRICTIONS

1. **Residential Use.** Residences shall be used for Single Family Residential Use and such other purposes as may be expressly permitted by this Declaration.
2. **Trash Collection.** The Board shall select the trash company that performs individual unit trash pickup. The Association shall assess the cost of trash collection as a Common Expense. All trash, garbage and other waste shall be kept in sanitary containers out of the view of the surrounding Lot Owners and off the streets so as to present a clean and sanitary appearance at all times within the Community.
3. **Resubdivision.** Subject to the Declarant's development rights, no Lot may be further subdivided without the Approval of the Board. This provision shall not be construed to prohibit or prevent the dedication or conveyance of any portion of a Lot as an easement for public utilities.
4. **Restrictions on Leasing.** No Lot Owner shall lease his or her Residence to any group of people other than a "Single Family" as defined in Article II hereinabove. All such leases shall be in writing and shall contain a covenant by the tenant or tenants that their use and occupancy of the Residence pursuant to the terms of the lease are subject to the terms and conditions set forth in this Declaration and that such tenant will abide by the terms contained herein as well as all Rules and Regulations promulgated by the Association. No Lot Owner may lease his or her Residence for a term of less than thirty (30) days.
5. **Household Pets.** No animals other than dogs, cats, or other household pets, as the same may be defined and determined by the Association, may be kept on a Lot. Only three (3) pets may be kept on a Lot at one time, and only two (2) may be dogs. Dogs, cats, and other household pets shall not be boarded, kept, bred, or maintained for any commercial purposes. Household pets shall be subject to all Rules and Regulations adopted by the Association and all governmental ordinances or laws applicable to the Community. Dogs shall at all times be confined by fence, leash, or under voice command. Each Owner of a pet shall be responsible for the prompt clean up and removal of such pet's excrement from his or her Lot and the Common Elements.
6. **Use of Common Elements.** All use of the Common Elements shall be subject to and governed by the Rules and Regulations adopted by the Association. No damage or waste shall be committed to the Common Elements by Lot Owners and their Related Users.
7. **General Prohibition.** No use shall be made of an Owner's Lot which will in any manner violate the statutes or rules and regulations of any governmental authority having jurisdiction over the use of the Lot.
8. **Nuisance.** Nothing shall be done or permitted on any Lot which is or may become a nuisance. No obnoxious or offensive activities or commercial businesses or trades shall be conducted on any Lot, except home occupation as defined and permitted by the applicable zoning resolution of the governmental entity having jurisdiction over the Community. Cultivation of or sale of marijuana is expressly prohibited and shall not be permitted on any Lot.

9. No Unsightliness. All unsightly facilities, equipment, objects, and conditions shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment except when in actual use.

10. Storage of Vehicles. Residential Lot Owners may not store, park or permit the storage of any boats, campers, recreational vehicles, snowmobiles, all-terrain vehicles, trailers, machines, tractors, semi-tractors, tractor trailers, trucks (except standard pickup trucks, and except for emergency service vehicles allowed pursuant to C.R.S. §38-33.3-106.5(1)(d)), and inoperative or unlicensed automobiles on any street, Lot, or Common Elements, except within fully enclosed garages. For purposes of this provision, any disassembled or partially disassembled car or other vehicle or any car or other vehicle which has not been moved under its own power for more than one (1) week shall be considered an inoperative automobile subject to towing and the other terms of this Section.

11. Signs. Subject to the Declarant's Special Declarant Rights, no sign of any character shall be displayed or placed upon any Lot, with the following exceptions:

(a) One (1) sign per Lot of not more than six (6) square feet in total area advertising a Lot for sale shall be permitted on any Lot.

(b) In no event shall "For Rent" signs be placed in the windows or in the yards of any residence unless approved by the Board.

(c) Political signs in accordance with the terms and conditions of C.R.S. §38-33.3-106.5 (1) (c).

(d) The Association shall have the right to place a permanent sign at the entrance to the Community identifying the Community as well as directional signage.

(e) Additional signs may be permitted if approved by the Board.

12. Antennae. The use of certain types of receiving equipment is subject to the rules and regulations issued by the Federal Communications Commission, which preempts the ability of the Board to control the placement of such equipment. As of the date of this Declaration, the types of receiving equipment which do not require architectural review and Approval include: (i) a "dish" antenna which is thirty-nine (39) inches or less in diameter and is designed to receive direct broadcast satellite service including direct to home satellite service; or (ii) an antenna which is thirty-nine (39) inches or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable). All transmission or receiving devices, including those governed by the Federal Communications Commission, shall be installed in a manner in which the device is not higher than the ridge line of the roof of the Residence on the Lot on which the receiving or transmitting device is being installed, the location of which, to the extent permitted by law, shall be approved by the Architectural Control Committee. No one Lot shall have more than one Antennae per unit.

13. Insurance. Nothing shall be done or kept on any Lot which will increase any applicable rate of insurance, without written consent of the Board. No Owner shall permit anything to be done or

kept in or on a Lot or on the Common Elements which will result in the cancellation of insurance or an increase in the premium for such insurance.

14. Barbecue Grills. Owners shall be required to abide by the International Fire Code as adopted by the Town of Windsor pertaining to the use of outdoor barbecue grills.

ARTICLE XV. MORTGAGEE PROTECTION

1. Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Declaration, but in the case of conflict, this Article shall control.

2. Notice of Actions. The Association may give notice to each Mortgagee and Insurer, as defined in Article II, of (and each Lot Owner hereby consents to and authorizes such notice):

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or any Lot in which there is a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable.

(b) Any delinquency in the payment of Common Expense assessments owed by a Lot Owner whose Lot is subject to a First Security Interest held, or guaranteed by such Mortgagee, as applicable, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of Mortgagees as set forth in Section 3 of this Article XV.

(e) Any judgment rendered against the Association.

3. Consent and Notice Required.

(a) Document Changes. Notwithstanding any requirement permitted by this Declaration, no amendment of any provision of this Declaration pertaining to the matters hereinafter listed by the Association of Lot Owners shall be effective without notice to the Mortgagees and Insurers and the vote of at least sixty-seven percent (67%) of the Lot Owners and until approved by at least fifty-one percent (51%) of the Mortgagees as defined in Article II:

(i) Voting rights.

(ii) Assessments, assessment liens, priority of assessment liens.

(iii) Reserves for maintenance, repair, and replacement of Common Elements, Buildings, or Landscaping.

(iv) Responsibility for maintenance and repair.

(v) Subject to the Declarant's development rights, redefinitions of boundaries of Lots, except that when boundaries of only adjoining Lots are involved, only those Lot Owners and the Mortgagees holding Security Interests in such Lot or Lots must approve such action.

(vi) Subject to the Declarant's development rights, convertibility of Lots into Common Elements or Common Elements into Lots.

(viii) Insurance or fidelity bonds.

(ix) Leasing of Lots.

(x) Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot.

(xi) A decision by the Association not to restore or repair the Common Elements or Buildings after a hazard damage or partial condemnation.

(xii) Termination of the Community after occurrence of substantial destruction or condemnation of the Common Elements or Buildings.

(xiii) Any provision that expressly benefits mortgage holders, insurers, or guarantors.

(b) Actions. Notwithstanding any lower requirement permitted by this Declaration, the Association may not take any of the following actions without the notice to Mortgagees and Insurers (as defined in Article II) as required by Section 2 of this Article XV and approval of at least fifty-one percent (51%) (or the indicated percentage) of the Mortgagees:

(i) Convey or encumber the Common Elements or any portion thereof. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community will not be deemed a transfer within the meaning of this clause.)

(ii) The termination of the Community for reasons other than substantial destruction or condemnation of the Common Elements and Buildings.

(iii) The granting of any permits, easements (other than the easements already referenced above in this Declaration), leases, licenses, or concessions through or over the Common Elements (excluding any leases, licenses, or concessions for no more than one (1) year).

(iv) A decision by the Association not to restore or repair the Common Elements or Buildings after a hazard damage or partial condemnation.

(v) The merger of the Community with any other common interest community.

(vi) The assignment of the future income of the Association, including its right to receive Common Expense assessments.

(c) The failure of a Mortgagee or Insurer to object in writing to any proposed addition or amendment within sixty (60) days after notice is given by the Association requesting Approval

of an addition or amendment to the Declaration shall conclusively constitute Approval by the Mortgagee or Insurer of the addition or amendment.

4. Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books and records, and financial statements. The Association shall permit any Mortgagee or Insurer to inspect the books and records of the Association during normal business hours.

5. Financial Statements. The Association shall provide any Mortgagee or Insurer who submits a written request a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association.

6. Enforcement. The provisions of this Article are for the benefit of Mortgagees and Insurers and their successors and may be enforced by any of them by any available means at law or in equity.

7. Appointment of Trustee. In the event of damage, destruction, or condemnation of all or a portion of the Common Elements, any Mortgagee may require that such proceeds be payable to a trustee. Such trustee may be required to be a corporate trustee licensed by the State of Colorado. Proceeds will thereafter be distributed pursuant to applicable law or pursuant to a condemnation award. Unless otherwise required, the members of the Board, acting by majority vote through the president, may act as trustee.

8. Payment of Delinquent Fees. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become, a charge against the Common Elements and may pay overdue premiums on insurance policies to be maintained by the Association, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XVI. ARCHITECTURAL CONTROL

1. Review. No construction, alteration, addition, modification, exterior decoration, exterior redecoration or reconstruction of any building, fence, wall, structure or other Improvement within the Community shall be commenced or maintained until the plans and specifications thereof shall have been approved by the Board. The Board shall approve plans and specifications submitted to it only if the Board determines that the construction, alteration or addition contemplated thereby and in the location indicated will comply with this Declaration; will serve to preserve and enhance the value of Lots within the Community; and will maintain a harmonious relationship among the Buildings and the overall development of the Community. The Board shall consider the quality of workmanship, type of materials and harmony of exterior design with other Buildings located within the Community. If the Board fails to approve or disapprove the plans and specifications submitted to it by an Owner of a Lot within thirty (30) days after a complete submission of all required documents has been made to the Board, the plans and specifications shall be resubmitted to the Board by certified mail, return receipt requested, and, in the event that the Board fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after such resubmission to the Board by certified mail, the same shall be deemed to have been approved, as

submitted, and no further action shall be required; provided, however, that no Building, structure, Improvement or alteration shall be erected or allowed to remain on any Lot which violates any of the covenants or restrictions contained in this Declaration. The issuance of a building permit for the construction of Improvements inconsistent with this Declaration shall not prevent the Association from enforcing the provisions of this Declaration. The Approval by the Board of plans and specifications for any work to be done on one Lot shall not be deemed to constitute a waiver of any right to withhold Approval or Consent to similar plans and specifications subsequently or additionally submitted for approval by the same Owner or by any other Owner. The Board may issue rules setting forth procedures for the submission of plans and specifications for Approval and may also issue guidelines setting forth the criteria that the Board will use in considering plans submitted to it for Approval. The rules and guidelines may be amended from time to time by the Board.

2. Landscaping. All shrubs, plants, trees and other Landscaping shall be approved by the Board.

3. Nonliability. No member of the Board shall be liable to the Association or to any Owner or prospective Owner for any loss, damage or injury arising out of or in connection with the performance of the duties of the Board under this Article XV unless such action constitutes willful misconduct or bad faith on the part of the Board. No Approval granted by the Board shall be considered approval of the structural safety or integrity of the Improvements to be constructed or conformance of such Improvements with building codes, zoning resolutions, subdivision regulations or other governmental rules and regulations applicable to the Community.

ARTICLE XVII. PARTY WALLS

1. Party Walls. Each Residence within the Buildings is adjacent to one or more other Residences. Along and over the common boundaries between the Residences lie Party Walls that, in conjunction with the footings underlying and the portion of the roof thereover, form a structural part of, and physically join, the improvements on the adjoining Residence(s).

2. Easements. The Owners of adjacent Residences shall each be deemed to own the necessary easements for the perpetual lateral and subjacent support, maintenance, repair, and inspection of the respective Party Wall with equal rights of joint use. The Association shall have the same necessary easements with respect to all Party Walls.

3. Structural Changes. No Owner of a Residence shall have the right to destroy, remove, or make any structural changes in a Party Wall that would jeopardize the structural integrity of either of the Residences sharing such Party Wall without the prior written consent of the Association, the adjacent Residence Owner, and any First Mortgagee with respect to such adjacent Residence; nor shall any Residence Owner subject a Party Wall to the insertion or placement of timbers, beams, or other materials in such a way as to adversely affect the Party Wall's structural integrity. No

Residence Owner shall subject a Party Wall to any use that in any manner whatsoever may interfere with the equal use and enjoyment of the Party Wall by an adjoining Residence Owner.

4. Intentional Damage. Should a Party Wall be structurally damaged or destroyed by the intentional act or negligence of either adjacent Residence Owner (the "Responsible Owner") or the Responsible Owner's agent, contractor, employee, tenant, family member, licensee, guest, or invitee, the Association shall promptly rebuild and/or repair the Party Wall, the cost of which shall be a Common Expense apportioned to the Responsible Owner.

5. Accidental Damage. Should a Party Wall be structurally damaged or destroyed by causes other than the intentional act or negligence of either adjacent Residence Owner (or their agents, contractors, employees, tenants, family members, licensees, guests, or invitees), the damaged or destroyed Party Wall shall be repaired or rebuilt by the Association, the cost of which shall be a Common Expense apportioned among all the Owners.

6. General Rules of Law. To the extent not inconsistent with the terms and conditions of this Declaration, the general rules of law of the State of Colorado concerning Party Walls shall be applicable hereto.

ARTICLE XVIII. DISPUTE RESOLUTION PROCEDURE

1. Purpose. One of the purposes of the Declaration is to establish a harmonious community. Because the prompt, efficient and fair resolution of any dispute is desirable, any controversy arising out of or relating to the Association, except Exempt Claims as defined in Section 2 of this Article XVIII, must be resolved as set forth in this Article.

2. Exempt Claims. The provisions of this Article XVIII shall not apply to any of the following:

(a) The imposition and collection of Assessments or other charges levied under the Article XII, including actions to foreclose assessment lines;

(b) A suit by the Association to obtain injunctive relief;

(c) Proceedings involving challenges to ad valorem taxation; and

(d) Counterclaims brought by the Association in proceedings instituted against the Association.

3. Direct Communication. The parties to the disagreement must set forth their respective positions in the dispute in correspondence. Each party must respond within 14 days after receipt of a letter from the other until agreement is reached. If an agreement is not reached, Article XIX of this Declaration applies.

4. Mediation. If a claim cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. The parties must participate in the mediation in good faith until the dispute is resolved for a period not to exceed 30 days with the consent of all parties. The cost of the mediation must be divided equally among the parties.

4. Arbitration. If the claim cannot be resolved through mediation, such dispute must be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association ("AAA") currently in effect.

5. The following procedures apply to arbitration:

(a) Demand for arbitration must be filed in writing with the other party and with the AAA.

(b) A demand for arbitration must be made within thirty (30) days after the dispute in question has arisen and failed to be resolved by mediation.

(c) In no event may the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(d) No arbitration arising out of or relating to this Declaration may include, by consolidation, joinder or any other manner, an additional person or entity not subject to this Declaration, except that the Declarant, at its sole election and in its sole discretion, may be consolidation, joinder or any other manner, include contractors, subcontractors or other parties involved in the construction and/or planning of the Lots.

(e) The arbitrator to hear the Excluded Claim may be jointly selected by the parties. If the parties cannot agree within 21 days, the parties shall select the arbitrator they desire. The, those arbitrators shall, amongst them, select the arbitrator to hear the Excluded Claims.

6. Enforcement. The provision of this Article, or the Declarant's election to arbitrate, or the Declarant's determination to include any additional person or entity not subject to this Declaration in an arbitration are specifically enforceable in accordance with applicable law with any court having jurisdiction.

7. Binding Nature. The award rendered by the arbitrator or arbitrators is final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

8. Sole Remedy - Waiver of Judicial Rights. Subject to the Declarant's election rights set forth in this Declaration, and the remedies available for claims, the Declarant, the Association, and each Owner expressly consent to the substance and procedures established in this Declaration and this Article XVIII as their sole and exclusive remedy. Each of these parties also expressly waive any right they may have to seek resolution of any Excluded Claim contemplated by this Article in any court, except as expressly allocated to the Association. Each of these parties also waive any

right to trial by a jury. If a dispute involves the Declarant, an Owner or the Association, no person may file a memorandum of *lis pendens* or similar instrument that would encumber or create a lien upon the land owned by the Declarant, an Owner or the Association.

9. Location. All alternative dispute resolution proceedings under this Section, must be hold in Windsor, Colorado, unless otherwise mutually agreed by the parties.

10. Payment of Expenses under this Article. In the event it becomes necessary to commence an arbitration to enforce or defend this Declaration, the arbiter shall award to the prevailing party in such civil action, in addition to such damages as the court may deem just and proper, an amount equal to the costs of arbitration, reasonable attorneys' fees, and costs of collection incurred by the prevailing party in connection with such action.

ARTICLE XIX. GENERAL PROVISIONS

1. Enforcement. Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such civil action shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such civil action may be prosecuted by an Owner, by the Board, or by the Association. In the event it becomes necessary to commence an arbitration to enforce or defend this Declaration, the arbiter shall award to the prevailing party in such civil action, in addition to such damages as the arbiter may deem just and proper, an amount equal to the costs, reasonable attorneys' fees, and costs of collection incurred by the prevailing party in connection with such action. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration. For any failure to comply with the provisions of the Documents, the Association, any Owner, or any class of Owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorneys' fees and costs incurred as a result of such failure to comply, without the necessity of commencing a civil action. Notwithstanding any other provision of this Declaration, in connection with any claim in which an Owner is alleged to have violated a provision of the Documents and in which the arbiter finds that the Owner prevailed because the Owner did not commit the alleged violation:

(a) the arbiter shall award the Owner reasonable attorneys' fees and costs incurred in asserting or defending the claim; and

(b) the arbiter shall not award costs or attorneys' fees to the Association. In addition, the Association shall not allocate to the Owner's account any of the Association's costs or attorneys' fees incurred in asserting or defending the claim.

2. Amendment of Declaration.

(a) **Amendment.** This Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Real Estate, upon the affirmative vote or written consent of Owners holding sixty-seven percent (67%) or more of the votes in the Association, and upon compliance with Article XIV above, as appropriate. Amendments made pursuant to this Article will inure to the benefit of and be binding upon all Owners, their families, tenants, guests and invitees, and their respective heirs, successors, and assigns. A certificate of the Secretary of the Association documenting votes held and voting rights exercised on the basis of such ownership records will be evidence of such ownership and voting representation for purposes of such amendment.

(b) **Declarant's Approval.** Notwithstanding the provisions of Section 3(a) above, (i) no termination, extension, modification, amendment or restatement of this Declaration will be effective during the Period of Declarant Control unless the written Approval of Declarant is first obtained, and (ii) no termination, extension, modification, amendment or restatement of this Declaration may be made during the Special Declarant Rights Period to impair any of the Special Declarant Rights or this Section 3 unless the written Approval of Declarant is first obtained.

(c) **Technical Errors.** The Declarant may amend this Declaration and/or the Plat to correct clerical, typographical, or technical errors.

(d) **HUD/VA.** The Declarant may amend this Declaration to comply with the requirements, standards, or guidelines of recognized secondary mortgage markets, the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, or the federal national mortgage association.

(e) **Effective on Recording.** Any modification, amendment or revocation will be immediately effective upon recording in Weld County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the necessary number of Owners (and by Declarant, as required), or alternatively, upon the recording in Weld County, Colorado, of a copy of the amendment, modification or revocation together with a duly authenticated certificate of the Secretary of the Association stating that the required number of consents of Owners were obtained, which will be placed on file in the office of the Association.

3. **Duration.** This Declaration shall run with the land, shall be binding upon all Persons owning Lots and any Persons hereafter acquiring Lots, and shall be in effect in perpetuity unless amended or terminated as provided herein or in accordance with applicable law.

4. **Rule against Perpetuities.** If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the life of the youngest person serving in the United States House of Representatives at the time this document is recorded, his or her now living descendants, and the survivor of them, plus twenty-one (21) years..

5. Termination. This Declaration, and the common interests of the Owners in Association-Owned Property, may be terminated only if all Owners and First Lienors agree to such termination by an executed, acknowledged instrument duly recorded in the real estate records of Weld County, Colorado. This Declaration shall also terminate in the event of a taking of all of the property constituting the Townhomes at Chimney Park Community, as delineated in the Plat incorporated by this Declaration, by condemnation, eminent domain, or termination as otherwise (except for voting) provided by Section 218 of the Act.
6. Disbursement of Proceeds. Upon the termination of this Declaration, all property owned by the Association shall be disposed of, with the proceeds generated being disbursed as provided by Section 218 of the Act.
7. Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference and in no way define, limit, or prescribe the scope of the Documents or the intent of any provision thereof.
8. Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.
9. Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
10. Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and if a provision is declared invalid by judgment or court order, all of the other provisions of the Documents shall continue in full force and effect.
11. Conflict. In the event of any conflict between this Declaration and any other Documents, this Declaration shall control.

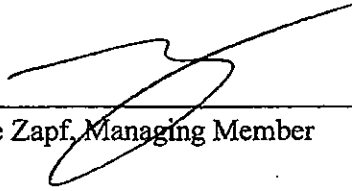
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CERTIFICATION & SIGNATURE

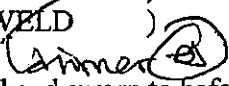
The foregoing instrument was acknowledged before me by Chestnut Street Holdings, LLC, the Townhomes at Chimney Park and a Director of the Townhomes at Chimney Park Owners Association, Inc., this 24th day of May, 2019.

CHESTNUT STREET HOLDINGS, LLC

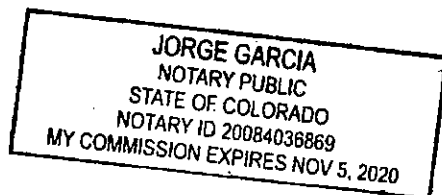
DECLARANT

By: 
Mike Zapf, Managing Member

STATE OF COLORADO)
) ss.
COUNTY OF WELD)


Subscribed and sworn to before me this 24th day of May, 2019 by Mike Zapf as Managing Member of Chestnut Street Holdings, LLC.

Witness my hand and official Seal.



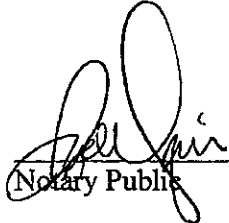

Notary Public

EXHIBIT A

A plat or a parcel of land in the TOWN OF WINDSOR, County of Weld, Colorado, location in the Northeast Quarter of Section Twenty-One (21), Township 6 North (T.6N), Range Sixty-Seven West (R.67W) of the Sixth Principle Meridian (6th P.M.) and more particularly described as follows:

Lots 1-5 and tracts A-D of Chimney Park Subdivision, Fourth Filing recorded August 9, 2018 at Reception No. 4422241 of the Records of the Weld County Clerk and Recorder's Office.

Containing 6.464 acres more or less

Being a Replat of Chimney Park Subdivision, Fourth Filing,
Situate in the Northeast Quarter of Section 21, Township 6 North, Range 67 West of the 6th P.M.,
Town of Windsor, County of Weld, State of Colorado

including family law in 1974. In addition, we also are studying the impact of the new law on the family, including the impact on the family's financial situation, the impact on the family's health, and the impact on the family's social life. We are also studying the impact of the new law on the family's legal situation, including the impact on the family's legal rights, the impact on the family's legal obligations, and the impact on the family's legal status.

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INVESTIGATION OF THE
CIRCUMSTANCES OF THE
DEATH OF THE
VICTIM

U. S. GOVERNMENT PRINTING OFFICE: 1967

1975 to 1976, 1981 to 1982, 1983 to 1984, 1985 to 1986, 1987 to 1988, 1989 to 1990, 1991 to 1992, 1993 to 1994, 1995 to 1996, 1997 to 1998, 1999 to 2000, 2001 to 2002, 2003 to 2004, 2005 to 2006, 2007 to 2008, 2009 to 2010, 2011 to 2012, 2013 to 2014, 2015 to 2016, 2017 to 2018, 2019 to 2020, 2021 to 2022, 2023 to 2024, 2025 to 2026, 2027 to 2028, 2029 to 2030, 2031 to 2032, 2033 to 2034, 2035 to 2036, 2037 to 2038, 2039 to 2040, 2041 to 2042, 2043 to 2044, 2045 to 2046, 2047 to 2048, 2049 to 2050, 2051 to 2052, 2053 to 2054, 2055 to 2056, 2057 to 2058, 2059 to 2060, 2061 to 2062, 2063 to 2064, 2065 to 2066, 2067 to 2068, 2069 to 2070, 2071 to 2072, 2073 to 2074, 2075 to 2076, 2077 to 2078, 2079 to 2080, 2081 to 2082, 2083 to 2084, 2085 to 2086, 2087 to 2088, 2089 to 2090, 2091 to 2092, 2093 to 2094, 2095 to 2096, 2097 to 2098, 2099 to 2100, 2101 to 2102, 2103 to 2104, 2105 to 2106, 2107 to 2108, 2109 to 2110, 2111 to 2112, 2113 to 2114, 2115 to 2116, 2117 to 2118, 2119 to 2120, 2121 to 2122, 2123 to 2124, 2125 to 2126, 2127 to 2128, 2129 to 2130, 2131 to 2132, 2133 to 2134, 2135 to 2136, 2137 to 2138, 2139 to 2140, 2141 to 2142, 2143 to 2144, 2145 to 2146, 2147 to 2148, 2149 to 2150, 2151 to 2152, 2153 to 2154, 2155 to 2156, 2157 to 2158, 2159 to 2160, 2161 to 2162, 2163 to 2164, 2165 to 2166, 2167 to 2168, 2169 to 2170, 2171 to 2172, 2173 to 2174, 2175 to 2176, 2177 to 2178, 2179 to 2180, 2181 to 2182, 2183 to 2184, 2185 to 2186, 2187 to 2188, 2189 to 2190, 2191 to 2192, 2193 to 2194, 2195 to 2196, 2197 to 2198, 2199 to 2200, 2201 to 2202, 2203 to 2204, 2205 to 2206, 2207 to 2208, 2209 to 2210, 2211 to 2212, 2213 to 2214, 2215 to 2216, 2217 to 2218, 2219 to 2220, 2221 to 2222, 2223 to 2224, 2225 to 2226, 2227 to 2228, 2229 to 2230, 2231 to 2232, 2233 to 2234, 2235 to 2236, 2237 to 2238, 2239 to 2240, 2241 to 2242, 2243 to 2244, 2245 to 2246, 2247 to 2248, 2249 to 2250, 2251 to 2252, 2253 to 2254, 2255 to 2256, 2257 to 2258, 2259 to 2260, 2261 to 2262, 2263 to 2264, 2265 to 2266, 2267 to 2268, 2269 to 2270, 2271 to 2272, 2273 to 2274, 2275 to 2276, 2277 to 2278, 2279 to 2280, 2281 to 2282, 2283 to 2284, 2285 to 2286, 2287 to 2288, 2289 to 2290, 2291 to 2292, 2293 to 2294, 2295 to 2296, 2297 to 2298, 2299 to 2300, 2301 to 2302, 2303 to 2304, 2305 to 2306, 2307 to 2308, 2309 to 2310, 2311 to 2312, 2313 to 2314, 2315 to 2316, 2317 to 2318, 2319 to 2320, 2321 to 2322, 2323 to 2324, 2325 to 2326, 2327 to 2328, 2329 to 2330, 2331 to 2332, 2333 to 2334, 2335 to 2336, 2337 to 2338, 2339 to 2340, 2341 to 2342, 2343 to 2344, 2345 to 2346, 2347 to 2348, 2349 to 2350, 2351 to 2352, 2353 to 2354, 2355 to 2356, 2357 to 2358, 2359 to 2360, 2361 to 2362, 2363 to 2364, 2365 to 2366, 2367 to 2368, 2369 to 2370, 2371 to 2372, 2373 to 2374, 2375 to 2376, 2377 to 2378, 2379 to 2380, 2381 to 2382, 2383 to 2384, 2385 to 2386, 2387 to 2388, 2389 to 2390, 2391 to 2392, 2393 to 2394, 2395 to 2396, 2397 to 2398, 2399 to 2400, 2401 to 2402, 2403 to 2404, 2405 to 2406, 2407 to 2408, 2409 to 2410, 2411 to 2412, 2413 to 2414, 2415 to 2416, 2417 to 2418, 2419 to 2420, 2421 to 2422, 2423 to 2424, 2425 to 2426, 2427 to 2428, 2429 to 2430, 2431 to 2432, 2433 to 2434, 2435 to 2436, 2437 to 2438, 2439 to 2440, 2441 to 2442, 2443 to 2444, 2445 to 2446, 2447 to 2448, 2449 to 2450, 2451 to 2452, 2453 to 2454, 2455 to 2456, 2457 to 2458, 2459 to 2460, 2461 to 2462, 2463 to 2464, 2465 to 2466, 2467 to 2468, 2469 to 2470, 2471 to 2472, 2473 to 2474, 2475 to 2476, 2477 to 2478, 2479 to 2480, 2481 to 2482, 2483 to 2484, 2485 to 2486, 2487 to 2488, 2489 to 2490, 2491 to 2492, 2493 to 2494, 2495 to 2496, 2497 to 2498, 2499 to 2500, 2501 to 2502, 2503 to 2504, 2505 to 2506, 2507 to 2508, 2509 to 2510, 2511 to 2512, 2513 to 2514, 2515 to 2516, 2517 to 2518, 2519 to 2520, 2521 to 2522, 2523 to 2524, 2525 to 2526, 2527 to 2528, 2529 to 2530, 2531 to 2532, 2533 to 2534, 2535 to 2536, 2537 to 2538, 2539 to 2540, 2541 to 2542, 2543 to 2544, 2545 to 2546, 2547 to 2548, 2549 to 2550, 2551 to 2552, 2553 to 2554, 2555 to 2556, 2557 to 2558, 2559 to 2560, 2561 to 2562, 2563 to 2564, 2565 to 2566, 2567 to 2568, 2569 to 2570, 2571 to 2572, 2573 to 2574, 2575 to 2576, 2577 to 2578, 2579 to 2580, 2581 to 2582, 2583 to 2584, 2585 to 2586, 2587 to 2588, 2589 to 2590, 2591 to 2592, 2593 to 2594, 2595 to 2596, 2597 to 2598, 2599 to 2600, 2601 to 2602, 2603 to 2604, 2605 to 2606, 2607 to 2608, 2609 to 2610, 2611 to 2612, 2613 to 2614, 2615 to 2616, 2617 to 2618, 2619 to 2620, 2621 to 2622, 2623 to 2624, 2625 to 2626, 2627 to 2628, 2629 to 2630, 2631 to 2632, 2633 to 2634, 2635 to 2636, 2637 to 2638, 2639 to 2640, 2641 to 2642, 2643 to 2644, 2645 to 2646, 2647 to 2648, 2649 to 2650, 2651 to 2652, 2653 to 2654, 2655 to 2656, 2657 to 2658, 2659 to 2660,

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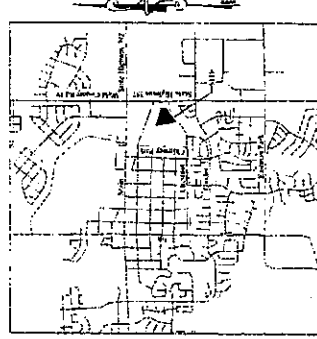
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DATE 08-19-2016 BY SP7 BTJ/KLM

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LAND USE TABLE	2.086 ACRES	32%
LOTS (51)	0.397 ACRES	6%
TRACTS A-C	0.979 ACRES	62%
TRACT D	0.404 ACRES	100%
TOTAL		

EXHIBIT B

KING SURVEYORS
650 E. Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | email: info@kingsurveyors.com

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CLIMAX PARK SUBDIVISION, 5TH FILING
FOR MONACO CONSTRUCTION SERVICE
1530 WATERBURY DRIVE
WINDSOR, CO 80550

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