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DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
AURORA AT CROSS CREEK CONDOMINIUMS

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Exhibit A – Community

Exhibit B – Allocated Interests

Exhibit C – Certain Title Exceptions

Exhibit D – Part of the Annexable Area

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
AURORA AT CROSS CREEK CONDOMINIUMS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AURORA AT CROSS CREEK CONDOMINIUMS ("Declaration") is made and entered into by LENNAR COLORADO, LLC, a Colorado limited liability company ("Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property situated in the County of Arapahoe, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference, as supplemented and amended from time to time (the "Community"); and

WHEREAS, the Declarant desires to subject and place upon the Community certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of furthering a plan for the improvement, sale and condominium ownership of the Community; and

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

NOW, THEREFORE, Declarant hereby declares that all of the real property in the Community shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

**ARTICLE 1. DEFINITIONS**

**Section 1.1. AAA.**

"AAA" means the American Arbitration Association.

**Section 1.2. Agencies.**

"Agencies" collectively means the Government National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Department of Housing and Urban Development, including the Federal Housing Administration ("HUD"), the Veterans Administration ("VA") or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

**Section 1.3. *Allocated Interests.***

"Allocated Interests" means the Assessment liability and votes in the Association allocated to each Unit, and also means the undivided interest in the Common Elements appurtenant to each Unit. The Allocated Interest of each Unit shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units within the Community. The Allocated Interest of each Unit which is included in the property described on the attached Exhibit A and which will become a "Unit" under this Declaration upon recording of a Condominium Map that includes such Unit, is set forth on Exhibit B attached hereto and incorporated herein by this reference. However, the Allocated Interest for each Unit is subject to change as provided in this Declaration, including a decrease in the Allocated Interest of each Unit upon annexation of additional Units to this Community.

**Section 1.4. *Annexable Area***

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

**Section 1.5. *Annexable Area Easement***

"Annexable Area Easement" means a non-exclusive, perpetual easement and right-of-way: for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Elements, now or hereafter constructed, erected, installed or located in or on the Community; and on, over, across and under the Common Elements for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities improvements that may now or hereafter serve the Annexable Area or any portion thereof.

**Section 1.6. *Assessment.***

"Assessment" means annual Assessments and special Assessments, which are provided for in this Declaration. For purposes of Sections 4.1, 4.4.2, 4.8 through 4.17, and 14.3 of this Declaration, "Assessment" means annual Assessments, special Assessments and late charges, fines, fees, interest, costs, expenses, reasonable attorneys' fees, and any other charges, including without limitation Service Charges, which are provided for in this Declaration.

**Section 1.7. *Association.***

"Association" means Aurora at Cross Creek Condominium Association, Inc., its successors and assigns. The Association is a condominium association as provided in CCIOA.

**Section 1.8. *Board of Directors or Board.***

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

**Section 1.9. Bound Party.**

"Bound Party" means each of the following: Declarant, its officers, directors, members, partners, employees and agents; the Association, its officers, directors, committee members and members; any builder or contractor, and their respective officers, directors, members, partners, employees and agents, who construct residences or other Improvements in the Community; all Persons subject to this Declaration; and any Person not otherwise subject to this Declaration who agrees to submit to Article 14 of this Declaration (Alternative Dispute Resolution).

**Section 1.10. CCIOA.**

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

**Section 1.11. Claim.**

"Claim" means, except as exempted by the terms of Article 14 of this Declaration (Alternative Dispute Resolution), any claim, grievance or dispute between one Bound Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation those arising out of or related to (a) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations or duties of any Bound Party under any of the Governing Documents; (b) the design or construction of Improvements; (c) any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party.

**Section 1.12. Claimant.**

"Claimant" means any Bound Party having a Claim.

**Section 1.13. Common Elements.**

"Common Elements" means the totality of:

1.13.1. The real property which is part of the Community; and

1.13.2. The Condominium Buildings (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, flues, hallways, roofs, stairs, stairways, elevators, restrooms (except those which may be located inside an Individual Air Space), and the mechanical installations of the Condominium Buildings consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, air conditioning, and exterior security lighting, which exist for common uses (including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith), except for the Individual Air Spaces; and

1.13.3. Any amenities and amenity areas, if any, sidewalks, walkways, paths, fences, grass, shrubbery, trees, driveways, roads, streets, access ways, parking areas,



landscaping, irrigation systems, and gardens, if any, now or hereafter located in the Community; and

1.13.4. All apparatus, installations and equipment of the Condominium Buildings existing for common use of one, some or all of the Owners; and

1.13.5. In general, all other parts of the Community including, without limitation, the Common Elements, including General Common Elements and Limited Common Elements, and all other parts of the Community necessary or convenient to its existence, maintenance or safety, or normally in common use.

**Section 1.14. *Community.***

"Community" means the real property and Improvements described on the attached Exhibit A, as supplemented and amended from time to time, with respect to which a Person, by virtue of such Person's ownership of a Unit, is obligated to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration. The Community is a condominium under CCIOA. The name of the Community is Aurora at Cross Creek Condominiums.

**Section 1.15. *Condominium Buildings.***

"Condominium Buildings" means any buildings (including all fixtures and Improvements therein contained) located in the Community and within which one or more Individual Air Spaces are located.

**Section 1.16. *Condominium Map.***

"Condominium Map" means the condominium map(s) of the Community and Improvements thereon that are subject to this Declaration and which is designated as the Condominium Map of Aurora at Cross Creek Condominiums, recorded or to be recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado. More than one Condominium Map or supplement thereto may be recorded, and, if so, then the term "Condominium Map" collectively means all of such condominium maps and supplements thereto. The Condominium Map shall depict all or a portion of the Community in three dimensions, and shall be executed by a Person who is authorized by CCIOA to execute a declaration relating to this Community. Further, the Condominium Map shall include a certificate executed by a licensed or registered engineer, land surveyor, or architect stating that all Improvements shown on the Condominium Map have been substantially completed, all structural components of all buildings that contain or comprise any Units shown on the Condominium Map are substantially completed and stating that the Condominium Map contains all the information required by Section 38-33.3-209 of CCIOA.

**Section 1.17. *Declarant.***

"Declarant" means Lennar Colorado, LLC, a Colorado limited liability company, and any other Person(s) to whom the Declarant, by recorded document, expressly assigns one or more of the

Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds).

**Section 1.18. Declaration.**

"Declaration" means this Declaration of Covenants, Conditions and Restrictions of Aurora at Cross Creek Condominiums and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, the Condominium Map(s).

**Section 1.19. Development Rights.**

"Development Rights" means any of the following rights or combination of rights hereby reserved by the Declarant, as provided in this Declaration:

- 1.19.1. add real estate to this Community;
- 1.19.2. create Units and/or Common Elements;
- 1.19.3. withdraw property from this Community; and
- 1.19.4. subdivide any Unit.

The Declarant may exercise its Development Rights in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any such Development Rights. The Declarant's rights to exercise Development Rights shall terminate automatically as provided in Section 1.35 of this Declaration (Special Declarant Rights).

**Section 1.20. First Security Interest.**

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

**Section 1.21. General Common Elements.**

"General Common Elements" means all of the Common Elements except the Limited Common Elements. Without limiting the generality of the preceding sentence, prior to designation of an LCE Garage (as hereinafter defined) by the Declarant, the property and Improvements thereof shall constitute General Common Elements.

**Section 1.22. Improvements.**

"Improvements" means all improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, fences, screening walls, retaining walls, decks, landscaping, hedges, windbreaks, plantings, trees,

shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball backboards and hoops, whether fixed or movable, signs, and exterior air conditioning, cooling, heating and water softening equipment, if any. For purposes of Article 5 hereof, and only in such Article, the word "exterior" shall be inserted immediately preceding the fourth word "improvements" in the preceding sentence.

**Section 1.23. *Individual Air Space.***

"Individual Air Space" means the air space contained within the enclosed rooms occupying part of a floor or floors in a Condominium Building, and bounded by the unfinished interior surfaces of the perimeter walls (or the adjoining walls, if two or more Individual Air Spaces adjoin each other), unfinished interior surfaces of floors (or the lowermost floors, if it is an Individual Air Space containing more than one level), unfinished interior surfaces of ceilings (or the uppermost ceilings, if it is an Individual Air Space containing more than one level), and the unfinished interior surfaces of windows and window frames, doors and door frames of a Condominium Building, and which is separately identified on the Condominium Map; provided that, if the adjoining wall, ceiling or floor between any two or more Individual Air Spaces is completely or partially removed so as to provide free access between such Individual Air Spaces, the area of each Individual Air Space shall be determined as if such wall, ceiling or floor were in existence, and each such Individual Air Space shall continue to be a separate Unit for purposes of this Declaration.

**Section 1.24. *Initially Unoccupied Unit***

"Initially Unoccupied Unit" means only those Units which have not been conveyed by the Declarant to the first Owner thereof other than the Declarant.

**Section 1.25. *LCE Garage***

"LCE Garage" means each Limited Common Elements Garage that is allotted to a Unit by Declarant. Subsequent to designation of an LCE Garage for a Unit, any conveyance of such Unit shall also constitute a conveyance of the right to use any LCE Garage appurtenant to such Unit. Each LCE Garage shall be separately located apart from the Unit and reserved for separate use as a Limited Common Element. Each LCE Garage shall be designated on the Condominium Map or on another recorded document(s) signed by the Declarant, and each LCE Garage may only be used for automobile parking.

**Section 1.26. *Limited Common Elements.***

"Limited Common Elements" means those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner(s) of a particular Unit or are limited to and reserved for the common use of the Owners of more than one, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include: the utility, heating, air conditioning and domestic hot water equipment, audio, visual or telecommunication lines, cables and appurtenances, if any, associated with or providing service to a Unit; window wells, if any, attached to a Unit; porches, balconies, patios and decks attached or appurtenant to Units, as designated on the Condominium Map; and other areas or Improvements, if any, designated as Limited Common Elements on the Condominium Map or other recorded document(s) signed by the

Declarant, including but not limited to the LCE Garages. The Limited Common Elements shall be used in connection with the applicable Individual Air Space(s) to the exclusion of the use thereof by the other Owners, except by invitation. No reference to any Limited Common Elements need be made in any instrument of conveyance, encumbrance or other instrument. The Limited Common Elements allocated to Units as provided in this Section may not be reallocated without the consent of the Owners whose Units are affected and any Security Interest Holders of any such Units. Further, any reallocation of Limited Common Elements between or among Units must be done in compliance with CCIOA.

**Section 1.27. Member.**

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

**Section 1.28. Owner.**

"Owner" means each fee simple title holder of a Unit, including without limitation, the Declarant or other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation. The Declarant is the owner of any Unit created by the Declaration until that Unit is conveyed to another Person who may or may not be a Declarant under this Article. There may be multiple Owners for a Unit.

**Section 1.29. Party.**

"Party" means the Claimant and the Respondent individually; "Parties" means the Claimant and the Respondent collectively

**Section 1.30. Person.**

"Person" means a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other legal entity.

**Section 1.31. Respondent.**

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

**Section 1.32. Security Interest.**

"Security Interest" means an interest in real estate or personal property in the Community, or any portion thereof, created by contract or conveyance, which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Section 4.12 of

this Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), "Security Interest" shall also mean and refer to any executory land sales contract wherein the administrator of Veterans Affairs, an officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Arapahoe County, Colorado, show the administrator as having the record title to the Unit.

**Section 1.33.      *Security Interest Holder.***

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest (including, for purposes of Section 4.12 of this Declaration (Certificate of Status of Assessments) and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 6.2 of this Declaration (General Provisions of Insurance Policies), the administrator of Veterans Affairs, an officer of the United States of America, and his assigns under any executory land sales contract wherein the said administrator is identified as the seller, whether such contract is recorded or not, and whether such contract is owned by the said administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Arapahoe County, Colorado, show the said administrator as having the record title to the Unit), or any successor to the interest of any such Person under such Security Interest.

**Section 1.34.      *75% Control Period.***

"75% Control Period" means a length of time expiring twelve (12) years after initial recording of this Declaration in the County of Arapahoe, Colorado. However, the 75% Control Period shall terminate earlier, upon the first to occur of the following events, if any of the following occur within the time period that is specified in the first sentence of this Section: sixty (60) days after conveyance of seventy-five percent (75%) of the Units That May Be Created to Owners other than a Declarant; two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or two (2) years after any right to add new Units to the Declaration was last exercised.

**Section 1.35.      *Special Declarant Rights.***

"Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements in the Community; to exercise any Development Rights; to maintain sales offices, construction offices, management offices, signs advertising the Community, and models; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to make the Community subject to a master association; to merge or consolidate a Community of the same form of ownership; or to appoint or remove any officer of the Association or any member of the Board of Directors during any 75% Control Period. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community.

Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically at such time as Declarant no longer owns any portion of the property described on the attached Exhibits A and D.

**Section 1.36. *Termination of Mediation.***

"Termination of Mediation" means a period of time expiring thirty (30) days after submission of the matter to mediation (or within such other time as determined by the mediator or agreed to by the Parties) and upon the expiration of which the Parties have not settled the Claim.

**Section 1.37. *Termination of Negotiations.***

"Termination of Negotiations" means a period of time expiring thirty (30) days after the date of the Notice (or such other period of time as may be agreed upon by the Parties) and upon the expiration of which the Parties have not resolved a Claim.

**Section 1.38. *Unit.***

"Unit" means an Individual Air Space, together with all fixtures and Improvements therein contained, and together with the undivided interest in the Common Elements appurtenant to the Individual Air Space (which shall be the Allocated Interest of such Unit). The Units that are initially subject to this Declaration are listed on the attached Exhibit B. However, each of the Units listed on the attached Exhibit B, and which may hereafter be annexed to this Declaration, shall become a "Unit" under this Declaration only at such time as a Condominium Map is recorded in Arapahoe County, Colorado, with respect to such Unit.

**Section 1.39. *Units That May Be Created***

"Units That May Be Created" means Two Hundred Seventy-Five (275) Units, which shall be the maximum number of Units that may be subject to this Declaration, including those Units that may be included if all of the Annexable Area is annexed to this Declaration. However, the aforesaid number of Units That May Be Created is not a representation or a guarantee as to the actual number of Units that will ultimately be included in or constructed as part of the Community.

**ARTICLE 2. MEMBERSHIP AND VOTING RIGHTS**

**Section 2.1. *Membership.***

The Association shall have one (1) class of membership. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. Each Unit shall have one (1) membership and there is only one (1) Member per Unit, even if multiple Owners own the Unit.

**Section 2.2. *Voting Rights.***

Each Member shall be entitled to one (1) vote for each Unit owned, except that no vote allocated to a Unit owned by the Association may be cast. The maximum number of votes that may

be cast in connection with any matter shall be equal to the total number of Units then existing within the Association.

### ARTICLE 3. ASSOCIATION

#### Section 3.1. *Association.*

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

#### Section 3.2. *Board of Directors.*

The affairs of the Association shall be managed by a Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Association's Articles of Incorporation and Bylaws. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents or employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association.

#### Section 3.3. *Authority of the Board of Directors.*

Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent or employee, without a vote of the Members, except as otherwise specifically provided in this Declaration, the Articles of Incorporation or Bylaws of the Association, or by law.

#### Section 3.4. *Election of Part of the Board of Directors During the 75% Control Period.*

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

#### Section 3.5. *Authority of Declarant During 75% Control Period.*

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

as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

**Section 3.6. *Election of Board of Directors upon Termination of 75% Control Period.***

After termination of the 75% Control Period, the Members shall elect the Board of Directors, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers.

**Section 3.7. *Budget.***

3.7.1. Within ninety (90) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Association budget to all the Members and shall set a date for a meeting of the Members to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary. The Board of Directors shall give notice to the Owners of the meeting as provided in the Bylaws of the Association. The budget proposed by the Board of Directors does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by ninety percent (90%) of the votes in the Association, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget, not including line items for Service Charges as provided below, last proposed by the Board of Directors and not vetoed by the Owners must be continued until such time as a subsequent budget proposed by the Board of Directors is not vetoed by the Owners.

3.7.2. The general Association budget shall except out all line items for Service Charges. Each Member owning a Unit with the right to use an LCE Garage shall, pursuant to subsection 3.7.1 hereof, have the right to vote to veto all line item Service Charges, as defined in Section 4.9 hereof.

**Section 3.8. *Association Books and Records.***

The Association shall make available to Owners, prospective purchasers, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of this Declaration, and the Articles of Incorporation, Bylaws, rules and regulations, design guideline, books, records and financial statements of the Association, except that: the Board of Directors may at any time(s), prior or subsequent to a request for inspection, determine that items are confidential and should not be made available; and the Owners or other parties conducting such inspections shall pay all costs associated therewith. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

**Section 3.9. *Information Regarding Security Interests.***

Each Owner shall, within twenty (20) days of encumbering such Owner's Unit with a Security Interest, and at other times upon request of the Association, provide the Association with the name and address of such Security Interest Holder, a copy of the instrument(s) creating the



Security Interest(s), and the loan number(s) (or other identifying number of such Security Interest(s)). Within twenty (20) days after any change in the name or address of the Security Interest Holder on an Owner's Unit, and at other times upon request of the Association, such Owner shall provide the aforesaid information to the Association with respect to each Security Interest held by such Security Interest Holder.

**Section 3.10. Rules and Regulations.**

Rules and regulations concerning and governing the Units, Garages, Common Elements, Limited Common Elements and/or this Community, may be adopted, amended, repealed and enforced from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations. The rules and regulations may, without limitation, state procedural requirements, parking and vehicular regulations and/or requirements, interpretations and applications of the provisions of this Declaration, including blanket requirements, blanket interpretations, and blanket applications. By way of example, and not by way of limitation, the Board may determine that a specified activity constitutes a nuisance pursuant to Section 10.9 (Nuisances) of this Declaration. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration and all provisions hereof.

**Section 3.11. Cooperation with other Community Association(s) and/or any District(s); Delegation of Authority to a Metropolitan District.**

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

3.11.2. Without limiting the generality of the foregoing, the governing board of a metropolitan district may furnish covenant enforcement and/or design review services within such metropolitan district if the Board of Directors enters into a contract with a metropolitan district to define the duties and responsibilities of each of the contracting parties, including the covenants that may be enforced by said metropolitan district, and if the covenant enforcement services of such metropolitan district do not exceed the enforcement powers granted by this Declaration, the rules and regulations of the Association, or any similar document containing the covenants to be enforced.

**Section 3.12. *Management Agreements and Other Contracts.***

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

**Section 3.13. *Merger.***

The Declarant hereby reserves the right to merge the Association with one or more other community associations without the approval of any Owner or any other Person. This right shall terminate automatically as provided in Section 1.35 of this Declaration (Special Declarant Rights).

**ARTICLE 4. ASSESSMENTS**

**Section 4.1. *Personal Obligation for Assessments.***

Each Owner of a Unit, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual Assessments, special Assessments, and other amounts, all as provided in this Declaration; with such amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Unit shall be jointly and severally liable to the Association for the payment of all Assessments, fees, charges and other amounts attributable to their Unit during their ownership of such Unit. Each amount shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the amount became due. The personal obligation for delinquent amounts shall not pass to such Owner's successors in title unless expressly assumed by them.

**Section 4.2. *Purpose of Assessments.***

The Assessments levied by the Association shall be used for maintenance, repair and replacement of the Common Elements as provided in this Declaration, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration, the Articles of Incorporation or Bylaws of the Association, any other document(s), or by law. Notwithstanding the foregoing, however, Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.

**Section 4.3. *Initial Annual Assessment.***

Until the effective date of an Association budget ratified by the Members with a different amount for the annual Assessment, as provided above, the amount of the annual Assessment against each Unit shall not exceed One Hundred Fifty and No/100 Dollars (\$150.00) per Unit per month, exclusive of any amounts due to any district and/or any other Person or entity. However, the rate of the Assessments paid by Initially Unoccupied Units shall be less than those paid by the other Units, as provided in the next Section.

**Section 4.4. *Rate of Annual and Special Assessments.***

4.4.1. Annual and special Assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned among the Units in accordance with their Allocated Interests. Notwithstanding the foregoing, however, the amount of the annual Assessment against the Initially Unoccupied Units shall be set at a lower rate than that charged against other Units, because the Initially Unoccupied Units receive and benefit from fewer services funded by the Assessments than the other Units. Colorado Revised Statutes § 38-33.3-315(3)(b) states that "Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited." Based on this provision, the Initially Unoccupied Units shall pay Assessments at the rate of 80% of any annual Assessment or special Assessment charged to Units other than Initially Unoccupied Units. The annual Assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles.

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

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

The annual Assessments shall commence at such time as the Board of Directors may determine in its discretion. After any annual Assessment has been made by the Association, annual Assessments shall not exceed the amount set forth in Section 4.3 of this Declaration (Initial Annual Assessment) until a budget is adopted by the Board of Directors and not vetoed by the Owners.

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 of Directors 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 Unit between installment due dates shall pay a pro rata share of the last payment due.

**Section 4.6.      *Special Assessments.***

In addition to the annual Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of sixty-seven percent (67%) of a quorum of Association votes, as provided in Section 4.7 hereof, at a meeting duly called for this purpose, a special Assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon the Common Elements or any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or replacement of any damaged or destroyed Improvements, or for the funding of any deficit incurred by the Association; provided that if the special Assessment is for services that would be charged as Service Charges, then the quorum, vote and approval shall only be by those Members from Units with a right to use the LCE Garages, with one vote for each LCE Garage. Any such special Assessment shall be set against each Unit in accordance with the Allocated Interests therefor; except that if the special Assessment is for services that would be charged as Service Charges, then the special Assessment shall be allocated equally among only the Units with a right to use the LCE Garages (based on one Assessment for each LCE Garage); and except that the rate of special Assessments against initially Unoccupied Units shall be set in accordance with Section 4.4.1 of this Declaration. A meeting of the Members called for the purpose of considering the establishment of a special Assessment shall be held in conformance with Section 4.7 of this Article. Notwithstanding the foregoing, special Assessments levied during the 75% Control Period may not be used for the purpose of constructing capital Improvements.

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

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6 of this Article shall be sent to all Members or to all members from Units with a right to use the LCE Garages (based on whether the special Assessment will be levied against all Units or only against the Units with a right to use the LCE Garages) not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the applicable Association votes represented by all Members or only those Members from Units with a right to use the LCE Garages, as applicable, shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 4.8.      *Assessments for Services to Less than All of the Units.***

The Association may, at any time from time to time, provide services that benefit less than all of the Units, and the Owners of such Units shall pay the Association for such services as, when and in such manner as may be determined by the Board of Directors in its discretion from time to time, which amounts shall be Assessments and shall include overhead expenses of the Association, but shall be in addition to the annual Assessments, special Assessments and Service Charges. Services which may be provided by the Association pursuant to this Section include, without limitation: (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property that is not provided for in this Declaration to be maintained by the Association; (b) the provision of any services or functions to or for such Unit(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners.

**Section 4.9.      *Service Charges for LCE Garages.***

4.9.1.      In addition to the annual Assessments provided for above, the Association shall apportion to and collect from each Unit with the right to use an LCE Garage an amount which, with all other Service Charges (as hereinafter defined) for such period and Assessments which the Board may elect to apply to Service Charges, if any, is sufficient to pay or reimburse the Association for all Service Charges for such period; provided, that the Association may elect to assess any or all of the Service Charges as part of the annual Assessments. Non-payment of any Service Charges shall be subject to enforcement and collection by the Association in the same manner as Assessments. In the event that any of the Service Charges are billed directly to an Owner, such Owner shall pay the same on or before the due date thereof.

4.9.2.      The "Service Charges" shall be the amounts payable or paid by the Association for maintenance, repair, replacement and insurance of the LCE Garages, reserves for such maintenance, repair and replacement, insurance of the LCE Garages, and any other services for, or involving, the LCE Garages. The Service Charges shall be allocated to each Unit with a right to use an LCE Garage, and shall be payable by the Owner of each such Unit, shall be the total amount of such Service Charges for the specified period multiplied by a fraction, the numerator of which is one (1) and the denominator of which is, at such time, the total number of LCE Garages.

**Section 4.10.     *Lien for Assessments.***

4.10.1.     The Association has a statutory lien on a Unit for any Assessment levied against that Unit and/or its Owner(s). The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

4.10.2.     Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments is required. However,

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

**Section 4.11. *Priority of Association Lien.***

4.11.1. A lien under this Article is prior to all other liens and encumbrances on a Unit except:

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

4.11.1.2. A First Security Interest on the Unit which has priority over all other Security Interests on the Unit and which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and

4.11.1.3. Liens for real estate taxes and other governmental assessments or charges against the Unit.

4.11.2. A lien under this Section is also prior to the First Security Interests described in the preceding subsection 4.11.1.2 to the extent, if any, provided in CCIOA.

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

4.11.4. The Association's lien on a Unit 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 Unit subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

**Section 4.12. *Certificate of Status of Assessments.***

The Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid Assessments and Service Charges currently levied against such Owner's Lot. The statement shall be furnished within a reasonable time after written request, and is binding on the Association, the Board of Directors, and every Owner. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

**Section 4.13. *Effect of Non-Payment of Assessments; Remedies of the Association.***

Any Assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors, and the Board of Directors may assess thereon a monthly late charge in such amount as may be set by the Board of Directors in its discretion from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Unit. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include attorney's fees, together with the costs of the action, and interest, and may include late charges, as above provided. No Owner may be exempt from liability for payment of the Assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the Assessments are made or because of its dissatisfaction with the Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.

**Section 4.14. *Surplus Funds.***

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

**Section 4.15. *Working Capital Fund.***

The Association or Declarant shall require the Owners (other than Declarant) of each Unit to make a non-refundable contribution to the Association in an amount equal to two (2) times the then current monthly installment of the annual Assessment at the time of closing (regardless of whether or not annual Assessments have commenced as provided in Section 4.5 of this Declaration (Date of Commencement of Annual Assessments)). Said contribution shall be collected and transferred to the Association at the time of closing of each sale of each Unit (except any sales to Declarant) and shall be for the use and benefit of the Association, including, without limitation, to meet expenditures or to purchase additional equipment, property or services. Such contributions to the working capital fund shall not relieve an Owner from making regular payments of Assessments and Service Charges as the same become due.

**Section 4.16. *Other Charges.***

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

assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.

**Section 4.17. *Charges for Misconduct.***

If any Association expense is caused by the misconduct of any Person, as determined by the Board of Directors in its discretion, the Board of Directors may assess that Association expense exclusively against the Owner who is legally responsible for such Person and against such Owner's Unit.

**ARTICLE 5. ARCHITECTURAL REVIEW**

**Section 5.1. *Changes in General Common Elements and Structural Changes.***

Other than as to the Declarant, the Association (following the termination of the 75% Control Period) or any Owner (but only as provided in Section 10.7 of this Declaration (Antenna and Satellite Dishes)): no Improvements shall be constructed, erected, placed, altered, planted, applied or installed on any General Common Elements; nor shall any structural alteration be made to any Unit or Common Elements. Nothing contained in this Declaration shall be construed so as to require approval for non-structural changes to the interior of any Individual Air Space.

**Section 5.2. *Review by Board for Changes in Limited Common Elements.***

Other than as to the Declarant, the Association (following the termination of the 75% Control Period) or any Owner but only as provided in Section 10.7 of this Declaration (Antenna and Satellite Dishes), no Improvements shall be constructed, erected, placed, altered, planted, applied or installed on any Limited Common Elements unless complete plans and specifications therefor shall have been first submitted to and approved in writing by the Board of Directors. Such plans and specifications shall include, without limitation; such information and materials as may be required by the board in its discretion from time to time. The Board of Directors shall exercise its reasonable judgment to the end that all such Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and do not affect the structural integrity of any Unit or other exterior Improvement. In its review of such plans, specifications and other materials and information, the Board may require that the applicant(s) reimburse the Board for the actual expenses incurred by the Board in the review and approval process. Such amounts, if any, shall be subject to the rights and remedies in Article 4 of this Declaration that are applicable to Assessments. Notwithstanding the foregoing and notwithstanding anything to the contrary contained in this declaration, however, until automatic termination of the Special Declarant Rights as provided in Section 1.35 of this Declaration, the Declarant reserves the right to control the architectural approval process and decisions which might otherwise be made by the Board of Directors regarding the matters that are provided for in this Article 5 or elsewhere in this Declaration (concerning architectural approval); hence, during the period from cessation of the Declarant's appointment of a majority of the Board of Directors until automatic termination of the Special Declarant Rights as provided in Section 1.35 of this Declaration, decisions on requests for architectural approval shall be made by the Declarant rather than by the Board of Directors (such that the "Declarant" shall be substituted for the "Board" or "Board of Directors," as applicable).



**Section 5.3. *Additional Approvals of Improvements Required.***

In addition to the required approvals by the Board of Directors, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements on any Limited Common Elements, shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permits by the City of Aurora, Colorado, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement on a Limited Common Element.

**Section 5.4. *Procedures.***

The Board of Directors shall decide all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Board may require in conjunction therewith. If the Board fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then the application shall be deemed to have been disapproved.

**Section 5.5. *Vote and Appeal.***

Except as provided in Section 5.16, a majority vote of the Board is required to decide a request for approval pursuant to this Article, unless the Board of Directors has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Board decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Board upon a request therefor submitted to the Board within thirty (30) days after such decision by the Board's representative.

**Section 5.6. *Prosecution of Work After Approval.***

After approval of any proposed Improvement by the Board, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the approval. Failure to complete the proposed Improvement within one (1) year after the date of approval of the application therefor (which length of time may be extended by the Board in its discretion, in writing), or to complete the Improvement in accordance with the description and materials furnished to the Board and the conditions imposed with such approval, shall constitute a violation of this Article.

**Section 5.7. *Notice of Completion.***

Upon completion of the Improvement, the applicant for approval of the same ("Applicant") shall give a written "Notice of Completion" to the Board of Directors. Until the date of receipt of such Notice of Completion, the Board of Directors shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

**Section 5.8.        *Inspection of Work.***

The Board of Directors or its duly authorized representative shall have the right to inspect any Improvement prior to, during or after completion of the same, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. However, unless the Board expressly states, in a written document, that an Improvement is being completed or has been completed in conformance with the approval therefor, no such conformance shall be implied from inspection of the Improvement either during the work or after completion thereof. The right of inspection shall terminate 60 days after the Board shall have received a Notice of Completion from the applicant.

**Section 5.9.        *Notice of Noncompliance.***

If, as a result of inspections or otherwise, the Board of Directors finds that any Improvement has been done without obtaining the approval of the Board, or was not done in substantial compliance with the approval that was granted pursuant to Section 5.6 (Prosecution of Work After Approval) the Board shall notify the applicant in writing of the noncompliance; which notice shall be given ("Notice of Noncompliance"), in any event, within 60 days after the Board receives a Notice of Completion from the applicant. The notice shall specify the particulars of the noncompliance.

**Section 5.10.      *Correction of Noncompliance.***

If the Board of Directors determines that a noncompliance exists, the applicant shall remedy or remove (and return the subject property or structure to its original condition) the same within a period of not more than 45 days from the date of receipt of the Notice of Noncompliance. If the applicant does not comply with the Board of Directors' ruling within such period, the Board may, at its option, record a Notice of Noncompliance against the property on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the applicant shall reimburse the Board, upon demand, for all costs and expenses incurred with respect thereto.

**Section 5.11.      *Records.***

The Board of Directors shall, for such period of time as may be determined by the Board of Directors in its discretion from time to time, maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

**Section 5.12.      *Liability.***

Neither the Board of Directors, nor any members thereof, nor any representative of the Board appointed to act on its behalf, shall be liable in damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder. In reviewing any matter, the Board of Directors shall not be responsible for the safety, whether structural or otherwise of the Improvements submitted for review, nor the conformance with applicable building

codes or other governmental laws or regulations, and any approval of an Improvement by the Board of Directors shall not be deemed an approval of any such matters. No Member or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Board of Directors.

**Section 5.13. *Variance.***

The Board of Directors may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 10 hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to any other property or Improvements in the Community and shall not militate against the general intent and purpose hereof.

**Section 5.14. *Waivers; No Precedent.***

The approval or consent of the Board of Directors or any representative thereof to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Board or any representative thereof as to any other application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

**Section 5.15. *Architectural Standards/Guidelines.***

The Board of Directors may, at any time, promulgate, modify, amend, repeal, re-enact and enforce architectural standards, guidelines, rules and regulations or other standards for the Community, to interpret and implement the provisions of this Article. Without limiting the generality of the foregoing, such provisions may contain guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the Board, may state procedural requirements, or may specify acceptable Improvement(s) that may be installed without the prior approval of the Board. The guidelines may contain blanket approvals, interpretations, or restrictions on Improvements. All Improvements proposed to be constructed, and any guidelines that are adopted, shall be done and used in accordance with the provisions of this Article, and shall not be inconsistent therewith.

**Section 5.16. *Exemption as to Declarant.***

Notwithstanding anything to the contrary contained in this Declaration, the Declarant shall be exempt from the requirements of this Article, with the exception of those requirements of Section 5.3, until such time as the Special Declarant Rights terminate as provided in Section 1.35 of this Declaration.

## ARTICLE 6. INSURANCE

### Section 6.1. *Insurance.*

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

### Section 6.2. *General Provisions of Insurance Policies.*

All policies of insurance carried by the Association shall comply with this Section. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until at least thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation against any Owner or member of such Owner's household. Further, all policies of insurance carried by the Association shall also contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

### Section 6.3. *Deductibles.*

The Association may adopt and establish written non-discriminatory policies and procedures relating to deductibles. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association, may be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, may be apportioned among the Persons sharing in a joint duty of repair and maintenance, and/or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question in such amount(s) as the

Board of Directors deems appropriate, and the Association may collect such amount(s) from said Owner(s) in the same manner as any Assessment.

**Section 6.4.      *Payment of Insurance Proceeds.***

Any loss covered by an insurance policy described in Section 6.1 of this Declaration (Insurance) must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 7.1 of this Declaration (Damage or Destruction), the proceeds must be disbursed first for the repair or replacement of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or replaced or the Community is terminated.

**Section 6.5.      *Association Insurance as Primary Coverage.***

If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any Assessment. Any such Owner's policy shall also contain waivers of subrogation.

**Section 6.6.      *Acceptable Insurance Companies.***

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

**Section 6.7.      *Insurance to be Maintained by Owners.***

An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Individual Air Space, shall be the responsibility of the Owner of such Individual Air Space, and the Association, its Board of Directors and any managing agent shall have no responsibility therefor. Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided that no liability of the carriers issuing

insurance obtained by the Association shall be affected or diminished by reason of any such insurance carried by any Owner. Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Unit other than the purchase by the initial Owner(s) from the Declarant. In the event the homeowner's insurance policies held by different Owners of Units or held by an Owner and the Association and which are underwritten by different insurers, the Owner shall be responsible for ensuring that such Owner's insurer agrees, in the event damage occurs to the covered property, to facilitate payment of the insurance proceeds when two or more insurers are involved and that each insurer will pay (a) all undisputed proceeds and (b) all disputed proceeds (subject to the right of each such insurer to recover from the other insurers any such sums for which the other insurers are found to be liable).

**Section 6.8.      *Notice of Cancellation.***

If the insurance that is required to be carried by the Association, as provided in Section 6.1 of this Declaration (Insurance), is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners.

**ARTICLE 7.      DAMAGE OR DESTRUCTION**

**Section 7.1.      *Damage or Destruction.***

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

7.1.1.1.      The Community is terminated; or

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

7.1.1.3.      Members casting sixty-seven percent (67%) of the Association votes, in person or by proxy, including every Member whose Unit will not be rebuilt, vote not to rebuild; or

7.1.1.4.      Prior to the conveyance of any Unit to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

7.1.2.      The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is an Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other Persons will be distributees, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units or to lienholders,

as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests of all the Units. If the Members vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned as provided in Section 16.11 of this Declaration (Eminent Domain), and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

**Section 7.2.        *Use or Distribution of Insurance Proceeds.***

In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to repair or replace the damaged areas, shall be applied by the Association to such repair and/or replacement. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and/or replace the damaged or destroyed area(s), the Association shall levy a special Assessment in the aggregate amount of such insufficiency pursuant to 4.6 of this Declaration (Special Assessments), but without approval of the Members, and shall proceed to make such repairs or replacements. No distributions of insurance proceeds shall be made unless made jointly payable to the Owners and any Security Interest Holders of their respective Units. The Assessment provided for herein shall be a debt of each Owner and a lien on such Owner's Unit and the Improvements thereon, and may be enforced and collected in the same manner as any Assessment provided for in this Declaration.

**Section 7.3.        *Damage or Destruction of Units.***

If due to casualty, or for any other reason, an Individual Air Space shall be destroyed or damaged, then the Owner thereof shall, within a reasonable time thereafter, not to exceed one hundred twenty (120) days after repair or replacement of the Condominium Building within which such Individual Air Space is or was located, commence and diligently pursue repair and replacement of the Individual Air Space, using any available personal insurance proceeds and personal funds of such Owner, unless the Common Elements are not repaired and/or replaced as hereinabove provided.

**ARTICLE 8.        MAINTENANCE**

**Section 8.1.        *Management and Maintenance Duties.***

Subject to the rights of, and obligations, requirements and limitations on Owners as set forth in this Declaration:

8.1.1. The Association shall be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Elements (including the Limited Common Elements except as provided below), the LCE Garages, and any property owned by the Association, including facilities, furnishings and equipment related thereto, and (except for the Limited Common Elements as provided below) shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Association shall not be responsible for the maintenance, repair and/or replacement of doors (except painting or staining of exterior doors, which shall be done by the Association) window glass, screens,

electrical fixtures and electrical facilities, if the same are located inside a Unit or are controlled from inside a Unit, air conditioning compressors or utility lines or pipes if they serve one Unit after such lines or pipes enter the Condominium Building within which such Unit is located, whether or not the same are Common Elements.

8.1.2. The Association shall also be responsible for maintenance, repair and replacement of any drainage structures or facilities, or other public improvements, including but not limited to city sidewalks around the Community and/or Condominium Building(s), required by the local governmental entity as a condition of development of the Community or any part thereof, and of any other property or improvements that the Board of Directors may elect on behalf of the Association, unless such improvements have been dedicated to and accepted by a governmental entity for the purpose of maintenance, repair or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Such maintenance shall include snow removal at such times, and to such extent, as designated by the Board of Directors.

8.1.3. Except as otherwise provided in this Declaration, the Owner(s) of each Unit shall be solely responsible for maintaining, repairing and replacing his Unit and the improvements therein or appurtenant thereto. Further, each Owner shall be responsible for exclusive maintenance, repair and replacement of all fixtures, equipment and utilities installed or located within such Owner's Individual Air Space, all doors, windows, window screens and doors to the Unit (except painting or staining of exterior doors, which shall be done by the Association), all electrical fixtures and electrical facilities, if the same are located inside a Unit or are controlled from inside a Unit, air conditioning compressors, and all other equipment providing exclusive service thereto or therefor and any service lines from such equipment to the Unit, including, without limitation, all utility, heating, plumbing, air conditioning and domestic hot water equipment and appurtenances (excluding any landscaping irrigation system), regardless of whether such fixtures, equipment and utilities are owned by said Owner or are Common Elements. Each Owner shall also keep the Limited Common Elements, or portions thereof, designated for use solely in connection with his Unit, in a good, clean, sanitary and attractive condition, order and repair.

8.1.4. Notwithstanding anything to the contrary contained in this Declaration, none of the responsibilities of the Association for management, control, maintenance, repair, replacement and improvement of the Common Elements or Improvements thereon shall give rise to any interest of the Association in any Unit or the quality of any improvements therein or thereon, nor any right by the Association to pursue any claims against the Declarant, any member thereof, or any other Person, for negligence, breach of express or implied warranties, or any other matters, with respect to any such improvements or the construction thereof.

#### **Section 8.2. *Maintenance of LCE Garages.***

The Association shall be obligated to maintain and repair the LCE Garages, and the users thereof shall comply with the directives of the Association in such regard. The Owners of all Units



with a right to use an LCE Garage hereby grant to the Association an easement to enter upon the LCE Garages for any purpose related to the Association's duties hereunder.

**Section 8.3. *Maintenance, Repair and Replacement Obligations.***

Any improvement which has been changed, altered or modified by or for an Owner or occupant of a Unit shall be maintained, repaired and replaced by such Owner to the extent of the change, alteration or modification. If the improvement is newly constructed, erected, placed, planted, applied or installed by an Owner or occupant of a Unit, then the entirety of such improvement shall be maintained, repaired and replaced by, the Owner(s) of such Unit. However, the Board of Directors may at any time, by resolution, elect to have the Association provide such maintenance, repair or replacement; provided that any such resolution shall be subject to being repealed, revoked, modified, changed or altered, at any time, from time to time, by the Board.

**Section 8.4. *Association's Right to Repair, Maintain and Replace.***

In the event any Owner shall fail to perform such Owner's maintenance, repair and replacement obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board of Directors, enter upon said Unit subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. Notwithstanding the foregoing, no notice shall be required in emergency situations. The cost of such maintenance, repair and replacement shall be the personal obligation of the Owner of the Unit on which such work is performed, and shall be subject to all of the terms and provisions applicable to Assessments as provided in Article 4 hereof, including, without limitation, interest, late charges and lien rights.

**Section 8.5. *Acts or Omissions.***

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, any other property, a Unit, or any improvements located thereon, is caused by the willful or negligent act or omission of any Owner, a member of such Owner's family, any employee or tenant of such Owner, or by a guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the Assessment to which such Owner's Unit is subject and shall be subject to all of the terms and provisions of Article 4 of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any employee of an Owner or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Board of Directors at a hearing after notice to the Owner.

## ARTICLE 9. EASEMENTS

### Section 9.1. *Other Easements.*

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

### Section 9.2. *Access Easement.*

Each Unit shall be subject to an easement: in favor of the Association and the Owners, including the agents, employees and contractors thereof, for performing maintenance, repair, replacement and/or reconstruction, or other services as provided in this Declaration, including without limitation, maintenance, repair, replacement and/or reconstruction pursuant to Article 8 of this Declaration (Maintenance); and in favor of the Association, its agents and employees, for and incidental to enforcement of any term or provision of this Declaration, the Articles of Incorporation, Bylaws, design guidelines or rules and regulations of the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Unit, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair or avoidance. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive entry; and except that in emergency situations entry upon a Unit may be made at any time provided that the Owner(s) or occupant(s) of each affected Unit shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence shall not be subject to the easements provided for in this Section.

### Section 9.3. *Easement for Encroachments.*

To the extent that any Unit or Common Element, or any Improvement, encroaches on any other Unit or Common Element, a valid easement for the encroachment exists.

### Section 9.4. *Drainage Easement.*

An easement is hereby reserved by the Declarant and granted to the Association, their respective directors, officers, agents, employees, successors and assigns, to enter upon, across, over, in and under the Common Elements for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Community so as to maintain or improve the drainage of water in or from the Community.

### Section 9.5. *Easement for Unannexed Property.*

The Declarant hereby reserves an Annexable Area Easement for the use and benefit of the Annexable Area. By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for services (including, without limitation, utilities services), to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community pursuant to Section 16.4 of this Declaration (Annexation; Withdrawal).

Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration pursuant to Section 16.4 of this Declaration (Annexation; Withdrawal); and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

**Section 9.6.        *Utilities.***

Declarant hereby reserves a blanket easement upon, across, over and under the Common Elements for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall automatically terminate at such time as the Special Declarant Rights terminate as provided in Section 1.35 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Elements.

**Section 9.7.        *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 Common Elements in the proper performance of their duties.

**ARTICLE 10.    RESTRICTIONS**

**Section 10.1.    *General Plan; Restrictions Imposed.***

It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Community. The Community is subject to the recorded easements, licenses and other matters listed on Exhibit C attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Units shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

**Section 10.2. Residential Use; Professional or Home Occupation.**

Subject to Section 16.5 of this Declaration (Declarant's Use), Units shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that all of the following conditions are satisfied:

10.2.1. The business conducted is clearly secondary to the residential use of the Unit and is conducted entirely within the Unit;

10.2.2. The existence or operation of the business is not detectable from outside of the Unit by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

10.2.3. The business does not result in an undue volume of pedestrian or vehicular traffic or parking within the Community, which determination shall be made by the Board of Directors in its sole discretion from time to time;

10.2.4. The business conforms to all zoning requirements and is lawful in nature; and

10.2.5. The business conforms to any rules and regulations that may be imposed by the Board of Directors from time to time on a uniform basis.

**Section 10.3. Exterior Changes.**

Except for those Improvements erected, constructed or installed by Declarant in its completion of the Community, no exterior additions to, alterations or decoration of any Condominium Building or Unit shall be commenced, erected, placed or maintained, except as provided in this Declaration.

**Section 10.4. Interior Changes.**

Except as provided in this Article or in Section 5.2 hereof, nothing in this Declaration shall be construed to require any Owner to obtain approvals to make non-structural changes to the interior of such Owner's Individual Air Space. If two or more Individual Air Spaces are owned by the same Owner, such Owner may remove all or part of the non-structural interior walls, ceilings or floors separating such Individual Air Spaces so as to allow free access between such Individual Air Spaces. Notwithstanding the removal of all or part of any such interior wall, ceiling or floor which would otherwise separate and delineate the boundaries of one or more Individual Air Spaces, each Individual Air Space shall continue to be a separate Unit for all purposes of this Declaration. For example, the number of Units in the Community shall not be affected by the removal of such a wall, ceiling or floor, nor shall the Allocated Interests be affected.

**Section 10.5. Household Pets.**

No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Units; provided, however, that the Owners of each Unit may keep dogs, cats, and/or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to be unreasonable or create a nuisance to any resident of the Units. The Board of Directors shall have, and is hereby given, in its sole discretion, the right and authority to: set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine that any dog(s), cat(s) or other household pet(s) are being kept for a commercial purpose or are being kept in such number or in such manner as to be unreasonable or create a nuisance; or that an Owner or tenant is in violation of the leash laws of the applicable jurisdiction and other applicable governmental laws, ordinances, or other provisions related to household pets; or determine that an Owner is otherwise in violation of this Section. If the Board decides any of the foregoing, then the Board may take such action or actions as it deems appropriate. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments.

**Section 10.6. Signs.**

No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit without the written approval of the Board of Directors, except for the following: (a) a name plate of the occupant and a street number; (b) a "For Sale" or "Open House" sign(s), of not more than a total of five (5) square feet in the aggregate, in a window(s) of the Unit; and (c) two (2) security system signs no larger than one hundred (100) square inches each in a window(s) of the Unit. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale, rental or use of one or more Units, or otherwise in connection with development of or construction in the Community, shall be permissible.

**Section 10.7. Antenna and Satellite Dishes.**

No exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Unit or the Common Elements unless such antenna, satellite dish, or other audio or visual device has been professionally installed and the installation of such device has been approved by the Board of Directors; provided, however that any such devices may be erected or installed by the Declarant during its sales or construction in the Community; and provided further, however, that the requirements of this Section shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 or regulations thereunder, as amended from time to time. As to "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 or regulations promulgated thereunder, the Association shall be empowered to adopt rules and regulations governing the types of "antenna" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 or regulations promulgated thereunder, as amended, establish reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

**Section 10.8.     *Vehicular Parking, Storage and Repairs.***

10.8.1.     Except as otherwise provided in Section 10.8.2 hereof and/or in rules and regulations which may be adopted by the Board of Directors from time to time, vehicles shall be parked only in LCE Garages or in parking spaces in the Community, except that any vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. Vehicles, and movement and parking of vehicles, shall be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time. Declarant and/or the Association may designate certain parking areas for visitors or guests, or for handicapped, or for other uses, and the Board of Directors may adopt reasonable rules and regulations, from time to time, governing such areas.

10.8.2.     Except as may otherwise be set forth in the rules and regulations or guidelines adopted by the Board of Directors, in their discretion from time to time, commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, recreational vehicles, golf carts and boat trailers, shall be parked only in LCE Garages or other enclosed areas, if any, which may be designated by the Board of Directors from time to time. This restriction, however, shall not restrict trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Community or any Improvements located thereon, nor shall restriction prohibit vehicles that may be otherwise parked as a temporary expedient for loading, delivery or emergency. Stored vehicles and vehicles which are inoperable or do not have current operating licenses shall not be permitted in the Community except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours without the prior written approval of the Board of Directors.

10.8.3.     Each LCE Garage may only be used for automobile parking, and no LCE Garage may be used for storage or other purposes that might preclude its use for automobile parking.

10.8.4.     In the event the Association shall determine that a vehicle is parked or stored in violation of subsections 10.8.1, 10.8.2 or 10.8.3 of this Section, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

10.8.5.     No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community.

**Section 10.9. Nuisances.**

No nuisance shall be permitted on any Unit nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs, the resident of any Unit or which interferes with the peaceful enjoyment or possession and proper use of any Unit, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities on, the Units. No noxious or offensive activity shall be carried on upon any Unit nor shall anything be done or placed on any Unit which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others, and no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Unit as to be visible from a street or from any other Unit. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of any Unit or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Units, or any portion thereof, shall be observed; however, the Association shall have no duty or obligation to enforce such laws, ordinances and regulations.

**Section 10.10. No Hazardous Activities; No Hazardous Materials or Chemicals.**

No activities shall be conducted on any Unit or in the Community which are, or might be, unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Unit except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property; however, the Association shall have no duty or obligation to enforce such laws, ordinances and regulations.

**Section 10.11. No Annoying Light, Sounds or Odors.**

No light shall be emitted which is unreasonably bright or causes unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be permitted which is noxious or offensive to others.

**Section 10.12. Restrictions on Trash and Materials.**

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trashcans or receptacles shall be maintained in an exposed or unsightly manner.

**Section 10.13. Leases.**

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Unit, but all leases shall be in

writing and all leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association.

## ARTICLE 11. PROPERTY RIGHTS IN THE COMMON ELEMENTS

### Section 11.1. *Owners' Easements.*

Subject to this Article, every Owner shall have a non-exclusive right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to such Owner's Unit, plus a right and easement of ingress and egress over, across and upon the General Common Elements and those Limited Common Elements appurtenant to such Owner's Unit, for the purpose of access to such Owner's Unit, for both pedestrian and vehicular travel, and to use the Common Elements and all other real estate that must become Common Elements, if any, for all other purposes. Such rights and easements shall be appurtenant to and pass with the transfer of title to every Unit.

### Section 11.2. *Extent of Owners' Easements.*

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

11.2.1. The right of the Association to borrow money for the purpose of improving the Common Elements and to mortgage said property (as provided in Section 11.7 of this Declaration (Conveyance or Encumbrance of Common Elements) as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest except in accordance with CCIOA; and

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

11.2.3. The right of the Association to enact, issue, promulgate, amend, repeal, re-enact and publish standards, guidelines, rules and regulations, with which each Member shall strictly comply, including, but not limited to, the right to regulate and/or restrict vehicular parking and Improvements; and

11.2.4. The right of the Association to suspend the voting rights of a Member for any period during which any Assessment against such Owner's Unit or any other amounts due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Association Bylaws or the rules and regulations of the Association; and

11.2.5. The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject



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

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

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

11.2.8. Subject to the following sentence, the right of the Association to assign, lease, rent or otherwise designate any parking (including without limitation garage parking spaces that are not LCE Garages) for use, upon such terms, conditions and provisions as may be set by the Board of Directors in its discretion from time to time, including without limitation the right of the Board of Directors to change, revoke, or take other action with respect to any such assignment, lease, rent or designation. Notwithstanding the foregoing, any such assignment, lease, rental or other designation of a garage parking space shall terminate immediately at such time, if ever, that such garage parking space is designated by the Declarant as an LCE Garage.

**Section 11.3. *Common Elements Easement to Declarant.***

An easement is hereby granted to the Declarant on, over, across and through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's rights or obligations or exercising any Special Declarant Rights, and no Owner shall engage in any activity which will temporarily or permanently interfere with the Declarant's easements through the Common Elements.

**Section 11.4. *Delegation of Use.***

Any Owner may delegate such Owner's rights of use of and access over the Common Elements to the members of such Owner's family, tenants, or contract purchasers who reside in such Owner's Unit.

**Section 11.5. *Limited Common Elements.***

Subject to the terms and provisions of this Declaration, every Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to such Owner's Unit, and such right shall be exclusive except as to those other Owners, if any, with a right to use such Limited Common Elements.

**Section 11.6. *New Additions to Common Elements.***

The Declarant and the Association shall have the right to construct new additions to the Common Elements. Ownership of any such additions to the Common Elements shall be apportioned among all Units in proportion to the respective undivided interest in the Common Elements appurtenant thereto, as shown on the attached Exhibit B, subject to the right of Declarant to designate any General Common Elements as Limited Common Elements. The Assessment liability for any such additions to the Common Elements shall be apportioned among all Units as provided in Article 4 of this Declaration (Assessments), except that some Units may be assessed for LCE Garages, as more fully provided in Section 4.9 of this Declaration (Service Charges for LCE Garages).

**Section 11.7. *Conveyance or Encumbrance of Common Elements.***

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

**Section 11.8. *Use of Common Elements.***

Subject to the rights of Declarant as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements except as permitted if such Common Elements are Limited Common Elements.

**Section 11.9. *Designation of Common Elements.***

Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Elements are not dedicated hereby for use by the general public.

**Section 11.10. *Acquiring and Disposing of Real and Personal Property.***

The Association may acquire, own and hold for the use and benefit of all Owners tangible and intangible personal property and real property for such uses and purposes as the Board of Directors may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be deemed to be owned by the Owners in the same undivided proportion as their respective undivided interests in the Common Elements. Such beneficial interest of an Owner shall not be transferable except with the transfer of that Owner's Unit. Transfer of a Unit, including transfer pursuant to foreclosure, shall transfer to the transferee ownership of the transferor's beneficial interest in such personal and/or real property without any reference thereto. Each Owner may use such personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Board of Directors in its sole discretion from time to time, provided that such use of any Owner shall not hinder or encroach upon the lawful rights of other Owners.

**Section 11.11. *Payment of Taxes or Insurance by Security Interest Holders.***

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

**Section 11.12. *Duty to Accept Property and Facilities Transferred by Declarant.***

The Association shall accept title to all property, including personal property, equipment, and easements, if any, transferred to the Association by the Declarant, together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association (as long as such does not require the Association to perform in a manner that is inconsistent with the duties and functions of the Association as provided in this Declaration or the Articles of Incorporation or Bylaws of the Association).

**ARTICLE 12. CONVEYANCE, OWNERSHIP AND TAXATION OF UNITS**

**Section 12.1. *Contracts Entered into Prior to Recording of Condominium Map and Declaration.***

A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Condominium Map and/or this Declaration in the office of the Clerk and Recorder of Arapahoe County, Colorado, may legally describe such Unit in the manner set forth in Section 12.2 of this Declaration (Contracts Entered into Subsequent to Recording of Condominium Map and Declaration) and may indicate that the Condominium Map and/or this Declaration are to be recorded. Upon recordation of the Condominium Map and this Declaration in Arapahoe County, Colorado, such description shall be conclusively presumed to describe the corresponding Unit shown on the Condominium Map and such Unit shall be subject in all respects to this Declaration.

**Section 12.2. *Contracts Entered into Subsequent to Recording of Condominium Map and Declaration.***

Subsequent to the recording of the Condominium Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit may legally describe that Unit as follows:

Unit \_\_\_\_\_, Building \_\_\_\_\_, Aurora at Cross Creek Condominiums, according to the Condominium Map thereof, recorded on \_\_\_\_\_, 200\_\_, at Reception No. \_\_\_\_\_, in the records of the office of the Clerk and Recorder of Arapahoe County, Colorado, and as defined and described in the Declaration of Covenants, Conditions and Restrictions of Aurora at Cross Creek Condominiums, recorded on \_\_\_\_\_, 200\_\_, at Reception No. \_\_\_\_\_ in said records.

**Section 12.3.     *Legal Effect of Description.***

Every contract, deed, lease, mortgage, deed of trust, will and every other instrument affecting title to a Unit which legally describes said Unit substantially in the manner set forth in Section 12.2 of this Declaration (Contracts Entered into Subsequent to Recording of Condominium Map and Declaration) shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Unit, including the undivided interest in the Common Elements appurtenant thereto and all other appurtenant properties and property rights, and to incorporate all of the rights, limitations and burdens incident to ownership of a Unit as described in this Declaration and the Condominium Map.

**Section 12.4.     *Taxation.***

Each Unit shall be assessed separately for all taxes, assessments and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority, in accordance with CCIOA. For the purpose of such Assessments, the valuation of the Common Elements shall be apportioned among the Units in proportion to the undivided interest in the Common Elements appurtenant to the Unit in question. The Association shall furnish to the Tax Assessor of Arapahoe County, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No forfeiture or sale of any Unit for delinquent taxes, Assessments or other governmental charges shall divest or in any way affect the title to any other Unit.

**Section 12.5.     *Inseparability.***

Each Unit, as well as all other appurtenances, rights and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise disposed of only as a Unit. Every conveyance, transfer, devise, lease, encumbrance or other disposition of a Unit shall be deemed to be a conveyance, transfer, devise, lease, encumbrance or other disposition, as the case may be, of the entire Unit, together with all appurtenant rights, interests, duties and obligations created by law or by this Declaration.

**Section 12.6.     *Non-Partitionability.***

The Common Elements shall be owned in common by all of the Owners and shall remain undivided and not subject to partition, such that any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void. By the acceptance of a deed or other instrument of conveyance or assignment, each Owner specifically waives such Owner's right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Furthermore, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs, expenses and all damages that the Association incurs in connection therewith.

## ARTICLE 13. MECHANIC'S LIENS

### Section 13.1. *Mechanic's Liens.*

No labor performed and/or materials furnished for use and incorporated in any Unit with the consent or at the request of the Owner thereof, such Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Individual Air Space of the Owner for whom such labor shall have been performed or such materials furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Unit.

### Section 13.2. *Enforcement by the Association.*

At its own initiative or upon the written request of any Owner or any Security Interest Holder, if the Association determines that further action by it is proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association, after notice and hearing, shall enforce the indemnity provided by Section 13.1 of this Declaration (Mechanic's Liens) by collecting from the Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorney's fees incidental thereto, and obtain a discharge of such lien. In the event that the Owner of the Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section and such amount to be indemnified shall be and constitute an additional Assessment for collection by the Association subject to all of the provisions of Article 4 of this Declaration (Assessments).

### Section 13.3. *Effect of Part Payment.*

In the event a lien attributable to labor performed and/or materials furnished on the Community, or any portion thereof, is effected against two or more Units, the Owner(s) of any of the affected Units may pay to the lienholder the amount of the lien attributable to such Owner's Unit and the lienholder shall release such Unit from the lien. The amount required to be paid by any such Owner in order to obtain release of such Owner's Unit from any such lien shall be equal to the quotient of (a) the amount of the lien divided by (b) the total number of Units affected by the lien. Partial payment and release of any such lien with respect to any Unit(s) shall not prevent the lienholder from enforcing such lienholder's rights against the Unit(s) for which payment has not been received.

## ARTICLE 14. ALTERNATIVE DISPUTE RESOLUTION

### Section 14.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

14.1.1. Each Bound Party agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit any Claims to the procedures set forth in Section 14.4 (Mandatory Procedures) hereof.

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

14.1.3. Any applicable statute of limitation shall apply to the alternative dispute resolution procedures set forth in this Article.

### Section 14.2. *Consensus for Association Action.*

14.2.1. Except as provided in this Section, the Association may not commence a legal proceeding or an action against any Bound Party without the approval of the Members to which at least two-thirds (2/3) of the votes in the Association are allocated. A Member representing Units owned by Persons other than the Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners of two-thirds (2/3) of the total number of Units in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it.

14.2.2. Prior to any Bound Party commencing any proceeding to which another Bound Party is a Party, including but not limited to an alleged defect of any improvement, the Respondent shall have the right to be heard by the Members, or the Claimant, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

### Section 14.3. *Claims.*

Unless specifically exempted below, all Claims between any of the Bound Parties shall be subject to the provisions of Section 14.4 of this Declaration (Mandatory Procedures). Notwithstanding the foregoing, unless all Parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.4 of this Declaration (Mandatory Procedures):

14.3.1. any suit by the Association against any Bound Party to enforce the provisions of Article 4 of this Declaration (Assessments);

14.3.2. any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other

ancillary relief as the court may deem necessary in order to enforce any of the provisions of Article 5 of this Declaration (Architectural Review) or Article 10 of this Declaration (Restrictions);

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

14.3.4. any suit in which any indispensable party is not a Bound Party.

**Section 14.4. *Mandatory Procedures.***

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

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

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

14.4.1.3. the proposed remedy; and

14.4.1.4. the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

14.4.2. *Negotiation and Mediation.*

14.4.2.1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

14.4.2.2. Upon a Termination of Negotiations, Claimant shall have thirty (30) days to submit the Claim to mediation under the auspices of the AAA in accordance with the AAA's Supplemental Rules for Residential Construction Mediation Rules in effect on the date of the Notice. If there are no Supplemental Rules for Residential Construction Mediation Rules then in effect, the AAA's Construction Industry Mediation Rules shall be utilized.

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

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

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

14.4.2.6. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 14.4 of this Declaration (Mandatory Procedures) and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 14.4 of this Declaration (Mandatory Procedures). In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

#### 14.4.3. Binding Arbitration.

14.4.3.1. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Supplemental Rules for Residential Construction Arbitration Rules in effect on the date of the Notice. If there are no Supplemental Rules for Residential Construction Arbitration Rules then in effect, the AAA's Construction Industry Arbitration Rules shall be utilized. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the Parties, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

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

14.4.3.3. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the



existence, content, or results of any arbitration without the prior written consent of all Parties.

**Section 14.5. Amendment.**

Notwithstanding anything to the contrary contained in this Declaration, for a period of time commencing as of the termination of the 75% Control Period and ending twenty (20) years thereafter, this Article may not be amended without the prior written consent of one hundred percent (100%) of the votes in the Association. An amendment of this Article shall only be effective as to Claims that arise after the effective date of such amendment.

**ARTICLE 15. SECURITY INTERESTS**

**Section 15.1. Approval by Members and Security Interest Holders of First Security Interests.**

Notwithstanding any provisions of this Declaration to the contrary, the Association shall not:

15.1.1. Except as provided by statute in case of condemnation or substantial loss to the Units and/or Common Elements, unless it has obtained the prior written approval of the Owners (other than the Declarant) casting at least sixty-seven percent (67%) of the Association votes or of those Security Interest Holders of First Security Interests who represent at least sixty-seven percent (67%) of the Units that are subject to such First Security Interests (based upon one vote for each First Security Interest owned):

15.1.1.1. by act or omission seek to abandon or terminate the Community;

15.1.1.2. change the pro rata interest or obligations of any Unit in order to levy Assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each Unit in the Common Elements (however, this requirement will be deemed waived to the extent necessary to allow phasing or add-ons in accordance with this Declaration);

15.1.1.3. partition or subdivide any Unit;

15.1.1.4. seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Community is not a transfer within the meaning of this clause. (However, this requirement will be deemed waived to the extent necessary to allow phasing or add-ons, in accordance with this Declaration);

15.1.1.5. use hazard insurance proceeds for losses to any condominium property (whether Units or Common Elements) for other than the repair or replacement of such condominium property.

15.1.2. Unless it has obtained the consent of Owners who represent at least sixty-seven percent (67%) of the Association votes, and of Security Interest Holders of First Security Interests who represent at least fifty-one percent (51%) of the Units that are subject to such First Security Interests (and who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests), add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which govern any of the following, provided that the implied approval of any Security Interest Holder of a First Security Interest shall be assumed if such Security Interest Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after such Security Interest Holder receives proper notice of the proposal delivered by certified or registered mail with a "return receipt" requested:

15.1.2.1. voting rights;

15.1.2.2. increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens, or the priority of Assessment liens;

15.1.2.3. reductions in reserves for maintenance, repair, and replacement of Common Elements;

15.1.2.4. responsibility for maintenance and repairs;

15.1.2.5. redefinition of any Unit boundaries;

15.1.2.6. convertibility of Units into Common Elements or vice versa;

15.1.2.7. expansion or contraction of the Community, or the addition, annexation or withdrawal of property to or from the Community;

15.1.2.8. hazard or fidelity insurance requirements;

15.1.2.9. imposition of any restrictions on the leasing of Units;

15.1.2.10. imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;

15.1.2.11. repair or replacement of Improvements in the Community (after a damage or partial condemnation) in a manner other than that specified in the Declaration, the Articles of Incorporation, or Bylaws of the Association; or

15.1.2.12. any provisions that expressly benefit Security Interest Holders, or insurers or guarantors of Security Interests.

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**Section 15.2.      *Termination of Legal Status.***

Any action to terminate the legal status of the Community after substantial destruction or condemnation occurs shall be agreed to by Owners who represent at least sixty-seven percent (67%) of the Association votes and by Security Interest Holders of First Security Interests who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of Security Interest Holders of First Security Interests and who represent at least fifty-one percent (51%) of the Units that are subject to such First Security Interests. Termination of the legal status of the Community for reasons other than substantial destruction or condemnation of the Community shall be permitted if agreed to by Security Interest Holders of First Security Interests who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of such Security Interest Holders of First Security Interests and who represent at least sixty-seven percent (67%) of the Units subject to First Security Interests.

**Section 15.3.      *Notice of Action.***

Upon written request to the Association, identifying the name and address of the Security Interest Holder of a First Security Interest or insurer or guarantor of the First Security Interest, and the residence address of the Unit which is subject to such First Security Interest, each Security Interest Holder of a First Security Interest, or insurer or guarantor of a First Security Interest, shall be entitled to timely written notice of:

15.3.1.      any condemnation loss or casualty loss which affects either a material portion of the Community or any Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor of a First Security Interest;

15.3.2.      any delinquency in the payment of Assessments by the Owner of the Unit subject to a First Security Interest held, insured or guaranteed by such Security Interest Holder, insurer or guarantor, when such delinquency remains uncured for a period of sixty (60) days;

15.3.3.      any lapse, cancellation or material modification of any insurance policy maintained by the Association; and

15.3.4.      any proposed action that requires the consent of a specified percentage of Security Interest Holders of First Security Interests as provided in this Article.

**Section 15.4.      *Audit.***

Any Security Interest Holder of a First Security Interest will, at any time, be allowed to have an audited financial statement of the Association's books prepared at such Security Interest Holder's own expense.

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**Section 15.5.     *No Priority Over Rights of Security Interest Holders of First Security Interests.***

No provision of this Declaration, the Articles of Incorporation, or Bylaws of the Association give (or are intended to give) any Owner, or any other party, priority over any rights of the Security Interest Holder of a First Security Interest, pursuant to its First Security Interest, in the case of payment to the Owner of insurance proceeds or condemnation awards for losses to or taking of Units and/or Common Elements.

**ARTICLE 16.    GENERAL PROVISIONS**

**Section 16.1.     *Enforcement; Fines.***

16.1.1.    Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Except as otherwise provided in this Declaration, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings subject to Article 12 of this Declaration (Dispute Resolution). Remedies for violation(s) of the Declaration, the Articles of Incorporation, Bylaws, rules, regulations, standards and/or guidelines of the Association shall be cumulative and no remedy shall be exclusive of other remedies that may be available. In any action instituted or maintained under this Declaration, the prevailing party shall be entitled to recover its costs and attorney fees incurred in asserting or defending the claim, as well as any and all other sums. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

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

**Section 16.2.     *Severability.***

All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by

judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

**Section 16.3. *Conflict of Provisions.***

In the case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

**Section 16.4. *Annexation; Withdrawal.***

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

16.4.2. Notwithstanding the foregoing, until that date which is twelve (12) years after the date of recording of this Declaration in Arapahoe County, Colorado, the Declarant may annex to this Declaration the Annexable Area or any portion(s) thereof, without consent of any other Owners, Security Interest Holders, or any other Person; however, such annexation is subject to a determination by HUD or VA (if the Declarant desires to attempt to obtain HUD or VA approval of the property being annexed, and if HUD or VA require such approval) that the annexation is in accord with the general plan approved by them and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Each such annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the Clerk and Recorder of Arapahoe County, Colorado, which document:

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

16.4.2.2. shall identify the owner(s) of the Units thereby created;

16.4.2.3. shall assign an identifying number to each new Unit;

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

16.4.2.5. shall reallocate the Allocated Interest; and

16.4.2.6. may include such other provisions as the Declarant deems appropriate. Other provisions that may be included in an Annexation of Additional Land include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions, in addition to or different from those contained elsewhere in this Declaration, that apply or will apply to some or all of the property that is thereby being annexed to this Declaration. Any of such other provisions referenced in the

preceding sentence may be amended with the consent of the Owners of sixty-seven percent (67%) of the Units to which such other provisions apply.

16.4.3. Each Person who acquires any property within the Annexable Area after the date of recording hereof, will have agreed pursuant to applicable documents that such property will be governed by this Declaration. The Declarant, therefore, reserves the right (but not the obligation) during the time period set forth in Section 1.35 of this Declaration (Special Declarant Rights) to annex such property to the Declaration without further authorization from the Person who has purchased such property, even if such annexation occurs subsequent to conveyance of the property by Declarant.

16.4.4. Except as otherwise specifically stated in the document pursuant to which property is annexed, all provisions of this Declaration, including, but not limited to (as to Units), those provisions regarding obligations to pay assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon the effective date of the annexing document (which shall constitute the date of recording thereof unless otherwise stated in such document). Each annexation to this Declaration, if any, shall be deemed to constitute an amendment to this Declaration.

16.4.5. The property which is described on the attached Exhibit A and each portion of the Annexable Area that is annexed to this Declaration by the Declarant shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with CCIOA. However, the Declarant's right to withdraw each such portion of the Community shall expire and terminate, as to each portion of the Community, no later than automatic termination of the Special Declarant Rights as provided in Section 1.35 hereof.

#### **Section 16.5. *Declarant's Use.***

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and its employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Community such facilities, as Declarant deems reasonably necessary or incidental to the construction and sale of Units, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant may determine from time to time in its reasonable discretion. Further, nothing contained in the Declaration shall limit the right of the Declarant or require Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements; (b) to use any structure on any property as a construction or management office, model, or sales or leasing office, in connection with the development, construction or sale of any property; and/or (c) to require Declarant to seek or obtain the approval of the Board of Directors or of the Association for any activity or Improvement by Declarant on any property owned by Declarant. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Community in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, such Owner's family members, guests or invitees, of and to such Owner's Unit and to a public right-of-way. Any

real estate used as a sales office, management office, construction office or a model shall be a Unit or Common Elements, as shown on the Condominium Map. As permitted by Section 216(1) of CCIOA, the Declarant hereby reserves for itself and its guests an easement through the Common Elements for access to, from and incidental to the use of, any property now or hereafter used as sales offices, management offices, model units, or for the location of trailers used as construction or sales offices.

**Section 16.6.      *Designation of LCE Garages and other Common Elements.***

For the period of time until automatic termination of the Special Declarant Rights, as provided in Section 1.35 of this Declaration, Declarant reserves the unilateral right to designate, by recorded document(s), any Common Element as an LCE Garage and to allocate such LCE Garage to a Unit. In addition, for the period of time until automatic termination of the Special Declarant Rights, as provided in Section 1.35 of this Declaration, Declarant reserves the unilateral right to convert any General Common Elements into Limited Common Elements and to allocate such Limited Common Elements among one or more Units as Declarant, in its discretion, deems appropriate.

**Section 16.7.      *Duration, Revocation, and Amendment.***

16.7.1.      Each and every provision of this Declaration shall run with and bind the land perpetually from the date of recording of this Declaration. Except as provided in Article 15 of this Declaration, or elsewhere in this Section, this Declaration may be amended by the vote or agreement of Members holding more than seventy-five percent (75%) of the Association votes; provided, however, that as long as Declarant owns any portion of the property described on the attached Exhibit A, no amendment of this Declaration shall be effective without the vote or agreement of more than one hundred percent (100%) of the Association votes.

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

16.7.3.      Notwithstanding anything to the contrary contained in this Declaration, this Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct clerical, typographical or technical errors, which right of amendment shall expire and terminate as provided in Section 1.35 of this Declaration (Special Declarant Rights).

16.7.4.      Notwithstanding anything to the contrary contained in this Declaration, this Declaration may be amended in whole or in part, at any time from time to time, by the

Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirement, standards, or guidelines of any of the Agencies or any recognized secondary mortgage markets, which right of amendment shall expire and terminate as provided in Section 1.35 of this Declaration (Special Declarant Rights).

**Section 16.8.      *Registration of Mailing Address.***

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his/her/its mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the 75% Control Period shall be sent by registered or certified mail, postage prepaid, to 9990 Park Meadows Drive, Lone Tree, Colorado 80124-6739, unless such address is changed by the Association during the 75% Control Period; subsequent to termination of the 75% Control Period, the Association shall notify the Owners of a different address for notices.

**Section 16.9.      *HUD or VA Approval.***

During the 75% Control Period, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more First Security Interests, and HUD or VA require their approval of the action: annexation of additional real property (if the Declarant desires to attempt to obtain HUD or VA approval of the property that is being annexed and if HUD or VA require such approval); amendment of this Declaration, except as provided in Sections 16.7.3 and 16.7.4 hereof; termination of this Community; dedication of Common Elements; or merger or consolidation of the Association, except as provided in Section 3.13 of this Declaration (Merger).

**Section 16.10.    *Transfer of Special Declarant Rights.***

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

**Section 16.11.    *Eminent Domain.***

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

**Section 16.12.    *Termination of Community.***

The Community may be terminated only in accordance with CCIOA.



**Section 16.13. *Limitation on Liability.***

The Association, the Board of Directors, the Declarant, and any officer, director, member, partner, agent or employee of any of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice. The release and waiver set forth in Section 16.16 of this Declaration (Waiver) shall apply to this Section.

**Section 16.14. *No Representations or Warranties.***

No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association, the Board of Directors, the Declarant, and any officer, director, member, partner, agent or employee of any of the same, in connection with any portion of the Community, or any Improvement, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing. The release and waiver set forth in Section 16.16 of this Declaration (Waiver) shall apply to this Section.

**Section 16.15. *Disclaimer Regarding Safety.***

DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH IN SECTION 16.16 OF THIS DECLARATION (WAIVER) SHALL APPLY TO THIS SECTION.

**Section 16.16. *Waiver.***

By acceptance of a deed to a Unit, each Owner hereby releases, waives, and discharges the Declarant, the Association, the Board of Directors, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazard, disclosure or risk set forth in this Declaration, including without limitation, those contained in Sections 16.13, 16.14 and 16.15.

**Section 16.17. *Run with Land; Binding upon Successors.***

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon the Community and all real property and Improvements which are now or hereafter a part thereof. The benefits, burdens and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns.

[Signatures to follow on next page.]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 16<sup>th</sup> day of June, 2005.

DECLARANT:

LENNAR COLORADO, LLC, a Colorado limited liability company

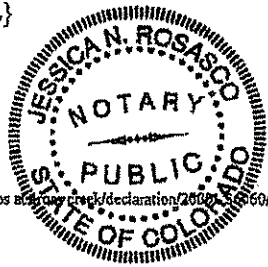
By: [Signature]  
Its: DIVISION President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of June, 2005, by Clinton Kayl as DIVISION President of LENNAR COLORADO, LLC, a Colorado limited liability company, as Declarant.

Witness my hand and official seal.

{SEAL}



[Signature]

Notary Public

My Commission expires:

MY COMMISSION EXPIRES 9/24/2007

ajr/lenar/condos a/c/declaration/2005/6/16/05 9:49 AM

EXHIBIT A  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
AURORA AT CROSS CREEK CONDOMINIUMS

(Community)

BUILDINGS 2 AND 3, TRACT A, CROSS CREEK SUBDIVISION FILING NO. 1, CITY OF  
AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO.

A-1

EXHIBIT B  
 TO  
 DECLARATION OF COVENANTS,  
 CONDITIONS AND RESTRICTIONS OF  
 AURORA AT CROSS CREEK CONDOMINIUMS

(Allocated Interests)

<u>Unit</u>	<u>Building</u>	<u>Allocated Interests and Undivided Interest in the Common Elements Appurtenant to the Unit *</u>
101	2	1/16
102	2	1/16
103	2	1/16
104	2	1/16
201	2	1/16
202	2	1/16
203	2	1/16
204	2	1/16
101	3	1/16
102	3	1/16
103	3	1/16
104	3	1/16
201	3	1/16
202	3	1/16
203	3	1/16
204	3	1/16

\* The Allocated Interest, and undivided interest in the Common Elements, that are allocated or appurtenant to each Unit, are subject to change as more fully provided in the Declaration, including without limitation Section 16.4 thereof

EXHIBIT C  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
AURORA AT CROSS CREEK CONDOMINIUMS

(Certain Title Exceptions)

If recorded, the following documents are recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado:

1. Real Property Taxes and assessments for the year of recording of this declaration and subsequent years, not yet due and payable.
2. Reservations made by Union Pacific Railroad Company in Deed recorded March 23, 1910 in Book 36 at Page 166, substantially as follows:

"Reserving unto said company and its' assigns all oil, coal and other minerals that may be found underneath the surface of the land herein described and the exclusive right to prospect and mine for the same, also such right of way and other grounds as may be necessary for the property working of any oil, coal and other minerals that may be developed upon said premises and for transportation of oil, coal and other minerals from the same."

NOTE: Quit Claim Deed recorded April 16, 1971 in Book 1920 at Page 247, Union Pacific Railroad Company conveyed its' interest to Union Pacific Land Resources Corporation.

NOTE: Release and Quit Claim recorded November 23, 1998 at Reception No. A8189797.

NOTE: Request for Notification of Surface Development recorded May 16, 2002 at Reception No. B2090871.

3. Terms, conditions, provisions, agreements, and obligations specified under the Right-of-Way granted to American Telephone and Telegraph Company recorded July 1, 1929 in Book 284 at Page 313.
4. Terms, conditions, provisions, agreements, and obligations specified under the Right-of-Way easement granted to Intermountain Rural Electric Association recorded September 17, 1954 in Book 877 at Page 262.
5. Terms, conditions, provisions, agreements, and obligations specified under the Findings and Organizational Decree Concerning the Aurora Hospital District recorded June 28, 1962 in Book 1351 at Page 259.

6. Terms, conditions, provisions, agreements, and obligations specified under the Notice of Dissolution and Annexation of School Districts by County School Planning Committee recorded November 29, 1968 in Book 1788 at Page 669.
7. Terms, conditions, provisions, agreements, and obligations specified under the Ordinance No. 87-69 Annexing land into the City of Aurora recorded April 21, 1987 in Book 5120 at Page 172.
8. Terms, conditions, provisions, agreements, and obligations specified under the Covenant relating to the overflight of aircraft recorded September 9, 1987 in Book 5258 at Page 177.
9. Terms, conditions, provisions, agreements, and obligations specified under the School Site Agreement (Celtic Crossing) recorded October 30, 1987 in Book 5299 at Page 565.
10. The effect of General Development Plan for Celtic Crossing recorded January 20, 1988 at Reception No. 2930794.
11. Terms, conditions, provisions, agreements, and obligations specified under the Agreement by and between I Windfall Partners, a Colorado limited partnership and the City of Aurora recorded February 16, 1988 in Book 5369 at Page 704.
12. Terms, conditions, provisions, agreements, and obligations specified under the Ordinance No. 87-119 Annexing land into the City of Aurora recorded February 16, 1988 in Book 5369 at Page 718.
13. Terms, conditions, provisions, agreements, and obligations specified under the Ordinance No. 2000-11 Rezoning land from Planned Development to E-470 corridor Zone District recorded April 21, 2000 at Reception No. B0047176.
14. The effect of the inclusion of the subject property in the Cross Creek Metropolitan District No. 2 District, as disclosed by the instrument recorded December 12, 2002 at Reception No. B2238881.  
 Notice of Special District Authorization recorded November 27, 2002 at Reception No. B2226318.  
 Notice of Special District Authorization recorded February 6, 2004 at Reception No. B4022980.
15. The effect of the inclusion of the subject property in the Cross Creek Metropolitan District No. 1 District, as disclosed by the instrument recorded December 12, 2002 at Reception No. B2238882.  
 Notice of Special District Authorization recorded November 27, 2002 at Reception No. B2226318.

NOTE: General Disclosure and Common Questions regarding Cross Creek Metropolitan Districts Nos. 1 and 2 recorded June 24 2003 at Reception No. B3133998.

16. The effect of Framework Development Plan recorded October 23, 2003 at Reception No. B3232337.
17. Terms, conditions, provisions, agreements, and obligations specified under the Memorandum of Resolutions for the Imposition of Fees recorded October 28, 2003 at Reception No. B3234393.
18. Easements, notes, terms, conditions, provisions, agreements and obligations as shown on the plat of Cross Creek Subdivision Filing No. 2 recorded January 7, 2004 at Reception No. B4002719.
19. The effect of Master License Agreement recorded January 26, 2004 at Reception No. B4016179.
20. The effect of Contextual Site Plan recorded January 7, 2004 at Reception No. B4002720.
21. Covenants, conditions, easements and restrictions for Cross Creek, which do not include a forfeiture or reverter clause, and any and all supplements, amendments, and annexations thereto, set forth in the instrument(s) recorded May 20, 2004 at Reception No. B4092201, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.
22. The effect of Framework Development Plan recorded August 2, 2004 at Reception No. B4136468.
23. Terms, conditions, provisions, agreements, and obligations specified under the Public Phasing Agreements regarding Cross Creek Metropolitan District recorded January 3, 2005 at Reception No's B5000912.



EXHIBIT D  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
AURORA AT CROSS CREEK CONDOMINIUMS

(Part of the Annexable Area)

Tracts A and I as shown on the plat of Cross Creek Subdivision Filing No. 1, recorded on January 7, 2004, in Book 256 at Page 16-25 as Reception No. B4002718, in the office of the Clerk and Recorder of Arapahoe County, Colorado, as amended, EXCEPTING AND EXCLUDING the property described in the attached Exhibit A and any publicly-dedicated property.

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