

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE HIGHLANDS COMMUNITY**

**DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS OF THE HIGHLANDS COMMUNITY**

**Table of Contents**

<b>ARTICLE 1. DEFINITIONS.....</b>	<b>2</b>
<b>ARTICLE 2. DESIGN REVIEW .....</b>	<b>4</b>
2.1 BOARD OF DIRECTORS, DESIGN REVIEW COMMITTEE .....	4
2.2 REVIEW AND APPROVAL BY BOARD; REIMBURSEMENT FOR EXPENSES .....	4
2.3 PROCEDURES .....	5
2.4 VOTE AND APPEAL .....	5
2.5 PROSECUTION OF WORK AFTER APPROVAL.....	5
2.6 INSPECTION OF WORK .....	5
2.7 GUIDELINES .....	6
2.8 VARIANCE .....	6
2.9 WAIVERS; NO PRECEDENT .....	6
2.10 RECORDS .....	7
2.11 LIABILITY .....	7
2.12 DECLARANT’S EXEMPTION.....	8
<b>ARTICLE 3. MAINTENANCE.....</b>	<b>8</b>
3.1 GENERAL.....	8
3.2 CHANGED OR ADDED IMPROVEMENTS.....	8
3.3 DISTRICT’S RIGHT TO MAINTAIN, REPAIR AND RECONSTRUCT.....	8
3.4 NON-INTERFERENCE WITH GRADE AND DRAINAGE .....	8
3.5 ACTS OR OMISSIONS.....	9
<b>ARTICLE 4. EASEMENTS.....</b>	<b>9</b>
4.1 OTHER EASEMENTS .....	9
4.2 MAINTENANCE, REPAIR AND REPLACEMENT, RIGHT OF ACCESS AND EASEMENT.....	10
4.3 UTILITIES EASEMENT.....	10
4.4 ADDITIONAL EASEMENTS .....	10
4.5 LIMITATIONS ON EASEMENTS .....	10
4.6 RECORDED EASEMENTS.....	11
<b>ARTICLE 5. RESTRICTIONS .....</b>	<b>11</b>
5.1 GENERAL PLAN .....	11
5.2 RESTRICTIONS IMPOSED .....	11
5.3 RESIDENTIAL USE; PROFESSIONAL OR HOME OCCUPATION .....	11
5.4 HOUSEHOLD PETS.....	11
5.5 TEMPORARY STRUCTURES; UNSIGHTLY CONDITIONS.....	12
5.6 MISCELLANEOUS IMPROVEMENTS .....	12
5.7 VEHICULAR PARKING, STORAGE AND REPAIRS .....	13
5.8 COMPLIANCE WITH GOVERNING DOCUMENTS .....	14
5.9 PROPERTY TO BE MAINTAINED .....	14
5.10 NO NUISANCES, OFFENSIVE, HAZARDOUS, OR ANNOYING ACTIVITIES.....	14
5.11 NO ANNOYING LIGHTS, SOUNDS OR ODORS.....	15
5.12 RESTRICTIONS ON TRASH AND MATERIALS .....	15

5.13	UTILITY SYSTEMS.....	15
5.14	LEASES.....	16
5.15	RESTRICTIONS ON MINING OR DRILLING.....	16
5.16	DECLARANT’S USE.....	16
<b>ARTICLE 6. COVENANT ENFORCEMENT.....</b>		<b>17</b>
6.1	ENFORCEMENT, GENERALLY.....	17
6.2	ENFORCEMENT COMMITTEE.....	17
6.3	PURPOSE AND GENERAL AUTHORITY.....	17
6.4	FEES AND EXPENSES.....	18
6.5	GENERAL INSPECTIONS; VIOLATION IDENTIFIED BY ANOTHER OWNER; NOTICE AND HEARING; REMEDIES.....	18
6.6	NO LIABILITY.....	19
<b>ARTICLE 7. RESERVED DECLARANT RIGHTS.....</b>		<b>20</b>
7.1	DEVELOPMENT RIGHTS.....	20
7.2	SPECIAL DECLARANT RIGHTS.....	20
7.3	PERIOD OF DECLARANT’S RIGHTS.....	20
7.4	SUBDIVISION OR REPLATTING OF LOTS.....	20
7.5	ANNEXATION; WITHDRAWAL.....	21
7.6	RIGHTS AND EASEMENTS OF DECLARANT AND BUILDERS.....	21
<b>ARTICLE 8. DISPUTE RESOLUTION.....</b>		<b>22</b>
8.1	DEFINITIONS APPLICABLE TO THIS ARTICLE 8.....	22
8.2	INTENT OF ARTICLE; APPLICABILITY OF ARTICLE; AND APPLICABILITY OF STATUTES OF LIMITATION.....	23
8.3	COMMENCEMENT OR PURSUIT OF CLAIM AGAINST BOUND PARTY.....	23
8.4	CLAIMS.....	23
8.5	MANDATORY PROCEDURE.....	24
8.6	AWARD.....	25
<b>ARTICLE 9. GENERAL PROVISIONS.....</b>		<b>26</b>
9.1	POWERS AND AUTHORITY.....	26
9.2	RULES AND REGULATIONS.....	26
9.3	SEVERABILITY.....	26
9.4	DURATION, REVOCATION, AND AMENDMENT.....	26
9.5	NOTICES.....	27
9.6	LIMITATION ON LIABILITY.....	27
9.7	NO REPRESENTATIONS, GUARANTIES OR WARRANTIES.....	27
9.8	DISCLAIMER REGARDING SAFETY.....	28
9.9	DEVELOPMENT WITHIN AND SURROUNDING THE COMMUNITY.....	28
9.10	WAIVER.....	28
9.11	HEADINGS.....	29
9.12	GENDER.....	29
9.13	RUN WITH LAND; BINDING UPON SUCCESSORS.....	29
9.14	SOLE DISCRETION.....	29
9.15	USE OF “INCLUDE,” “INCLUDES,” AND “INCLUDING.”.....	29
9.16	NO WAIVER.....	29
9.17	DISTRICT LIEN.....	29

**ARTICLE 10. DISCLOSURES.....30**

10.1 NO LIABILITY FOR CONDITION OF THE PROPERTY/NUISANCES/HAZARDS  
ASSOCIATED WITH ADJACENT LANDS. .... 30

10.2 LAND USE DOCUMENTS. .... 30

10.3 FUTURE DEVELOPMENT AND VIEWS..... 31

10.4 SEPARATE OWNERSHIP OF SURFACE AND SUBSURFACE RIGHTS..... 31

10.5 SAFETY AND SECURITY. .... 31

10.6 DISRUPTION FROM DEVELOPMENT AND CONSTRUCTION. .... 31

10.7 VIEW IMPAIRMENT. .... 32

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF  
THE HIGHLANDS COMMUNITY**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE HIGHLANDS COMMUNITY (this “**Declaration**”) is made and entered into by the Highlands Mead, LLC, a Colorado limited liability company (“**Declarant**”).

**WITNESSETH:**

WHEREAS, Declarant is the owner of the real property situated in the Town of Mead, County of Weld, State of Colorado, which is described on Exhibit A-1, attached hereto and incorporated herein by this reference (the “**Declarant Property**”); and

WHEREAS, Richfield Homes, LLC, a Colorado limited liability company (“**Richfield**”) is the owner of the real property situated in the Town of Mead, County of Weld, State of Colorado, which is described on Exhibit A-2, attached hereto and incorporated herein by this reference (the “**Richfield Property**”); and

WHEREAS, HDP Highlands, LLC, a Delaware limited liability company (“**HDP**”) is the owner of the real property situated in the Town of Mead, County of Weld, State of Colorado, which is described on Exhibit A-3, attached hereto and incorporated herein by this reference (the “**HDP Property**”); and

WHEREAS, Declarant desires to subject and place upon the Declarant Property, the Richfield Property (with the consent of Richfield), and the HDP Property (with the consent of HDP) (the Declarant Property, the Richfield Property, and the HDP Property collectively referred to herein as the “**Property**”) certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, charges and other provisions set forth herein; and

WHEREAS, this Declaration does not create a common interest community (as defined by the Colorado Common Interest Ownership Act at C.R.S. § 38-33.3-103(8)), and, as such, this Declaration is not governed by the Colorado Common Interest Ownership Act at C.R.S. § 38-33.3-101, et. seq.

NOW, THEREFORE, Declarant hereby declares that the Plat of the Property was recorded on November 8, 2019 at Reception No. 4539553 in the office of the Clerk and Recorder and that all of the Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which shall run with the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof. Richfield, as evidenced by execution below, hereby agrees that the Richfield Property shall be a part of the Property subject to this Declaration, and as such, shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred,

hypothecated, maintained and altered subject to the terms contained in the Declaration. HDP, as evidenced by execution below, hereby agrees that the HDP Property shall be a part of the Property subject to this Declaration, and as such, shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained and altered subject to the terms contained in the Declaration.

## ARTICLE 1. DEFINITIONS

**1.1** “**Board**” means the governing board of the District.

**1.2** “**Builder**” means that company, or those companies, engaged to construct the Residences on the Lots as general contractor or construction manager, each of who is designated as a Builder by Declarant (including the right to withdraw such designation), with each such designation, or withdrawal of such designation, to be made by a written instrument signed by Declarant and recorded in the office of the Clerk and Recorder.

**1.3** “**Clerk and Recorder**” means the office of the Clerk and Recorder in the County.

**1.4** “**Community**” means the real estate and Improvements described in this Declaration, as supplemented and amended from time to time. The name of the Community is “The Highlands Community”.

**1.5** “**County**” means the County of Weld, State of Colorado.

**1.6** “**Declarant**” means Highlands Mead, LLC, a Colorado limited liability company, and any other Person(s) to whom Declarant, by recorded document, expressly assigns one or more of Declarant’s rights under this Declaration (which shall be the extent of Declarant’s rights to which such assignee succeeds).

**1.7** “**Declaration**” means this Declaration of Covenants, Conditions and Restrictions of the Highlands Community including any supplements and amendments hereto.

**1.8** “**Design Review Committee**” means the committee appointed by the Board, which committee shall review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

**1.9** “**District**” means Highlands-Mead Metropolitan District and/or any other metropolitan district to which the District may transfer or assign any or all of the rights and duties of the District under this Declaration. Any such assignment or transfer, if any, shall be effective upon recording in the records of the Clerk and Recorder of a document of transfer or assignment, duly executed by the District. In addition to the authority granted to the District in this Declaration, the District has such other authority with respect to the exercise of such authority as may be permitted by the Special District Act, C.R.S. 32-1-101, et. seq., including but not limited to the right to adopt Rules, Guidelines, fees, rates, tolls, penalties, and charges, and to undertake enforcement actions.

**1.10 “Governing Documents”** means this Declaration, the Plat, as amended, any Guidelines, Rules, policies and/or procedures of the District.

**1.11 “Guidelines”** means a manual of design guidelines for the Property, or other design or architectural guidelines, to interpret and/or implement any provisions of Article 2 of this Declaration, specifically, and this Declaration in general, as more fully provided for in Section 2.7 of this Declaration.

**1.12 “Improvements”** means all improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features. The foregoing shall include buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, screening walls, retaining walls, stairs, 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, exterior tanks, utilities facilities, pipes, lines, and exterior air conditioning, cooling, heating and water softening equipment, if any.

**1.13 “Owner”** means each fee simple title holder of a Lot, including Declarant or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation. There may be more than one Owner of a Lot.

**1.14 “Permittees”** means and includes an Owner’s family members, tenants, sub-tenants, contractors, subcontractors, agents, employees, licensees, lessees, sublessees, guests and invitees (including invitees and guests of lessees and sublessees) and their respective officers, directors, contractors, subcontractors, agents, employees, licensees, invitees, customers and visitors.

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

**1.16 “Plat”** means the community plat of the Property recorded on August 31, 2018, at Reception No03674255 with the Clerk and Recorder, depicting a plan of all or a part of the Property subject to this Declaration and any supplements and amendments thereto. The Plat and any supplements thereto are hereby incorporated herein by reference as if set forth in their entireties.

**1.17 “Residence”** shall mean those Improvements constructed within a Lot as a residential dwelling unit.

**1.18 “Rules”** means the rules and regulations of the District that govern the use of the Lots and any property owned or managed by the District, as amended from time to time by the Board.

**1.19** “**Town**” means the Town of Mead, State of Colorado.

**1.20** “**Town Code**” means the Municipal Code for the Town of Mead, as amended from time to time.

## **ARTICLE 2. DESIGN REVIEW**

### **2.1 Board of Directors, Design Review Committee.**

The Board of Directors shall be the governing body of the District for all design review matters and approvals described in this Article 2. The Board may at any time, from time to time, appoint a Design Review Committee or individual representative to act on its behalf. If the Board does so, then the actions of the Design Review Committee or such representative shall be the actions of the Board, subject to the right of appeal as provided below. However, if the Design Review Committee or a representative is appointed by the Board, then the Board shall have full power over the Design Review Committee or representative, including the power to at any time withdraw any authority of the Design Review Committee or such representative and the power to at any time remove or replace members of the Design Review Committee or such representative.

### **2.2 Review and Approval by Board; Reimbursement for Expenses.**

Except as provided in Sections 2.7 and 2.12 of this Declaration, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, plans for erosion control, windbreaks and grading plan, as well as such other materials and information as may be required by the Board), shall have been first submitted to and approved by the Board.

2.2.1 The Board shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the then-existing surroundings, residences, landscaping and structures.

2.2.2 In its review of such plans, specifications and other materials and information, the Owner shall submit an initial review fee as set and adjusted from time to time by the Board, and the Board may require that the Owner reimburse the District for the actual expenses incurred by the District in excess of such fee in the review and approval process (including costs associated with hiring professionals to review such materials on behalf of the Board). Such fee and expenses, if any, shall be the personal obligation of the Owner requesting approval from the Board and shall be part of the District’s lien as described in Section 6.5.3.5 and shall be collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law.



### **2.3 Procedures.**

The Board shall decide each request for approval within sixty (60) days after the complete submission of the plans, specifications and other materials and information which the Board may require in conjunction therewith. If the Board fails to decide any request within sixty (60) days after the complete submission of the plans, specifications, materials and other information with respect thereto, then the request for approval shall be deemed to have been denied by the Board.

### **2.4 Vote and Appeal.**

A majority vote of the Board is required to approve a request for approval pursuant to this Article, unless the Board has appointed a Design Review Committee or representative to act for it, in which case the decision of such Design Review Committee or representative shall control. In the event a Design Review Committee or representative acting on behalf of the Board decides a request for approval, then any Owner shall have the right to an appeal of such decision to the Board, upon a request therefor submitted to the Board within thirty (30) days after such decision by the Design Review Committee or representative.

### **2.5 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 terms and conditions of the approval. Failure to complete the proposed Improvement within fifteen months after the date of approval of the application, or such lesser time as may be provided on the application for approval, or to complete the Improvement in complete conformance with terms and conditions of the approval, shall constitute noncompliance with the requirements for approval of Improvements by the Board and a violation of this Article; provided, however, that the Board may, in its discretion, grant extensions of time for completion of any proposed Improvement(s). The obligation to commence or complete the initial Residence on a Lot shall not be governed by the timing requirements.

### **2.6 Inspection of Work.**

The Board, the Design Review Committee or a representative appointed by the Board pursuant to Section 2.1 shall have the right to inspect any Improvement prior to, during or after completion in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted by the Board. However, unless the Board expressly states, in a written document, that an Improvement is being or has been completed in conformance with the Board approval therefor, no such conformance shall be implied from any inspection of the Improvement either during the work or after completion thereof.

## **2.7 Guidelines.**

The Board has the authority, at any time from time to time, to enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce Guidelines. Without limiting the generality of the foregoing, such Guidelines 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. In addition, such Guidelines may provide for blanket approvals, interpretations or restrictions on Improvements. By way of example, and not by way of limitation, such Guidelines may state that a certain type of screen door will be acceptable and will not require approval. All Improvements proposed to be constructed shall be done and used in accordance with this Declaration and the Guidelines.

## **2.8 Variance.**

The Board may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 5 of this Declaration (Restrictions), 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 if the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the Community and shall not be in contravention of the general intent and purpose hereof. Nothing in this Section shall obviate the need for obtaining approval from the Town and/or the County in connection with any variance or adjustment if approval is otherwise required from the Town and/or the County.

## **2.9 Waivers; No Precedent.**

The approval or consent of the Board, or any Design Review Committee or representative appointed by the Board pursuant to Section 2.1, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, as to any 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 or an approval or waiver by the Town or the County for such matter. The granting or denial of a variance or adjustment by the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, shall not be deemed to constitute a waiver of any right to grant or deny any other or future variance or adjustment by the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, as to any other request for variance or adjustment or other matters whatsoever.

## 2.10 Records.

The District shall maintain written records (which may be in electronic form) of all applications submitted to it and all actions taken by it thereon for such period of time as may be determined by the Board from time to time.

## 2.11 Liability.

Neither the Declarant, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, or any member, director, officer, agent, representative, employee or contractor of any the same (the “**Released Parties**”) are liable or shall be liable to any Person by reason of any action, failure to act, approval (which may be with conditions and/or requirements), disapproval, or failure to approve or disapprove, in regard to any matter whether for damage or in equity. In reviewing or approving any matter, the Released Parties are not responsible for any issue related to the Improvements, whether structural or otherwise, whether submitted for review or otherwise. The Released Parties are not responsible for any matter related to safety. The Released Parties are not responsible for the conformance of Improvements with applicable law or compliance with any other standard or regulation, and any approval (which may be with conditions and/or requirements) of any Improvement by the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, will not be deemed an approval of any such matters, will not be deemed to represent that the Improvement conforms to applicable law or complies with any other standards or regulations, and will not constitute a warranty by the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, to any Owner of the adequacy of design, workmanship or quality of such work or materials for any Owner’s intended use. The Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1, will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to property with respect to architectural requests and shall not be liable for any disputes relating to the same. No Owner or other Person is a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by, the Released Parties. Each Owner (i) waives and releases the Released Parties from all claims related to approval or disapproval of any Improvements and (ii) waives and releases all claims against the Released Parties. The foregoing release and waiver is made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The members of the Board, the members of any Design Review Committee or any representative appointed by the Board pursuant to Section 2.1, acting such capacity related to architectural or design approval requests, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The members of the Board, the members of any Design Review Committee, and/or any representative appointed by the Board pursuant to Section 2.1, acting in such capacity, shall have no personal liability with respect to any contract or other commitment made or action taken on behalf of the Board, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1.

### **2.12 Declarant's Exemption.**

Notwithstanding anything herein to the contrary, until termination of the Special Declarant Rights as provided in Section 7.3 of this Declaration, Declarant (and any Builder to the extent such exemption is referenced in the Builder designation signed and recorded by Declarant) shall be exempt from the provisions of this Article except for the requirements to obtain approval from all governmental entities with jurisdiction thereover.

## **ARTICLE 3. MAINTENANCE**

### **3.1 General.**

The maintenance, repair and replacement of each Lot, and the Improvements thereon, shall be performed by the Owner thereof at such Owner's sole cost and expense. Nothing in this Article shall eliminate any requirement to obtain approval from the Board in connection with an alteration or replacement of any Improvements. Each Owner shall regularly inspect its Lot and the improvements located on its Lot for deterioration, wear and damage requiring maintenance, replacement or repair and perform repair or maintenance as necessary.

### **3.2 Changed or Added Improvements.**

Any Improvement that has been changed, altered or modified by or for an Owner of a Lot 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 of a Lot after conveyance of such Lot by Declarant, then the entirety of such Improvement shall be maintained, repaired and replaced by the Owner of such Lot.

### **3.3 District's Right to Maintain, Repair and Reconstruct.**

In the event any Owner shall fail to perform his maintenance, repair, and/or replacement obligations in a manner satisfactory to the Board of Directors, the District may, if said failure continues for a thirty (30) day period after written notice to said Owner by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair or replacement shall be the personal obligation of the Owner of the Lot on which such work is performed and shall be part of the District's lien as described in Section 6.5.3.5 and shall be collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law.

### **3.4 Non-Interference with Grade and Drainage.**

3.4.1 Each Owner shall maintain the grading on its Lot (including grading around the building foundation) at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage (as defined below). No Owner shall interfere in any way with the established

drainage pattern over the Lot, from adjoining or other real property. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading on the Lot is completed by the builder of Residence on the Lot in accordance with the Property's lot grading plan as approved by the Town and/or the County. Any Owner who changes the established drainage on his or her Lot may void warranties applicable to affected components of the Residence and shall be liable for all costs and expenses of repairing such changes, or any costs, liabilities, damages or causes of action arising out of such changes. Each Owner shall hold harmless the Released Parties for any and all damage to any party caused by any change to the established drainage on the Owner's Lot.

3.4.2 The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens, or other landscaping that requires regular watering within five (5) feet of the foundation of the Residence or any slab on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls or slabs.

### **3.5 Acts or Omissions.**

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair, reconstruction, demolition, removal or restoration of any property owned or maintained by the District, a Lot, or any Improvements located thereon, is caused by the act or omission of any Owner, or by the act or omission of a Permittee of and Owner's, the cost or expense of such maintenance, repair reconstruction, demolition, removal or restoration 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 amounts incurred by the District for such maintenance, repair, reconstruction, demolition, removal or restoration shall be part of the District's lien as described in Section 6.5.3.5 and shall be collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law. A determination of the act or omission of any Owner, or a Permittee of an Owner, and the amount of the Owner's liability therefor, shall be made by the Board at a hearing after notice to the Owner.

## **ARTICLE 4. EASEMENTS**

### **4.1 Other Easements.**

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

#### **4.2 Maintenance, Repair and Replacement, right of Access and Easement.**

The Declarant declares, establishes, grants, and reserves easements over each Lot in favor of Declarant, the District, and the Design Review Committee or a representative appointed by the Board pursuant to Section 2.1, if any, including each of their respective agents, representatives, contractors and employees, for performing maintenance, repair, or replacement, or other services, and enforcement of any provision in the Governing Documents. The access easement granted in this Section 4.2 may be exercised only during reasonable hours after reasonable notice to the Owner or occupant(s) of any affected Lot; provided, however, that no such notice is required in connection with any exterior, non-intrusive inspections, maintenance, repair, or replacement, and in emergency situations entry upon a Lot may be made at any time, provided that the Owner or occupant(s) are notified of impending emergency entry as early as is reasonably possible. The interior of any Residence is not subject to the easements provided for in this Section 4.2.

#### **4.3 Utilities Easement.**

Declarant hereby reserves for itself and the District a blanket easement for utilities and the installation, use, replacement, repair and maintenance of utilities, including water, sewer, gas, telephone, electricity and computer cable, if any, upon, across, over and under those portions of Lots as depicted on the Plat or on a utility plan approved by the Town and/or the County (but in no event within, under or across any Residence located on a Lot). By virtue of this blanket easement it shall be expressly permissible to erect, use, and maintain the necessary facilities, equipment and appurtenances, and to affix, use, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s).

#### **4.4 Additional Easements.**

If Declarant withdraws any portion of the Property from this Declaration, Declarant shall retain whatever easements are reasonably necessary or desirable across the Property for access to and utility services for the portion of the Property withdrawn.

#### **4.5 Limitations on Easements.**

The easements established pursuant to this Declaration (a) shall in no way affect, avoid, extinguish, or modify any other covenants, easements, limitations, reservations or restrictions affecting all or part of the Property recorded prior to this Declaration, and (b) shall not be interpreted or construed as preventing or precluding the construction, operation, and use of any Lot which is otherwise permitted by the terms of this Declaration.

#### **4.6 Recorded Easements.**

In addition to all easements and rights-of-way recorded at the time of or before this Declaration, the Property, and all portions thereof, are subject to the easements shown on any plat of the Property or otherwise recorded against the Property.

### **ARTICLE 5. RESTRICTIONS**

#### **5.1 General Plan.**

It is the intention of Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots.

#### **5.2 Restrictions Imposed.**

Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

#### **5.3 Residential Use; Professional or Home Occupation.**

The Lots shall be used for residential use only, including uses that are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes other than a home occupation as permitted by the Town Code.

#### **5.4 Household Pets.**

No animals, horses, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners or occupants of each Lot may keep a reasonable number of bona fide household pets (including dogs, cats or other domestic animals), so long as such pets are not kept for any commercial purpose, are kept in compliance with the Town Code and are not kept in such number or in such manner as to create a nuisance to any resident of a Lot. The District shall have, and is hereby given, the right and authority, from time to time, to: set a maximum number of household pets; set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine in its sole discretion that any dog(s), cat(s) or other household pet(s) are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; or determine that an Owner or occupant is otherwise in violation of any provision of this Section or any Rules of the District. If the District determines that any of the foregoing have been or are being violated, the District may take such action(s) as it may deem appropriate to correct the same. An Owner's or occupant's right to keep household pets is coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the District as a result of such pets, and all costs and damages shall be the personal obligation of the Owner and shall be part of the District's lien as described in Section 6.5.3.5 and shall be

collectible by the District in the same manner as other fees authorized to be charged and collected by the District pursuant to Colorado law.

### **5.5 Temporary Structures; Unsightly Conditions.**

No structure of a temporary character, including a house, trailer, tent or shack shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any structure or other Improvement shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from the street or from any other Lots, as determined by the Board in its sole discretion.

### **5.6 Miscellaneous Improvements.**

5.6.1 No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale," "Open House," "For Rent" or security sign(s) consistent with the Town Code that pertains to that Lot. Signs intended to impact the outcome of an election may be displayed on Lots in accordance with the Rules or Guidelines. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by Declarant shall be permissible.

5.6.2 Other than during initial construction, no construction materials, wood piles, or storage areas shall be so located on any Lot as to be visible from a street or from the ground level of any other Lot.

5.6.3 Except for solar panels, which are regulated by law, and otherwise in locations as are approved by the Board, no types of refrigerating, cooling or heating apparatus shall be permitted on a roof. Additionally, no such apparatus shall be permitted elsewhere on a Lot except when appropriately screened and approved by the Board.

5.6.4 Except upon the prior approval of the Board, no exterior radio antenna, television antenna, audio, visual reception device, antenna, or satellite dish of any type shall be installed, placed, erected or maintained on any Lot; provided, however, that any such devices may be erected or installed by Declarant during its sales of or construction of the Residences on the Lots; and provided further, however, that the requirements of this subsection shall not apply to those antenna (including certain satellite dishes) specifically covered by the Telecommunications Act of 1996 or regulations adopted thereunder, as amended. As to antenna (including certain satellite dishes) that are specifically covered by the Telecommunications Act of 1996 regulations adopted thereunder, as amended, the District shall be empowered to adopt Rules or Guidelines governing the types of antenna that are permissible and, to the extent permitted by the Telecommunications Act of 1996 or regulations adopted thereunder, as amended,



establishing reasonable, non-discriminatory restrictions or requirements relating to appearance, safety, location and maintenance.

5.6.5 Fences shall be permitted only in accordance with the Guidelines and with the prior approval of the Board.

5.6.6 No wind generators, hanging articles (including clotheslines), drying yards, or service yards, shall be constructed, installed, erected or maintained on any Lot, except with the prior, written approval of the Board and compliance with the Guidelines.

5.6.7 Dog runs shall be permitted on a Lot only with the prior, written approval of the Board and compliance with the Guidelines.

## **5.7 Vehicular Parking, Storage and Repairs.**

5.7.1 No house trailer, camping trailer, boat trailer, hauling trailer, jet ski, boat, or accessories thereto, truck (excluding pickup trucks that are one ton or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle or equipment, may be parked or stored on a Lot unless the parking or storage is within a garage area of a Lot or on a paved, impervious surface driveway within a Lot. A “commercial vehicle” means a vehicle that: is used to transport cargo or passengers for profit or hire, or otherwise to further the purposes of a business or commercial enterprise; and may (but is not required to) contain signage, advertising, or written information on the vehicle or extending from the vehicle. This restriction, however, shall not restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

5.7.2 Except as provided above, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked anywhere in the Community. An “**abandoned or inoperable vehicle**” shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of three days or longer, or which does not have an operable propulsion system installed therein, or which is not then currently registered and licensed. Notwithstanding the foregoing, Owners may park vehicles on driveways within their own Lots while on vacation or during a period of illness and such vehicles shall not be deemed to be abandoned.

5.7.3 In the event the District shall determine that a vehicle is parked or stored in violation of subsections 5.7.1, 5.7.2, or 5.7.4 hereof, then a written notice describing said vehicle may be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or may 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 District in its discretion from time to time, the District shall have the right to remove the vehicle at the sole expense of the owner thereof.

5.7.4 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 unless it is done within a completely enclosed structure that screens the sight and sound of the activity from the street, alley, and from adjoining property.

5.7.5 The foregoing restriction shall not be deemed to prevent the washing and polishing of any motor vehicle, boat, trailer, motor cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing on a Lot.

5.7.6 Garage spaces located within the Lots may only be used for vehicular parking, bicycle parking, temporary storage and utility functions in accordance with applicable provisions of this Declaration and reasonable Rules established from time to time by the District. Under no circumstances shall garage areas be converted into habitable living areas.

## **5.8 Compliance with Governing Documents.**

Each Owner shall comply strictly with, and shall cause his or her Permittees to comply strictly with, all of the provisions of the Governing Documents, and the decisions and resolutions of the District or the Board adopted pursuant thereto, as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Board in the name of the District.

## **5.9 Property to be Maintained.**

Each Owner shall at all times maintain his or her Lot in a manner consistent with the standard of first class residential real estate properties of comparable size in the Mead area. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that same are visible from any neighboring Lot or street, except as necessary during any period of construction. No unsightliness or waste shall be permitted on or in any part of a Lot. Each Owner shall install, plant, maintain, repair, replace, alter and service as appropriate the yard, grass, flowers, trees, shrubbery and other landscaping features on the Lot.

## **5.10 No Nuisances, Offensive, Hazardous, or Annoying Activities.**

No nuisances or offensive activity shall be permitted on any part of the Community nor shall anything be done or placed on or in any part of the Community that is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others. No activity shall be conducted on any part of the Community that is or might be unsafe or hazardous to any person or property. No odor shall be emitted on any part of the Community that is noxious or offensive to others. Without limiting the generality of the foregoing, no firearms shall be discharged within

any part of the Community (including the Lots) and no open fires shall be lighted or permitted within the Community, 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 Lot 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 and provided further that such products and substances are stored, used, transported and disposed of strictly in accordance with all applicable environmental laws. In no event shall the items set forth herein be deemed to be a complete list of nuisance or offensive activities prohibited hereunder, and the Board shall have the right to terminate any other nuisance or otherwise offensive activity carried on by an Owner or occupant in violation of the provisions hereof. As used herein, the term “nuisance” shall not include any activities of Declarant that are reasonably necessary to the development of and sales activities in the Community.

#### **5.11 No Annoying Lights, Sounds or Odors.**

No light shall be emitted from any Improvements on a Lot that is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Improvements on a Lot that is unreasonably loud or annoying; and no odor shall be permitted from any Improvements on a Lot that is noxious or offensive to others.

#### **5.12 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 except inside the Residence on any Lot, nor shall any such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage pickup; provided, however, that no such container shall be deposited on a street for garbage pickup prior to 7:00 p.m. on the day prior to the day such garbage will be picked up and such container shall be removed by 7:00 p.m. on the day garbage is collected. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any other Lot. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner. Trash removal services may be provided by the District on behalf of the residents of the Property, and if so, Owners shall be obligated to utilize the trash removal services provided by the District and shall not be permitted to utilize any trash removal service or company individually. If trash removal services are provided by the District, the Board may determine the scope, frequency, and all other matters with regard to such trash removal services, and the Owners shall pay their proportionate share as determined by the Board.

#### **5.13 Utility Systems.**

Utility systems located on or serving Improvements on a Lot shall be operated and maintained efficiently and in a manner that does not place undue operating, maintenance, repair

or replacement costs on the mechanical and utility systems of other Improvements on any other Lot.

#### **5.14 Leases.**

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, Improvements thereon, or any portion thereof, and shall specifically include any subleases. Any Owner shall have the right to lease his Lot and the Improvements thereon under the following conditions:

5.14.1 All leases shall be in writing, and notice of the lease, including the name of the tenant(s) and the duration of the lease, shall be delivered to the Board within thirty (30) days after such lease has been signed by the Owner and the tenant(s);

5.14.2 All leases shall be for a minimum of sixty (60) days; and

5.14.3 All leases shall provide that the lease, and tenant's occupancy of the leased premises, shall be subject in all respects to the Governing Documents; and that any failure by the tenant(s) to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

#### **5.15 Restrictions on Mining or Drilling.**

No property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

#### **5.16 Declarant's Use.**

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Property such facilities as Declarant deems reasonably necessary or incidental to the construction, completion and sale of the Residences and the Lots. Without limiting the generality of the foregoing, Declarant may maintain management offices, construction facilities and equipment, storage areas, signs, sales offices, parking areas and lighting facilities. Declarant expressly reserves the right to locate any sales office or management office within or on any Residences and the Lots owned by Declarant and designated from time to time. The rights retained by Declarant in this Section 5.16 shall terminate as provide in Section 7.3 of this Declaration.

## ARTICLE 6. COVENANT ENFORCEMENT

### 6.1 Enforcement, Generally.

Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Rules, the Guidelines and any other Governing Documents, as at any time amended, may be by any proceeding at law or in equity against any Persons violating or attempting to violate any such provision, and possible remedies include all of those available at law or in equity. Declarant and the District have the right, but not the duty, to institute, maintain and prosecute any such proceedings. No remedy shall be exclusive of other remedies that may be available. Subject to the provisions of Article 8 of this Declaration, in any action instituted or maintained under this Declaration or any other such documents, the prevailing party shall be entitled to recover its costs and attorneys' fees incurred in asserting or defending the claim, as well as any and all other sums. Failure by Declarant, the District, and/or the Enforcement Committee, if any, to enforce any covenant, restriction or other provision contained in this Declaration shall in no event give rise to any liability, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of this Declaration. Each Owner, by acceptance of title to a Lot, assigns and delegates and consents to the assignment and delegation to the District, in their own name as an Owner of a Lot within the Property, the authority, power, right, and responsibility to enforce the Governing Documents. The foregoing shall include the right of the District to (a) send demand letters and notices, (b) charge interest and/or late charges, to levy and collect fines, (c) impose liens (as provided in C.R.S. Section 32-1-1001(j)(1), as amended), (d) negotiate, settle and/or take any other actions, with respect to any violation(s), or alleged violation(s), of any of the Governing Documents, (e) exercise self-help or take action to abate any violation of the Governing Documents, and/or (f) record a notice of violation.

### 6.2 Enforcement Committee.

The Board shall have the right to establish a committee to enforce the Governing Documents (the "**Enforcement Committee**") and, upon its establishment, the members of the Enforcement Committee will be appointed and removed by the Board and shall have the same rights as the District under this Article 6 and as elsewhere set forth in this Declaration in relation to the enforcement of the Governing Documents. The District shall be responsible for the ministerial administration and enforcement of the Governing Documents, and has the right to: (a) accept complaints for violations of the Governing Documents; (b) submit complaints regarding violations of the Governing Documents; (c) inspect the Property for violations of the Governing Documents; (d) issue various notices to Owners regarding the Governing Documents; and (e) provide all ministerial administration and enforcement of the Governing Documents.

### 6.3 Purpose and General Authority.

The District or the Enforcement Committee, if any, shall review all complaints and notifications provided by the Declarant, a Builder, an Owner, a resident within the Property, the Design Review Committee, or any representative appointed by the Board pursuant to Section 2.1

regarding any alleged violation of the Governing Documents. The District or the Enforcement Committee, if any, also has the right to make an investigation on its own regarding potential violations. The District or the Enforcement Committee, if any, has the authority to determine whether a violation has occurred by any Owner or occupant, and upon such determination, may issue to an Owner a notice of violation identifying the particular circumstances or conditions of the violation and require Owner to take such action as may be necessary to correct, remedy or otherwise remove the violation, including the time period in which the violation is to be remedied as further set forth in Section 6.5.

#### **6.4 Fees and Expenses.**

All expenses of the District or the Enforcement Committee, if any, must be paid by the District with revenues derived from that portion of the Property with respect to which the District's or the Enforcement Committee's services are required or performed. The District has the right to charge fees and fines for costs of enforcement of the Governing Documents and the costs incurred to correct, remedy or otherwise remedy violations, in amounts which may be established by the District from time to time.

#### **6.5 General Inspections; Violation Identified by Another Owner; Notice and Hearing; Remedies.**

6.5.1 Any member or authorized agent or consultant of the Enforcement Committee or the Design Review Committee, or any authorized officer, director, employee or agent of the District may enter upon any Lot, at any reasonable time after notice to Owner, as more fully provided in Section 4.2, without being deemed guilty of trespass, in order to investigate or inspect any portion of the Property for alleged violations of the Governing Documents.

6.5.2 If (i) an investigation or inspection reveals that any part or portion of a Lot is not in compliance with the Governing Documents or any action is being taken in violation of the Governing Documents, or (ii) another Owner or occupant has submitted a complaint in accordance with the Rules, the District or the Enforcement Committee, if any, may send a notice of alleged violation (a "**Notice of Alleged Violation**") to the Owner of such Lot in accordance with the Rules.

6.5.3 If, after receipt of the Notice of Alleged Violation, the Owner fails to remedy the violation within the time period specified in the Notice of Alleged Violation or thereafter violates the same covenant or rule, the District shall have all remedies available to it at law or in equity, including, without limitation, the following remedies and any other remedies set forth herein:

6.5.3.1 The District may record a notice of violation against the Lot on which the violation exists;

6.5.3.2 The District has the right to remove, correct or otherwise remedy any violation in any manner the District deems appropriate;

6.5.3.3 The District may file an action for injunctive relief to cause an existing violation to be brought into compliance with the Governing Documents and the District shall recover all costs and attorneys' fees associated with bringing the action;

6.5.3.4 The District may levy and collect fees, charges, penalties and fines for the violation of any provisions of the Governing Documents. Prior to the imposition of any fines, the District or the Enforcement Committee, if any, shall give the Owner to be subject to the fine notice and the opportunity for a hearing before the governing board of District or the Enforcement Committee, if any. The Rules may further define the process by which such fines may be imposed, including but not limited to establishing the schedule of fines to be imposed.

6.5.3.5 The District may collect, and shall have a statutory perpetual lien pursuant to § 32-1-1001(1)(j)(I), C.R.S. against the Lot subject to the violation to secure, (1) payment for reimbursement by the violating Owner for any remedial work performed by the District to remove, correct or otherwise remedy the violation, (2) payment for expenses incurred in obtaining injunctive relief, including costs and attorneys' fees, (3) payment of any fines levied by the District against such Lot, plus the following amounts, to the extent not inconsistent with applicable laws, (4) interest on such amount at a rate equal to eighteen percent (18%), and (5) all costs and expenses of collecting the unpaid amount, including, without limitation, reasonable attorneys' fees.

## **6.6 No Liability.**

The Released Parties are not liable to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter whether for damages or in equity. In reviewing any alleged violation, the Released Parties are not responsible for any issue related to the alleged violation. No Owner or other Person is a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Released Parties. Each Owner (i) waives and releases the Released Parties from all claims related to the actions of the Released Parties and (ii) waives and releases all claims against the Released Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The members of the governing board of the District, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, and the Enforcement Committee members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The members of the Board, the Design Review Committee or any representative appointed by the Board pursuant to Section 2.1, and the Enforcement Committee members, acting in that capacity, shall have no personal liability with

respect to any contract or other commitment made or action taken on behalf of the District, the Design Review Committee or any representative appointed by the Board pursuant to Section 2.1, and/or the Enforcement Committee, if any.

## **ARTICLE 7. RESERVED DECLARANT RIGHTS**

### **7.1 Development Rights.**

Declarant reserves for itself and its successors and assigns the following rights or combination of rights (the “**Development Rights**”), as more fully provided herein:

- 7.1.1 To add real estate to the Property;
- 7.1.2 To create Lots;
- 7.1.3 To subdivide or replat Lots; or
- 7.1.4 To withdraw real estate from the Property.

Declarant may exercise its Development Rights in all or any portion of the Property, and no assurances are made as to the boundaries or order of exercise of any such Development Rights.

### **7.2 Special Declarant Rights.**

Declarant reserves for itself the following “**Special Declarant Rights**”: to build and complete Improvements in or on the Property; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the Property and sale of Lots; or to use easements through the Property for the purpose of making Improvements within the Property. All of the Special Declarant Rights may be exercised by Declarant with respect to any portion of the property now or hereafter within the Property.

### **7.3 Period of Declarant’s Rights.**

Declarant may exercise any or all of its Development Rights or its Special Declarant Rights at any time and from time to time. The Development Rights and the Special Declarant Rights shall terminate automatically upon the earlier to occur of (a) twenty (20) years from the date of the recording of this Declaration, or (b) at such time as Declarant no longer owns any of the Property subject to this Declaration.

### **7.4 Subdivision or Replatting of Lots.**

Declarant hereby reserves for itself and its successors and assigns the right to subdivide or replat any Lot(s) owned by the Declarant in the Property. Each such subdivision or replatting may change the number of Lots in the Property. The foregoing reservation includes the right to



move any lot lines on Lots for the purpose of accommodating Improvements which are, or may be constructed. The rights reserved to Declarant in this Section shall terminate automatically as provided in Section 7.3 of this Declaration.

## **7.5 Annexation; Withdrawal.**

7.5.1 Declarant reserves the right to add additional property to the Property and subject the same to this Declaration, so long as Declarant owns the property to be added, or with the consent of the owner of such property if not owned by the Declarant. Each annexation, if any, may be affected by the Declarant by recording an annexation document in the records of the Clerk and Recorder of the County. The rights reserved to Declarant in this Section shall terminate automatically as provided in Section 7.3 of this Declaration.

7.5.2 Declarant reserves the right to withdraw the Property, or any portion thereof, including one or more Lots, from this Declaration, so long as the Declarant owns the portion of the Property to be withdrawn, or with the consent of the Owner of the property to be withdrawn if not owned by Declarant. Each withdrawal, if any, may be affected by the Declarant recording a withdrawal document in the records of the Clerk and Recorder of the County. A withdrawal pursuant to this Section constitutes a divestiture, withdrawal, and deannexation of the withdrawn property from this Declaration so that, from and after the date of recording of a withdrawal document, the property so withdrawn shall not be part of the Property. The rights reserved to Declarant in this Section shall terminate automatically as provided in Section 7.3 of this Declaration.

## **7.6 Rights and Easements of Declarant and Builders.**

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and any Builder (but only with the written consent of Declarant), and their respective employees, agents, and contractors to perform such reasonable activities, and maintain Improvements, tools, equipment, and facilities incidental to development, construction, use, rental, sale, occupancy, and/or advertising on the portion of the Property owned by them in accordance with this Declaration and any other covenants, including, without limitation, any builder covenants, encumbering the Property. The foregoing includes locating, maintaining and relocating management offices, construction offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations on the portion of the Property owned by such parties. In addition, nothing contained in this Declaration shall limit the rights of Declarant, or require Declarant, to obtain approvals:

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

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

7.6.3 To seek or obtain any approvals under this Declaration for any such activity.

## ARTICLE 8. DISPUTE RESOLUTION

### 8.1 Definitions Applicable to this Article 8.

For purposes of this Article 8 only, the following terms have the meanings set forth in this Section 8.1:

8.1.1 “**JAG**” means the Judicial Arbiter Group or any other Person agreed to by the Claimant and Respondent in writing for the purpose of performing the functions of the Judicial Arbiter Group under this Declaration.

8.1.2 “**Bound Party**” means each of the Persons subject to this Declaration and any Person not otherwise subject to this Declaration who agrees to submit to this Article 8. Notwithstanding the foregoing, “Bound Party” does not include any of the parties identified in this subsection 8.1.2 if such parties have jointly entered into a separate written agreement providing for dispute resolution applicable to the Claim. In such circumstance, the dispute resolution mechanism set forth in such separate written agreement between such parties shall apply with respect to such Claim unless the parties mutually agree to submit such Claim to the provisions of this Article 8.

8.1.3 “**Claimant**” means any Bound Party having a Claim.

8.1.4 “**Claim**” means, except as exempted by the terms of this Article 8, (i) 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 those arising out of or related to the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations and duties of any Bound Party under any of the Governing Documents; or (ii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party.

8.1.5 “**Notice**” means the written notification given by a Claimant to a Respondent and which shall comply with the requirements of subsection 8.5.1

8.1.6 “**Party**” means the Claimant and the Respondent individually; “**Parties**” means the Claimant and the Respondent collectively.

8.1.7 “**Respondent**” means any Bound Party against whom a Claimant asserts a Claim.

8.1.8 “**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.

8.1.9 “**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.

## **8.2 Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.**

8.2.1 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 8.5.

8.2.2 By acceptance of a deed to a Lot, each Owner agrees to abide by the terms of this Article 8.

8.2.3 Any applicable statute of limitation shall apply to the alternative dispute resolution procedures set forth in this Article 8.

## **8.3 Commencement or Pursuit of Claim Against Bound Party.**

8.3.1 A Bound Party may not commence or pursue a Claim against any other Bound Party except in compliance with this Article 8.

8.3.2 Prior to any Bound Party commencing any proceeding to which another Bound Party is a party, the Respondent shall have the right to be heard by 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.

## **8.4 Claims.**

Unless specifically exempted below, all Claims between any of the Bound Parties are subject to the provisions of Article 8. Notwithstanding the foregoing, unless all Parties otherwise agree, the following are not Claims and shall not be subject to the provisions of this Article 8:

8.4.1 Any action or suit by the District, the Enforcement Committee, or Declarant to enforce any provisions of the Governing Documents, including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief), collection of any fees or fines imposed by the District, and such other ancillary relief as a court may deem necessary;

8.4.2 Any suit between or among Owners, which does not also include Declarant, the District, the Design Review Committee or any representative appointed by the Board pursuant to Section 2.1, or the Enforcement Committee as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

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

## **8.5 Mandatory Procedure.**

8.5.1 *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:

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

8.5.1.2 The legal basis of the Claim (i.e., the specific authority out of which the Claim arises) and the proposed remedy; and

8.5.1.3 The fact that Claimant will give the Respondent an opportunity to inspect all property and Improvements potentially involved with the Claim, and that the Claimant will meet with the Respondent within a reasonable time after such inspection to discuss in good faith ways to resolve the Claim.

8.5.2 *Negotiation and Mediation.*

8.5.2.1 The Parties will 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, any Party may appoint a representative to assist the Parties in negotiation.

8.5.2.2 Upon the Termination of Negotiations, the Claimant has thirty (30) days to submit the Claim to mediation under the auspices of JAG in accordance with the rules of JAG in effect on the date of the Notice that is provided for in subsection 8.5.1.

8.5.2.3 If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, the Claimant waives the Claim, and the Respondent will be released and discharged from any and all liability to the Claimant on account of such Claim.

8.5.2.4 Any settlement of the Claim through mediation must be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator must 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.

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

8.5.2.6 If the Parties agree to a resolution of any Claim through negotiation or mediation and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Article 8. In such event, the Party taking action to enforce the agreement will 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 attorneys' fees and court costs.

### 8.5.3 *Binding Arbitration.*

8.5.3.1 Upon the Termination of Mediation, if the Claimant desires to pursue the Claim, the Claimant may initiate final, binding arbitration of the Claim under the auspices of JAG in accordance with the rules of JAG in effect on the date of the Notice that is provided for in Section 8.5 of this Declaration. 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, one arbitrator who has expertise in the areas of dispute, which may include legal expertise if legal issues are involved, will arbitrate the dispute.

8.5.3.2 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.

## **8.6 Award.**

The award of the arbitrator must be accompanied by detailed written findings of fact and conclusions of law. Except as required by applicable law or for confirmation of an award, neither Party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties.

## **ARTICLE 9. GENERAL PROVISIONS**

### **9.1 Powers and Authority.**

The District is authorized to perform covenant enforcement and design review services as set forth in this Declaration, and the District has agreed to perform covenant enforcement and design review services as set forth in this Declaration. The District may exercise with regard to the Property, all powers and authority reasonably necessary to administer the rights and duties of the District under this Declaration, including, without limitation: (a) the power to adopt and amend budgets for revenues, expenditures, and reserves; (b) the power to collect taxes and fees from Owners to administer its duties and obligations provided in this Declaration; (c) the power to manage and enforce the Governing Documents; (d) the power to contract with a third-party property manager for the management of the Property and/or for any or all other duties and responsibilities related to the overall operation of the Property; and (e) all other rights, powers and authority necessary to enforce this Declaration. The District has the power to levy fees, fines and other penalties for violations of the Governing Documents, as allowed by applicable law and as set forth in this Declaration.

### **9.2 Rules and Regulations.**

Rules affecting, concerning and governing the Lots and/or the Property may be adopted, amended or repealed from time to time as provided herein and the Board may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any such Rules. The Rules, if any, may impose additional restrictions affecting, concerning and governing the Lots and/or the Property not otherwise provided for herein, and may state procedural requirements, interpretations, clarifications and applications of any provision(s) of this Declaration or the Guidelines and law, including blanket requirements, blanket interpretations, and blanket applications. The Rules may vary for different types of Lots. Any Rules that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration and all provisions hereof.

### **9.3 Severability.**

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

### **9.4 Duration, Revocation, and Amendment.**

9.4.1 Each and every provision of this Declaration shall run with and bind the Property perpetually from the date of recording of this Declaration. This Declaration may be amended and/or supplemented by the affirmative vote or agreement of Owners of at least sixty-seven percent (67%) of the Lots subject to the Declaration, with each Lot having one vote, and with the prior written consent of the District. In addition, any

amendment to Article 8 of this Declaration or to any provision affecting the rights granted or reserved to Declarant shall also require the written consent of Declarant.

9.4.2 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 Declarant without the consent or approval of any other Owner or any other Person, in order to correct clerical, typographical or technical errors. Such right of amendment shall terminate automatically as provided in Section 7.3 of this Declaration.

9.4.3 No action to challenge the validity of this Declaration may be brought more than one year after the recording of this Declaration. Further, no action to challenge the validity of any amendment to this Declaration may be brought more than one year after the recording of such amendment.

#### **9.5 Notices.**

Unless otherwise required by applicable law or this Declaration, any requirement to deliver any notice, statement, demand, document or record to an Owner shall be deemed satisfied by sending the same to an Owner by electronic delivery if the Owner has provided an electronic mail or delivery address to the District. Otherwise, an Owner shall register his mailing address with the District, and any notice, statement, demand, document or record intended to be delivered upon an Owner must be sent by U.S. mail, postage prepaid, addressed in the name of such Person at such registered mailing address. If any Owner fails to notify the District of a registered address, then any notice, statement, demand, document or record may be delivered or sent to such Owner at the address of such Owner's Lot.

#### **9.6 Limitation on Liability.**

The District, the Board, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, Declarant, and the officers, directors, managers, members, partners, agents and employees of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice. The release and waiver set forth in Section 9.10 shall apply to this Section.

#### **9.7 No Representations, Guaranties or Warranties.**

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, the District, the Board, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, freedom from hazardous or toxic materials, substances or gases, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless

and except as shall be specifically set forth in writing. The release and waiver set forth in Section 9.10 shall apply to this Section.

#### **9.8 Disclaimer Regarding Safety.**

DECLARANT, THE DISTRICT, THE BOARD THE DESIGN REVIEW COMMITTEE, ANY REPRESENTATIVE APPOINTED BY THE BOARD PURSUANT TO SECTION 2.1, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE DISTRICT, THE BOARD, THE DESIGN REVIEW COMMITTEE, ANY REPRESENTATIVE APPOINTED BY THE BOARD PURSUANT TO SECTION 2.1, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED IN THIS DECLARATION, 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 9.10 SHALL APPLY TO THIS SECTION.

#### **9.9 Development Within and Surrounding the Community.**

Each Owner acknowledges that development within and surrounding the Community may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Community, views of or from the Community or the Lots, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot, each Owner accepts title to such Lot subject to the foregoing, and to the extent permitted by law each Owner hereby waives and releases any claim against Declarant, the District, the Board, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. To the extent permitted by law, the release and waiver set forth in Section 9.10 shall apply to this Section.

#### **9.10 Waiver.**

By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges Declarant, the District, the Board, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, 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 hazards, disclosures or risks set forth in this Declaration, including those contained in Sections 9.7, 9.8, and 9.9.



### **9.11 Headings.**

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

### **9.12 Gender.**

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

### **9.13 Run with Land; Binding Upon Successors.**

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

### **9.14 Sole Discretion.**

All actions which are to be taken by, or on behalf of, Declarant, the District, the Design Review Committee, any representative appointed by the Board pursuant to Section 2.1, the Enforcement Committee, if any, or any other Person, shall be deemed to be taken “in the sole discretion” of such Person.

### **9.15 Use of “Include,” “Includes,” and “Including.”**

All uses in this Declaration of the words “include,” “includes,” and “including,” shall be deemed to include the words “without limitation” immediately thereafter.

### **9.16 No Waiver.**

No term or condition of this Declaration shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq. afforded to the District, the Enforcement Committee, the Design Review Committee, and any representative appointed by the Board pursuant to Section 2.1.

### **9.17 District Lien.**

The lien of the District for any fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District imposed pursuant to Section 32-1-1001, C.R.S. is

not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said lien.

## **ARTICLE 10. DISCLOSURES**

### **10.1 No Liability for Condition of the Property/Nuisances/Hazards Associated with Adjacent Lands.**

By purchasing a Lot, or any portion thereof, each Owner acknowledges that the Lot may be located adjacent to or in relatively close proximity to property utilized for commercial and other non-residential uses (collectively the "**Adjacent Properties**") and further the Lot may be built on land affected by amendment to the land or soil conditions (including expansive soils corrections) resulting from construction, engineering, grading, and soil preparation. Owners recognize and assume the risks of owning property adjacent to or within relatively close proximity to the Adjacent Properties and the risks of the condition of the land and soils. Such risks include, without limitation: (i) expansive soils conditions and drainage issues on or under the Property and (ii) injury to person and property arising out of, or resulting from, the operation, maintenance and use of the Adjacent Properties, noise associated with the Adjacent Properties, noise, odors, and attractive nuisances to children (all of the above being collectively referred to as the "**Property Risks**"). The Released Parties shall have no liability for any personal injury or property damage resulting from the Property Risks. By virtue of taking title to a Lot subject to this Declaration, each Owner for itself and its heirs, personal representatives, executors, tenants, successors, assigns, invitees and licensees: (i) assumes the risk of loss, injury or damage to property or persons resulting from the Property Risks; (ii) agrees to obtain such policies of insurance as may be necessary to insure such Owner and occupant from injury or damage to property or person resulting from the Property Risks; (iii) releases and holds harmless the Released Parties and discharges the same from any liability for any personal injury or property damage resulting from the Property Risks, including, without limitation, arising from the negligence of the Released Parties, and (iv) indemnifies (including the payment of reasonable costs and attorneys' fees) the Released Parties from and against any claims, actions, suits, demands and compensations, either at law or in equity, brought against or incurred by the any of the Released Parties for or on account of any damage, loss, or injury either to person or property, or both, resulting directly or indirectly from any of the Released Parties.

### **10.2 Land Use Documents.**

The Property is being developed in accordance with the land use regulations of the Town and/or the County. Declarant, for itself, its successors and assigns, reserves the right to obtain modifications and amendments to all land use documents, subject to the approval of the Town and/or the County. Such modifications and amendments could change the uses of the Property and adjacent and nearby land from the uses which are set forth in the land use documents. Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the Property can or will be carried out, or that any such land, whether or not it has been

subjected to this Declaration, is or will be committed to or developed for a particular use, or that such use will continue in effect.

### **10.3 Future Development and Views.**

Owners acknowledge that existing views, if any, of the immediate and surrounding areas and mountains may be subject to change or elimination as a result of future development of non-residential and residential uses, road construction, tree growth and landscaping. Declarant and/or Builders may charge premium prices for similar houses or lots depending on a variety of factors, which may include location, lot size, cul-de-sac frontage, solar orientation or proximity to open space. The market value of these factors may be subjective. No Builder is authorized to represent a premium price as a "view" premium. Neither Declarant nor the District assumes any responsibility for any representation or promise made by a Builder, sales counselor, independent broker or other agent or employee of a homebuilder with regard to premium prices. Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses, may change over time. Such development may entail changes to or alterations in the access to the Property, views of or from the Property, the Lots, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot, each Owner accepts title to such Lot, as applicable, subject to the foregoing, and waives and releases any claim against Declarant or the District arising out of or associated with any of the foregoing.

### **10.4 Separate Ownership of Surface and Subsurface Rights.**

Ownership of subsurface rights, including mineral rights, oil, gas, and other hydrocarbons, underlying the Property may be separate from surface rights. The owners of such mineral rights, oil, gas and other hydrocarbons and their successors, assignees and lessees reserve the right to exercise all rights of exploration, extraction and removal of the same as allowed by applicable laws.

### **10.5 Safety and Security.**

Each Owner and all occupants are responsible for their own personal safety and the security of their property in the Property. The District may, but shall not be obligated to, maintain or support certain activities designed to enhance the level of safety or security in accordance with applicable law. Neither Declarant nor the District shall in any way be considered insurers or guarantors of safety or security within the Property, nor be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

### **10.6 Disruption from Development and Construction.**

Each Owner agrees that there are inconveniences which will accompany the construction of Improvements within the Property, including, without limitation, construction noise, portable

toilets, construction traffic, uncompleted buildings, areas not landscaped, potholes and construction supplies stored in plain view and general inconvenience associated with construction sites and related issues. Each Owner, by taking title to any Lot, waives any claims associated with the inconveniences, nuisance and hazards associated with such construction.

#### **10.7 View Impairment.**

Neither Declarant nor the District guarantee or represent that any view over and across the Lots or other Improvements, or that any open space will be preserved without impairment, nor is there any obligation to relocate, prune, or thin trees or other landscaping. Declarant has the right to add trees, walls, fences, berms, or other structures, signs, lighting, water features and other landscaping from time to time, without regard to any view impairment. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 25<sup>th</sup> day of MARCH, 2020.

DECLARANT:  
HIGHLANDS MEAD, LLC, a  
Colorado limited liability company

By: William P. Edgington  
\_\_\_\_\_, Manager

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of March, 2020, by William P. Edgington, as Manager of Highlands Mead, LLC.

Witness my hand and official seal.

{SEAL}

JENNIFER J CHRISTOFFERSON  
Notary Public  
State of Colorado  
Notary ID # 20164009462  
My Commission Expires 03-08-2024

Jennifer Christofferson  
\_\_\_\_\_  
Notary Public  
My Commission expires: 3/8/2024

**CONSENT OF RICHFIELD HOMES, LLC**

IN WITNESS WHEREOF, Richfield Homes, LLC, as the owner of the Richfield Property, has hereunto set its hand and seal of the date set forth below, and hereby consents to the inclusion of the Richfield Property to the Declaration, and the inclusion of the Richfield Property a part of the Property subject to the Declaration.

**RICHFIELD HOMES, LLC**, a Colorado limited liability company

By: *Wm. P. Edgington*

Name: WM. P. EDGINGTON

Title: Managing Member

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 2020, by William P Edgington, as Managing Member of Richfield Homes, LLC.

Witness my hand and official seal.

{S E A L}

JENNIFER J CHRISTOFFERSON  
Notary Public  
State of Colorado  
Notary ID # 20164009462  
My Commission Expires 03-08-2024

*Jennifer Christofferson*  
Notary Public  
My Commission expires: 3/8/2024

**CONSENT OF HDP HIGHLANDS, LLC**

IN WITNESS WHEREOF, HDP Highlands, LLC, as the owner of the HDP Property, has hereunto set its hand and seal of the date set forth below, and hereby consents to the inclusion of the HDP Property to the Declaration, and the inclusion of the HDP Property a part of the Property subject to the Declaration.

**HDP HIGHLANDS, LLC**, a Delaware limited liability company

By: *[Signature]*

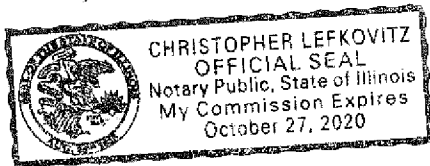
Name: CHRISTOPHER J HEWEN

Title: MANAGER

The foregoing instrument was acknowledged before me this 27 day of MARCH, 2020, by CHRISTOPHER HEWEN, as MANAGER of HDP Highlands, LLC.

Witness my hand and official seal.

{SEAL}



*[Signature]*  
Notary Public  
My Commission expires: 10/27/20





**EXHIBIT A-1  
TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF THE HIGHLANDS COMMUNITY**

**(The Declarant Property)**

Lots 1 through 21, inclusive, Block 2,  
Lots 1 through 16, inclusive, Block 3,  
Lots 1 through 18, inclusive, Block 4,  
Lots 1 through 12, inclusive, Block 5,  
Lots 1 through 20, inclusive, Block 6,  
Lots 1 through 23, inclusive, Block 7,  
Lots 1 through 8, inclusive, Block 8,  
Lots 1 through 23, inclusive, Block 9,  
Tract K,  
The Highlands Filing No. 1,  
Town of Mead,  
County of Weld,  
State of Colorado,

As shown on the Highlands Filing No. 1 Final Plat, recorded in the real property records of Weld County, Colorado on November 8, 2019, at Reception Number 4539553

**EXHIBIT A-2  
TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF THE HIGHLANDS COMMUNITY**

**(The Richfield Property)**

Lot 1, Block 1,  
Lots 3 through 6, inclusive, Block 1,  
The Highlands Filing No. 1,  
Town of Mead,  
County of Weld,  
State of Colorado,  
As shown on the Highlands Filing No. 1 Final Plat, recorded in the real property records of Weld  
County, Colorado on November 8, 2019, at Reception Number 4539553

**EXHIBIT A-3  
TO  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF THE HIGHLANDS COMMUNITY**

**(The HDP Property)**

Lot 2, Block 1,  
Lots 7 through 13, inclusive, Block 1,  
The Highlands Filing No. 1,  
Town of Mead,  
County of Weld,  
State of Colorado,  
As shown on the Highlands Filing No. 1 Final Plat, recorded in the real property records of Weld  
County, Colorado on November 8, 2019, at Reception Number 4539553