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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

THE TOWNS AT OAK CREST

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THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE TOWNS AT OAK CREST (the ***Declaration***), dated September 28, 2018, is made by CLAYTON PROPERTIES GROUP II, INC., a Colorado corporation (***Declarant***). All other initially capitalized phrases, terms, and words used in this Declaration have the meanings specified in Article 2 below.

Introductory Statement:

Declarant is the owner of the Community Area more particularly described in Attachment 1 to this Declaration. In furtherance of its development and improvement of the Community Area Declarant is (1) creating a community named The Towns at Oak Crest (the ***Community***) and (2) imposing the conditions, covenants, reservations, and restrictions set forth in this Declaration that will benefit and burden the Community Area as covenants running with the land.

ARTICLE 1
Declaration of Covenants, Conditions, and Restrictions

1.1 Community Area. Declarant declares that (a) the Community Area described in Attachment 1 is subject to the conditions, covenants, reservations, and restrictions contained in this Declaration and (b) all Persons now owning, or hereafter acquiring, Lots, Parcels, and Townhomes in the Community Area shall hereafter alter, convey, develop, encumber, hold, hypothecate, improve, lease, maintain, manage, mortgage, occupy, own, rent, sell, transfer, and use such Lots, Parcels, and Townhomes subject to the conditions, covenants, declarations, easements, equitable servitudes, limitations, provisions, reservations, and restrictions created and imposed by this Declaration. This Declaration is made in furtherance of a common and general plan for the Community to enhance and protect the aesthetic nature, attractiveness, desirability, quality, and value of the Community, to provide a mechanism for the enforcement of the provisions hereof, and to define certain duties, powers, and rights of Declarant, the Design Review Committee, Principal Builders, the District, and Owners of Parcels in the Community Area.

1.2 Covenants. Declarant (a) intends that the provisions of this Declaration shall run with the land and (b) declares that the conditions, covenants, declarations, easements, equitable servitudes, limitations, reservations, restrictions, and other provisions set forth herein bind, are a charge upon, and inure to the mutual benefit of, (i) the Community and each part thereof, (ii) Declarant and its assigns and successors, and (iii) all Persons having or acquiring any interest, right, or title in any part of the Community Area, any part thereof, or any Improvement thereon and their respective assigns, heirs, representatives, successors, and transferees.

ARTICLE 2
Definitions

Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration have the meanings specified below.

Applicable Laws means the Common Interest Act, the Special Districts Act, and any other codes, decrees, edicts, laws, orders, ordinances, promulgations, regulations, rules, and statutes of Government Agencies.

Applicant and ***Application*** shall have the meanings specified in Section 5.2.

Approval, ***Approve***, or any variant of the word *approve* means (a) for any action or matter an action, approval, or consent by a Person, that such Person has given (i) such consent, or taken such action, in writing and (ii) Notice of such action, approval, or consent by Notice to the Persons affected by such action, approval, or consent and (b) for any action or matter requiring an action, approval, or consent by a Government Authority, that such Governmental Authority has given such approval or consent or has taken such action in a final, nonappealable form and has given written notice of action, approval, or consent in the manner required by Applicable Law.

Arbitration has the meaning specified in Section 8.3(c).

Benefited Parties means Declarant, the Design Review Committee, the Directors, the District, the Officers, and their respective affiliates, agents, assigns, directors, employees, heirs, members, managers, partners, representatives, shareholders, and successors.

Bound Parties has the meaning specified in Section 8.1.

Building means one of the buildings constructed on the Lots.

City means the City and County of Denver, Colorado.

Claim means an assertion of liability, cause of action, claim, demand, disagreement, dispute, or entitlement for compensation, indemnification or reimbursement made by one Person against another Person whether arising at law, in equity, or otherwise.

Claimant means a Bound Party asserting a Claim against another Bound Party pursuant to Article 8.

Common Area means the Tracts together with the facilities and other improvements designated for access, auto courts, drainage, open space, streets, utility, and other purposes on the Final Plat.

Common Area Risks means all Claims and risks attendant to or associated with common areas and public facilities similar to the Common Area including Claims for injury to person, property, or both arising out of, or resulting from, (a) the activities of the District and the District Parties, (b) the construction, design, maintenance, operation, and use of the Common Area, (c) the

construction, marketing, and sales activities of Declarant that utilize the Common Area and are associated with the construction, marketing, and sale of Townhomes in the Community Area, (d) drainage resulting from the Established Drainage Pattern and drainage easements established for, or existing on, the Community Area, (e) lights, noise, odors, and vibrations associated with the Common Area (including lights, noise, odors, and vibrations generated by air compressors, crowds, lawn mowers, leaf blowers, lights used to illuminate night time activities, mulchers, parking, public events, pumps, tractors, traffic, and Vehicles), (f) trespass, acts, or omissions of Residents and other Persons employed in connection with using, or otherwise present on or about, the Common Area, (g) the use of fertilizers, insecticides, and pesticides in connection with the maintenance of the Common Area, together with overspray in connection with such use, and (h) the use of reclaimed water, treated waste water, or other sources of non-potable water for irrigation and overspray.

Common Interest Act means the Colorado Common Interest Ownership Act (C.R.S. §§ 38-33.3-101, *et seq.*).

Community means The Towns at Oak Crest located at 38th and Himalaya Road, Denver, Colorado, as further described in the "Introductory Statement" to this Declaration.

Community Area means the real property that is subject to this Declaration as more particularly described in Attachment 1 to this Declaration.

Community Fence means any fence or portion thereof located in the Common Area or on a line separating a Lot or a Parcel from the adjoining Common Area or an adjoining public right-of-way, street, or Tract.

Conditions and Covenants has the meaning specified in Section 3.1.

Covenants, Easements, and Restrictions means the Conditions and Covenants, the Easements, and the Use Restrictions.

Declarant means Clayton Properties Group II, Inc., a Colorado corporation, and any Person designated as a successor declarant as more particularly set forth in Section 7.3.

Declarant Rights Period means a period beginning on the date of the Recording of this Declaration and ending on the earlier to occur of (a) ten years after the conveyance by Declarant to a Resident occupying the last Townhome completed in the Community or (b) fifteen years from the date of the Recording of this Declaration.

Declaration means this Declaration of Covenants, Conditions, and Restrictions for The Towns at Oak Crest.

Design Review Committee and ***Design Review Fee*** have the meanings specified in Section 6.3.

Design Guidelines means the Green Valley Ranch North Design Guidelines, as modified and supplemented from time to time.

Directors means members of the board of directors of the District as such board may, from time to time, be constituted.

District means (a) the Town Center Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado and any enterprise or subdistrict thereof, and (b) any successor metropolitan district organized and existing pursuant to the Special Districts Act, as set forth in Section 6.6.

District Parties means, with respect to the District, their respective agents, committee members, concessionaires, consultants, contractors, the Directors, property managers, the Officers, and representatives.

Easements has the meaning specified in Section 4.1.

Established Drainage Pattern means, with respect to any portion of the Community Area, the drainage pattern established by the grading of such portion of the Community Area in accordance with Improvement Plans for such drainage as evidenced by the Approval of the City at the completion of such grading and includes the drainage pattern from (a) Common Area over other portions of the Common Area, over a Parcel, or over properties outside the Community Area, (b) a Parcel over Common Area, (c) any property owned by the City, the District, or other Persons over a Parcel, (d) any Parcel over property owned by the City, the District, or other Persons, and (e) any Parcel over another Parcel.

Final Plat means the final plat for Green Valley Ranch Filing No. 72, Recorded on October 19, 2017, at Reception No. 2017137551.

First Mortgage means a Mortgage that has priority over all other security interests in a Parcel other than statutory liens for taxes and special assessments and including an executory land sales contract wherein the Administrator of Veterans Affairs is the seller, whether such contract is owned by the VA or its assigns and whether or not Recorded.

First Mortgagee means a beneficiary of, or mortgagee under, a First Mortgage.

Governing Documents means this Declaration, the construction drawings or Improvement Plans that set forth the Established Drainage Pattern, the Design Guidelines, the Final Plat, the Party Wall Declarations, and the Regulations and Rules.

Government Agency means the City, the District, Government Mortgage Agencies, metropolitan districts organized pursuant to the Special Districts Act, and any other government agency, authority, department, division, or enterprise thereof exercising or having jurisdiction over the Community Area.

Government Mortgage Agency means any one of (a) the Federal Housing Administration of the United States Department of Housing and Urban Development (***FHA***), (b) the Federal Home Loan Mortgage Corporation or The Mortgage Corporation (***FHLMC***) created by Title III of the Emergency Home Finance Act of 1970, including any successors thereto, (c) Federal National Mortgage Association (***FNMA***), a government-sponsored private corporation established as such

pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto, (d) the Government National Mortgage Association (***GNMA***) administered by the United States Department of Housing and Urban Development, including any successor thereto, (e) the United States Department of Housing and Urban Development (***HUD***), (f) the Veterans Administration of the United States of America, including such department or agency of the United States government as shall succeed to the VA in its present function of issuing guarantees with respect to notes secured by Mortgages on Parcels or Townhomes (the ***VA***), (g) any agency, corporation, department, or entity that succeeds to FHA, FNMA, FHLMC, GNMA, and VA, and (h) any similar entity, public or private, approved, authorized, or sponsored by any governmental agency to guarantee, insure, make or purchase Mortgage loans.

Improvement means (a) the grading, excavation, filling, landscaping, the replacement of more than 5% of the total organic landscaped area on a Lot with non-organic landscape materials, and similar disturbances to the surface of a Lot, (b) alterations to drainage of water across, from, and to a Lot, including changes to (i) the Established Drainage Pattern or other existing drainage pattern, (ii) the grade or level of ground, (iii) the location or point at which water is discharged from one Lot to another Lot or to the Common Area, (iv) the rate of flow of water, and (v) stream beds and swales, (c) drives, driveways, parking areas, roads, sidewalks, streets, trails, and walkways, (d) the exterior of the Buildings and the Townhomes (including drainpipes, exterior walls, fascia, garages, garage doors, gutters, painted surfaces, roofing, roofs, and siding of the Buildings and Townhomes), and (e) all other exterior appurtenances, equipment, or fixtures that are affixed or attached as of the date of the Recording of this Declaration, that may subsequently be affixed or attached to, or that may be subsequently made a part of the exterior of a Building or a Townhome including (i) antennae, public access electronic terminals, satellite dishes, and similar equipment and fixtures, (ii) arbors, archways, awnings, covered patios, exterior air conditioning units, exterior radon mitigation systems, exterior water softening units, and patio coverings, (iii) clotheslines, fences, flagpoles, gazebos, playhouses, poles, signs, tanks, and other structures (including screening, privacy, and retaining walls), (iv) exterior recreation equipment (including basketball poles, backboards, inflatable pools, playground equipment, slides, soccer and street hockey goals and nets, swimming and wading pools, and swing sets), (v) irrigation and sprinkler equipment, materials, pipes, supplies, and systems, (vi) landscaping (including bushes, garden beds, hedges, lawns, plants and plantings, raised garden beds, shrubs, trees, and windbreaks), (vii) outdoor sculptures and other outdoor artwork, and (viii) solar equipment, fixtures, and systems.

Improvement Plans means such construction plans, drainage plans, descriptions, elevation drawings, sketches, specifications, samples of colors and materials, surveys, and other information as specified in the Design Guidelines or as the District may reasonably request regarding the color, composition, components, height, kind, location, materials, nature, kind, shape, and width of Improvements.

Lease means any agreement, lease, or sublease for the leasing, occupancy, or rental of all or part of a Building, Parcel, or Townhome.

Lots means Lots 1 through 13, inclusive, Green Valley Ranch Filing No. 72, according to the Final Plat thereof.

Materials has the meaning specified in Section 3.1(d).

Mediation, Mediation Period, ***Mediation Request***, and ***Mediator*** have the meanings specified in Section 8.3(a).

Mortgage means any Recorded deed of trust, mortgage, or other security instrument given voluntarily by an Owner of a Parcel that encumbers a Parcel to secure the performance of an obligation or the payment of a debt.

Mortgagee means a beneficiary of, or mortgagee under, a Mortgage and includes (a) the assignees of such mortgagee, (b) any Person named as the mortgagee or beneficiary under any First Mortgage, or (c) any insurer or guarantor of a First Mortgage, including the Administrator of Veterans Affairs (Veterans Administration).

Mortgagor means the Person who mortgages his or its property to another (*i.e.*, the maker or grantor of a Mortgage).

Notice has the meaning specified in Section 10.12.

Notice of Non-Compliance means Notice from the District of the completion of any Improvement that does not conform to the requirements of this Declaration.

Occupant means each Person occupying a Townhome including each Owner, each guest or invitee of an Owner, each tenant and subtenant, and each other Person in possession of, or otherwise occupying or residing in, a Townhome.

Officer means the past and present members of the Design Review Committee and officers of the District.

Owner means any Person holding fee simple title of Record to a Townhome.

Parcel means a parcel (a) created by the reconfiguration of a Lot pursuant to a Denver Assessor's Parcel Reconfiguration that has been, or will be Recorded, with respect to each of the Lots, (b) depicted on Attachment 3, and (c) listed on Attachment 4.

Party Wall Declaration means one of the Party Wall Declarations that governs the disposition, ownership, and use of the Townhomes and that Declarant Recorded with respect to each Parcel, Lot, and Townhome in the Community Area.

Person means a natural person, a Government Agency, a Government Mortgage Agency, or an association, company, corporation, limited liability company, partnership, trust, or other legally recognized entity, as the context may require.

Principal Builder means an Owner designated as a Principal Builder in an instrument executed and Recorded by the Declarant and includes the Declarant.

Record, Recorded, Recording, and other variants of the word *record* means the filing or recording of a document or instrument in the official real estate records of the City.

Regulations and Rules means the written guidelines or rules promulgated from time to time by the District with respect to all or part of the Community Area.

Resident means an Occupant or an Owner.

Respondent means a Bound Party against whom a Claimant has asserted a Claim pursuant to Article 8.

Special Districts Act means the Colorado Special Districts Act (C.R.S. §§ 32-1-101, *et seq.*).

Townhome means one of the townhomes constructed on a Parcel, located in a Building, as more particularly described in the Party Wall Declarations governing Lots in the Community Area.

Tracts means Tracts A and B, Green Valley Ranch Filing No. 72, according to the Final Plat thereof.

Unsightly Condition means a condition on a Parcel that the Design Review Committee determines, in its absolute and sole judgment, (a) detracts from the aesthetic nature, attractiveness, desirability, quality, and value of the Community as a whole, (b) is inconsistent with the common and general plan established by Declarant for the benefit and betterment of the Community as a whole, (c) is unattractive, unsightly, or otherwise detrimental to the aesthetic values of the Community, or (d) violates the Covenants, Easements, and Restrictions regarding the appearance or attractiveness of the Community as a whole.

Use Restrictions has the meaning specified in Section 3.2.

Utilities means all utility services necessary for the convenient enjoyment and use of the Common Area and the Townhomes and includes cable television, electric, gas, water, sanitary and storm sewers, telephone, and similar services.

Utility Equipment means all equipment of every kind, nature, or type convenient or necessary for making available or providing Utilities to the Common Area, and the Townhomes and including all equipment, junction boxes (including utility lines from junction boxes to a Residence), lines, manholes, meter pits (including utility lines from meter pits to a Residence), poles, pipelines and sleeves, and similar equipment.

Vehicle means any vehicle of any kind, nature, or type (including motorized and non-motorized) and including an abandoned vehicle, an all-terrain vehicle, automobiles, boats, campers (including on or off supporting vehicles), cars, disabled or junk vehicles, mobile homes, motor homes, motorcycles, nonfunctioning vehicles, recreational vehicles, snowmobiles, tractors, towed trailer units, trailers, trucks, utility vehicles, or other machines used for transporting materials or people.

ARTICLE 3
Covenants, Limitations, and Restrictions

3.1 Covenants, Limitations, and Restrictions. Subject to the exemptions of Declarant specified in this Declaration, all Buildings, Lots, Parcels, and Townhomes shall be enjoyed, held, and used subject to the covenants, limitations, and restrictions specified in this Article 3 (the ***Conditions and Covenants***).

(a) Condition of Improvements. Each Owner shall maintain its Parcel and the Townhome located thereon in an attractive, clean, and safe condition, in good repair, and in strict compliance with Applicable Laws and the Governing Documents. The Owners of Townhomes in a Building shall maintain the Building in an attractive, clean, and safe condition, in good repair, and in strict compliance with Applicable Laws and the Governing Documents. The District shall (i) determine whether an Owner is maintaining its Parcel and Townhome in the condition required by this Section 3.1(a), (ii) determine whether Owners of Parcels in a Building are maintaining the Building in the condition required by this Section 3.1(a), (iii) determine whether any condition on a Parcel constitutes an Unsightly Condition, and (iv) maintain, operate, and repair the Common Area except as may otherwise be provided in this Declaration. Notwithstanding the foregoing right of the District, it shall be the sole and exclusive duty and obligation of each Owner to maintain its Parcel and Townhome and the Owners of Townhomes located in a Building to maintain such Building, Parcels, and Townhomes in the condition required by this Section 3.1(a), and the District shall have no authority, duty, power, obligation, or right to maintain such Improvements.

(b) Drainage. Each Owner shall (i) maintain and preserve the Established Drainage Pattern on the Parcel owned by such Owner in accordance with Applicable Law, the Established Drainage Pattern and the Governing Documents, (ii) not interfere with the Established Drainage Pattern, (iii) not materially modify the point of discharge or rate of drainage of water from one Parcel or Lot to (A) adjacent Common Area, Lots, or Parcels, (B) adjacent properties outside the Community Area, or (C) public property, (iv) except for Buildings constructed by Declarant, not maintain, place, or permit an Improvement to remain on any Parcel within the drainage easements established pursuant to Section 4.4 below for the Established Drainage Parcel, or (v) cause or permit any change in grading that may change the direction of flow or obstruct or retard the flow of water or other moisture through channels or swales within the easements established pursuant to Section 4.4 for the Established Drainage Pattern. If an Owner changes the Established Drainage Pattern for its Parcel, modifies the point of discharge or rate of drainage of water from its Parcel, or otherwise interferes with the drainage of water from its Parcel, then such Owner will be solely liable for the impact of such changes on adjacent Lots and Parcels, the Common Area, adjacent properties outside the Community Area, and public property.

(c) Fences. The District shall maintain, repair, and replace such Community Fence at its cost and expense and in a reasonably attractive manner consistent with the Governing Documents. Notwithstanding the foregoing, if an Occupant or an Owner damages a Community Fence, the Owner damaging such Community Fence (or the Owner of the Townhome of the Occupant damaging such Community Fence) shall bear the cost and expense of repairing or replacing such Community Fence.

(d) Garbage and Trash. Except as provided herein, Occupants and Owners shall keep and store any bulk materials, compost, garbage, grass clippings, lumber, metal, plant waste, recycling, refuse, scrap, shrub clippings, tree clippings, or debris of any kind (***Materials***) and shall not permit any Materials to accumulate for an unreasonably extended period. Notwithstanding the foregoing, Occupants and Owners may place containers containing Materials on the street or designated areas at such times as may be necessary to permit garbage or trash pick-up if such trash containers comply with the Governing Documents. As of the Recording of this Declaration, the City collects and disposes of recycling and trash. If the City ceases collecting and disposing of recycling and trash, then the District may (i) contract with a common service to collect and dispose of recycling and trash as set forth in Section 6.2(f), (ii) designate a common service to collect and dispose of recycling and trash, and (iii) require Owners in all, or in a designated part, of the Community Area to use such common service for the collection and disposal of trash. Declarant shall have the right to have Materials present on a construction site if Declarant appropriately screens such Materials from view.

(e) Hazardous and Noxious Activities. An Owner shall not (i) conduct any activity in the Community Area, on a Parcel, or in a Townhome that is, or might be, materially and unreasonably hazardous, noxious, offensive, or unsafe or that might cause unreasonable annoyance, disturbance, embarrassment, hazard, injury to others, (ii) discharge fireworks in the Community Area unless such fireworks are permitted by, and used in accordance with, Applicable Law and the Governing Documents and at places and times Approved in advance by the District, (iii) light or permit open fires within the Community Area, (iv) use a natural gas, propane barbecue, or other form of barbecue unit unless the barbecue unit is electric, does not allow the dispersal of burning embers, and otherwise complies with Applicable Law and the Governing Documents, or (iv) use, or permit the use of, its Townhome for the storage of explosives, gasoline, or other volatile or incendiary materials or devices. Notwithstanding the foregoing, an Owner may maintain gasoline or fuel for a snow blower on an incidental basis on a Parcel if the Owner keeps no more than five gallons of fuel and keeps such fuel in Underwriter Laboratories (UL) approved containers.

(f) Hazardous Materials. An Owner shall not introduce, store, transport, or use any material or substance classified as a hazardous material or substance under Applicable Law unless such substances (i) are not present in amounts or under conditions that would subject the Owners to damages, penalties, or liabilities under Applicable Law or (ii) are cleaning materials, food products, gardening materials and supplies, household products, lubricants, paints, petroleum products, solvents, supplies, and other materials customarily used in the construction, renovation, operation, maintenance, or use of a residential community and project like the Community if such materials are disposed of, stored, transported, and used in compliance with Applicable Law.

(g) Leases of Townhomes and Obligations of Owners. An Owner shall not rent or permit the occupancy or subletting of a Townhome unless (i) the occupancy or tenancy of the Occupant is pursuant to a written Lease, (ii) the term of the occupancy or tenancy is six months or more, (iii) the occupancy or subletting of the Townhome complies with Applicable Law, and the Regulations and Rules established by the District set forth in Section 3.2(c) below, (iv) the Lease requires the Occupant to comply with the Governing Documents, (v) the Lease provides that the failure of an Occupant to comply with the Governing Documents shall be a default under the Lease entitling the Owner to terminate the Lease and evict the Occupant, (vi) the Lease prohibits the

Occupant from subleasing a portion of the Townhome or otherwise permitting a Person or Resident to occupy less than all of the Townhome, and (vii) before permitting occupancy of a Townhome by an Occupant other than the Owner, the Owner (A) gives Notice of such occupancy to the District, (B) provides the District with a copy of the Lease, and (C) provides the District with the tenant contact information (including the names, email addresses, and telephone numbers of all Occupants and Vehicle identification information including license plate numbers and make and type of Vehicle). An Owner shall be responsible for, and shall indemnify the Benefited Parties and other Residents for, any damages, injury, or loss to person or property caused by an Occupant of such Owner's Townhome or otherwise resulting from the failure of such Occupant or Resident to comply with Applicable Law or the Governing Documents or both.

(h) Lights, Odors, and Sounds. An Owner shall not permit any light, odor, sound, or vibration to emanate or exude from any property within the Community Area that is hazardous, noxious, or unreasonably disturbing to other Residents and in that regard, an Owner shall not (i) use, or permit the use of, on its Parcel or Townhome or in the Common Area, bells, exterior speakers, horns, whistles, or other sound devices that are not security devices used exclusively for security purposes, (ii) permit the accumulation of Materials on a Parcel that create, cause, or exude an unreasonable odor or smell, and (iii) except for exterior lights used in connection with the Common Area, use (or permit the use of) exterior lights of unreasonable brightness or intensity. Notwithstanding the foregoing, the District may permit special gatherings of residents within the community and their invited guests (block parties, community garage sales, family parties, and similar activities) utilizing outdoor lights and speakers if such use complies with Applicable Law (including obtaining any permits required for such activities) and has received the prior Approval of the District, subject to any conditions the District may impose on the amount of light, noise level, location, hours, number of participants, and similar considerations.

(i) Pets and Other Animals. An Owner shall not breed, keep, or raise animals of any kind on a Parcel except as follows:

(i) Domesticated Pets. Residents may keep domesticated pets on their Parcel subject to the condition that (A) domesticated birds or fish and other small domestic animals must be confined indoors, (B) by Regulation and Rule, the District may exclude (1) any animal that is a hybrid cross of domesticated dogs and non-domesticated *Canis* subspecies, (2) any animal that is a hybrid cross of cats and non-domesticated species of the *Felidae* family, (3) a dog trained for fighting or that has previously demonstrated aggressive or violent physical contact with a Person or animal including aggressive or violent behavior that confines the movement of a Person or involves chasing, cornering, or encircling of a Person, and (4) any other animals as the District may determine are detrimental to the Community as a whole, (C) there can be no more than a reasonable number of domesticated dogs on a Parcel as established by the District in the Regulations and Rules, (D) there can be up to three domesticated cats on a Parcel, (E) the Occupant or Resident must clean up the waste of its domestic pet on the Parcel of such Occupant or Resident and on the Common Area, (F) a Resident must accompany, control, and properly leash any domestic pet that a Resident exercises or walks in the Common Area, and (G) each owner of a household pet shall be financially responsible and liable for any damage caused by said household pet to any Common Area, to wildlife, to Persons, to Parcels of others, or otherwise.

(ii) Additional Limitations on Animals. Notwithstanding the foregoing, an Owner shall not (A) breed, keep, or maintain domestic pets for any commercial purpose on a Parcel, (B) leash or allow domestic pets to run in unfenced yards of any Parcel, or (C) keep on its Parcel any animal that, in the opinion of the District exercised in accordance with Applicable Law, makes an unreasonable amount of noise or odor, chases or otherwise harasses other domestic pets or wildlife within the Community Area, or is otherwise a nuisance.

(iii) Service Animals. Residents may keep no more than two service or support animals in a Townhome to reasonably accommodate a disability. The District shall consider requests on a case-by-case basis to keep additional service or support animals subject to (A) the reasonableness of the request for additional animals given the housing environment and (B) the requirements of Applicable Law (including the requirements of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and C.R.S. 24-34-803).

(j) Reconfiguration of Parcels. Without the prior Approval of the District being first obtained in each instance and except for the rights of the Declarant set forth in Section 7.2(a) below, an Owner shall not (i) combine Parcels, (ii) reconfigure Parcels except to the extent permitted in a Party Wall Declaration to correct discrepancies or variations in the descriptions of Parcels, (iii) subdivide a Parcel, or (iv) convert a Building, Lot, or Parcel to condominium ownership.

(k) Repair of Casualty Loss or Other Damage. If a Building suffers casualty loss or other damage, in compliance with Applicable Law, and in accordance with the Governing Documents, the Owners thereof shall cause (i) the damaged Building to be repaired or restored in a timely manner or (ii) demolish the damaged Building and landscape the Lot to a reasonably attractive and neat condition if the Owners cannot repair, replace, or restore the damaged or destroyed Building. If a Townhome suffers casualty loss or other damage, the Owner thereof shall cause the damaged Townhome to be repaired or restored in a timely manner in accordance with the Party Wall Declaration governing such Townhome.

(l) Signs and Advertising. An Owner shall not display, erect, install, or maintain any advertising device, billboard, poster, sign, or display of any kind (a ***Sign***) within the Community Area that is visible from a road, street, or public trail except to the extent permitted by, Applicable Law and the Governing Documents. Notwithstanding the foregoing, (i) an Owner may display a Sign on a Parcel advertising such Parcel for sale or for lease or a Sign otherwise Approved by the District if such Sign and its display are consistent with Applicable Law and the Governing Documents (including rules regarding the color, dimensions, location, and style of such Sign) and (ii) Declarant may display Signs in connection with the construction, improvement, marketing, and sale of Townhomes on specific Parcels and in the Community Area in general.

(m) Temporary Structures. Except for a Residence and as otherwise provided in this Declaration, an Owner shall not construct, install, maintain, or place any temporary or other Improvement on a Parcel other than a Townhome. Notwithstanding the foregoing, (i) Declarant shall have the right to maintain a temporary structure and store building and construction materials in connection with construction, development, improvement, marketing, and sale of Townhomes and Parcels in the Community Area and (ii) the District may Approve temporary structures in the Community Area subject to such conditions or restrictions as the District deems appropriate.

(n) Utility Equipment. Each Owner shall keep and maintain all Utility Equipment in an enclosed or underground location or in an enclosed structure that (i) the District has Approved, (ii) complies with the requirements of Utilities Providers, and (iii) complies with Applicable Law and the Governing Documents. An Owner shall not alter, modify, or relocate Utility Equipment without the prior Approval of the District and Utility providers.

(o) Vehicles. Except within an attached garage, as Approved by the District, or as permitted by the Governing Documents, an Owner shall not park or store a Vehicle in, on, or about any driveway, Lot, open area, Parcel, or street within any part of the Community Area. The District and District Parties shall have the right to enter an Owner's Parcel to remove and store, at such Owner's expense, Vehicles parked or stored in violation of this Section 3.1(o). Except within a completely enclosed structure that screens the sight and sound of the activity from the street and from other Parcels, an Owner may not dismantle, maintain (other than washing and polishing Vehicles), repair, repaint, or service any type of Vehicle, boat, trailer, machine, or device on any Parcel, Common Area, or public property.

(p) Yard and Recreation Equipment. An Owner shall store at a location not visible from the street, the rear ground level door, or porch of an adjoining Townhome any garden, snow removal, yard, or other equipment and all temporary, portable backboards, goals, nets, and other recreation equipment. Without the prior Approval of the District and except in compliance with the Governing Documents, an Owner shall not (i) attach a basketball backboard to the exterior of a Building or Townhome, (ii) erect, install, maintain, or use playground equipment above six feet in height, as measured from the rear ground level door or porch of a Townhome, (iii) maintain or use exterior recreation equipment (including basketball poles, backboards, and soccer or street hockey goals and nets) on Common Area and public streets, or (iv) use temporary exterior basketball backboards that are not made from a manufacturer's standard colors and materials.

3.2 Use Restrictions. In addition to use restrictions imposed by Applicable Law, each Resident shall occupy and use its Townhome subject to the following (the ***Use Restrictions***):

(a) Construction Activities. An Owner shall not conduct any construction activities (including the alteration, construction, improvement, or replacement of any Improvement) unless the Owner conducts such construction activities in accordance with Applicable Law and the Governing Documents (including the Approval of the Design Review Committee as provided in Article 5 below). Notwithstanding the foregoing, Declarant may conduct business and construction activities associated with the construction, improvement, marketing, and sale of Parcels and Townhomes constructed thereon (including maintaining and operating construction trailers, model homes, parking of Vehicles for contractors and construction and sales personnel, sales offices, and storage of construction materials) without the prior Approval of the District.

(b) Residential Use; Variations for In-Home Businesses. An Owner shall only use Townhomes for residential purposes permitted under Applicable Laws (including applicable building, zoning, and other requirements of the City) and the Governing Documents. Notwithstanding the foregoing, with the prior Approval of the District, and subject to the Governing Documents, an Owner may conduct in-home businesses (including home day care services) if such business (i) does not employ Persons other than the Owner and family members of the Owner of the

Parcel on which such activities occur, (ii) is permitted by Applicable Law, (iii) has received all applicable licenses and permits from all Government Agencies, (iv) is conducted entirely within the Townhome, (v) does not constitute a nuisance or create or result in any offensive or noxious activities, (vi) except for private lessons given by an Owner, does not result in clients, customers, employees, or other Persons coming to the Townhome for purposes related to such business and parking in the public streets, and (vii) does not generate substantial additional Vehicle traffic, as determined by the District, in its sole discretion.

(c) Short-Term Rentals of Townhomes. As it deems appropriate or desirable in its sole discretion, the District shall have the right to impose (i) such limitations, Regulations and Rules, and other restrictions regarding and regulating the rental, subleasing, and use of Townhomes in the Community Area for bed-and-breakfast, hotel, transient, or vacation-type rentals whether offered by Airbnb, HomeAway, VRBO, and similar online rental sites for short-term, temporary, or transient occupancy and use and (ii) such fines and penalties as the District deems appropriate for violations of such limitations, Regulations and Rules, and other restrictions.

3.3 Enforcement of Covenants, Easements, and Restrictions. By acceptance of title to a Parcel, each Owner irrevocably assigns and delegates to the District, in its own name and on behalf of all Owners of Parcels, the authority, power, right, and responsibility to enforce the Covenants, Easements, and Restrictions as more particularly set forth in Article 6 below. Notwithstanding anything to the contrary contained herein, normal construction activities carried out by Declarant within the Community Area or construction activities carried out by an Owner or the contractor of an Owner that have been Approved by the Design Review Committee shall not be in violation of any of the Covenants, Easements, and Restrictions subject to the condition that all contractors must take commercially reasonable steps to ensure that (a) all construction activities comply with Applicable Laws and the Governing Documents, (b) all construction debris is removed from the Community Area on a regular basis, (c) streets are cleaned of mud, dirt, and debris caused by such contractor or its subcontractors, and (d) any damage to curbs, sidewalks, streets, Utilities, Utility Equipment, and other Improvements caused by such contractor or any of its subcontractors is repaired in a timely manner.

ARTICLE 4
Easements and Disclosures

4.1 Easements. In addition to any other easements granted or reserved elsewhere in this Declaration, this Article 4 declares, establishes, grants, and reserves (a) easements (the ***Easements***) more particularly specified in Sections 4.2 through 4.5, (b) the limitations on the Easements set forth in Section 4.6, and (c) the easements and other matters to which the Community Area is, or may be, subject as set forth in Section 4.7.

4.2 Access Easements. Declarant hereby declares, establishes, grants, and reserves access easements across, on, over, or under each Lot and Parcel, but not the interior of a Townhome, for the benefit and use of the District, the District Parties, and providers of Utilities for the purpose of (a) maintaining, repairing, or replacing Common Area or Utility Equipment and (b) performing other services as provided in this Declaration including (i) the installation, maintenance, repair, or replacement of Community Fences and Utility Equipment and (ii) mitigating damage, injury, or loss

in emergency circumstances. The rights and easements granted in this Section 4.2 may be exercised only during reasonable hours after reasonable Notice or oral communication to the Occupants or Owners of any affected Parcel, but no such Notice or oral communication shall be necessary in emergency situations if the Occupants or Owners of an affected Parcel receive as much advance notice or warning as is reasonably possible under the circumstances.

4.3 Common Area. The following disclosures are made, and easements established, with respect to the Common Area:

(a) Common Area Easements. Declarant hereby declares, establishes, grants, and reserves to itself, to the District and the District Parties, a nonexclusive easement over the Community Area for (i) performing every act necessary and proper for the operation and use of the Common Area, (ii) the effect on such Parcel of one or more of the risks disclosed hereby as one of the Common Area Risks, (iii) light, noise, and sound emanating from the operation and use of the Common Area for their intended uses and purposes, and (iv) overspray in connection with the watering or fertilizing of the Common Area.

(b) Common Area Risks. Portions of the Community Area (including Lots, Parcels, and Townhomes) adjoin, are adjacent to, border, or are otherwise in the vicinity of the Common Area and are subject to the Common Area Risks. Each Owner and each Occupant, by acceptance of a deed to a Parcel or the use or occupancy of a Townhome (i) assumes, and agrees to accept, the Common Area Risks, (ii) acknowledges that portions of the Community Area adjoin, are adjacent to, are affected by, border, or are otherwise in the vicinity of the Common Area and are subject to the Common Area Risks, (iii) discharges and releases the Benefited Parties from all Claims and waives all Claims against the Benefited Parties, and (iv) covenants and agrees that it will not assert, institute, maintain, or prosecute any action, Arbitration, civil action, or other proceeding against the Benefited Parties based upon, for, or on account of any Claim. The foregoing covenant not to sue, discharge, release, and waive Claims is made by each Owner and Occupant to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, guests, invitees, lessees, Occupants, personal representatives, representatives, and Residents.

4.4 Drainage Easements.

(a) Established Drainage Patterns. Declarant hereby declares, establishes, grants, and reserves, to itself, to the District, and the District Parties easements for the Established Drainage Patterns. Declarant reserves to itself and to the District and the District Parties the right to enter in and upon each easement set forth on the Final Plat to construct, repair, replace, or change drainage structures or drainage ways, or to perform such grading, drainage, or corrective work as Declarant or the District and the District Parties may deem necessary or desirable, in their sole discretion and from time to time, to maintain drainage in accordance with the Established Drainage Patterns.

(b) Lots. Declarant hereby declares, establishes, grants, and reserves to itself, the District, and the District Parties (i) easements for drainage and drainage facilities from the nearest Lot line to the exterior wall of the Building nearest to such Lot line and (ii) at any time and from time to time, the right to (A) enter in and upon each such drainage easement to construct, repair, replace, or change drainage structures or drainage ways and (B) perform such drainage, grading, or other

corrective work as Declarant, the District, or the District Parties may deem desirable or necessary in their sole discretion.

4.5 Encroachment Easements. To the extent that any Building encroaches by one-foot or less on any Easement, adjoining Lot, or Common Area, Declarant hereby declares, establishes, grants, and reserves a valid easement for such encroachment.

4.6 Limitations on Easements. Notwithstanding anything to the contrary contained herein, the Easements declared, established, granted, and reserved in Sections 4.2 through 4.5 hereof (a) shall in no way affect, avoid, extinguish, or modify any other Recorded covenants, easements, limitations, reservations, or restrictions affecting all or part of the Community Area, (b) may be amended, limited, modified, restricted, or terminated by Declarant by means of a Recorded instrument, and (c) shall not be interpreted or construed as interfering with, preventing, or precluding the construction, operation, and use of any structure or use on any Parcel which is otherwise permitted by the terms of this Declaration or which is otherwise Approved by the District.

4.7 Recorded Easements. In addition to all easements and rights-of-way of Record at or before Recordation of this Declaration, the Community Area, and all portions thereof, are subject to the easements shown on the Final Plat and are now, or may hereafter be, subject to the easements, licenses, and other Recorded documents set forth on Attachment 2 to this Declaration.

ARTICLE 5
Design Review and Approval

5.1 Approval Requirement. An Owner shall not alter, construct, erect, improve, install, make, or replace any Improvement on a Parcel without the prior Approval of the Design Review Committee as specified in this Article 5. Notwithstanding the foregoing or anything to the contrary in this Declaration, Declarants shall not be subject to, and shall be exempt from, this Article 5, and shall have the right to, and may, construct, erect, improve, install, and make Improvements to Lots, Parcels, and Townhomes without the prior Approval of the proposed Improvements or proposed Improvement Plans by the Design Review Committee set forth in Section 5.2, the provisions on the construction of Improvements as set forth in Section 5.3, or any other provision in this Declaration.

5.2 Construction Approval Process. Before commencing construction of an Improvement to Property, an Owner (an ***Applicant***) proposing to make an Improvement to a Parcel shall obtain the Approval of the Design Review Committee by submitting an application (the ***Application***) and proceeding as follows:

(a) Application. Each Applicant shall submit an Application to the Design Review Committee at the offices of the District, or at such other place as the Design Review Committee may designate, accompanied by (i) the applicable Design Review Fee as determined by the Design Review Committee in accordance with the Governing Documents, (ii) a complete set of the proposed Improvement Plans, (iii) a certification that (A) the proposed Improvement and Improvement Plans comply with all Applicable Laws (including building, fire, and health and safety codes) and the Governing Documents (including the Party Wall Declaration governing such Parcel), and (B) the proposed work does not require a building permit or that the Applicant will obtain all

required permits before beginning construction, (iv) Applicant has complied with the requirements set forth in the Governing Documents (including the Party Wall Declaration governing such Parcel) for making the proposed Improvement, and (v) such additional information as the Design Review Committee may reasonably request in order for it to be able to review the proposed Improvement Plans.

(b) Criteria for Review. Following receipt of a complete Application and payment of the applicable Design Review Fee, the Design Review Committee shall review the Application, the proposed Improvements, and the proposed Improvement Plans and specifications for the Improvements. The Design Review Committee shall not unreasonably condition, delay, or withhold its Approval of an Application. Notwithstanding the foregoing, the Design Review Committee shall not be unreasonable in conditioning or withholding such Approval if the Design Review Committee determines, in its absolute and sole discretion, that (i) the proposed Improvement does not conform to, or satisfy, criteria for Improvements specified in the Design Guidelines, (ii) the proposed Improvement will be detrimental to the appearance of the surrounding areas of the Community Area as a whole, (iii) the appearance, colors, composition, elevations, exterior design, materials, and other elements of the proposed Improvement to Property will not be in harmony with the surrounding areas of the Community Area, (iv) the proposed Improvement to Property will tend to detract from the attractiveness, beauty, and wholesomeness of the Community Area or the enjoyment thereof by Owners, (v) any proposed changes in topography do not properly relate to adjacent Parcels and the Community Area as a whole and may adversely and materially alter the Existing Drainage Pattern, (vi) the proposed Improvement to Property does not comply with Applicable Law or the Governing Documents, (vii) the upkeep and maintenance of the proposed Improvement to Property will become a burden on the District and the Owners, and (viii) the Applicant will not be able to obtain either (A) Approval of the proposed Improvement from all Government Agencies or (B) the building and other permits required by Applicable Law for the construction of the proposed Improvements.

(c) Decision of Design Review Committee. Following receipt of a complete Application and payment of the applicable Design Review Fee, the Design Review Committee shall Approve or reject an Application within the time specified in the Design Guidelines. An Application shall be deemed pending until such time as the Design Review Committee Approves or rejects the Application, and an Applicant shall not proceed with the proposed Improvement until the District has Approved such Application. If the Design Review Committee rejects an Application, then it shall accompany Notice of its disapproval with an explanation of why it rejected the Application and any revisions that the Applicant can make to the proposed Improvements or proposed Improvement Plans to obtain their Approval by the Design Review Committee. The Design Review Committee shall exercise its good faith, reasonable, and subjective judgment in Approving or rejecting an Application and the decision of the Design Review Committee shall be final as set forth in Section 5.5(b) below. The Design Review Committee shall maintain records of all Applications received by it, all Approvals and disapprovals given by it, and all correspondence received and sent by it regarding an Application.

5.3 Construction of Improvements. After Approval of an Application, the Applicant shall proceed as follows:

(a) Commencement and Completion. After Approval of an Application, the Applicant shall promptly begin, diligently prosecute, and complete the proposed Improvement in accordance with Applicable Law and the Application as Approved by the Design Review Committee. If an Applicant fails to begin a proposed Improvement within ninety days after Approval from the Design Review Committee, then the Design Review Committee, at its option by Notice to the Applicant, may cancel its Approval. If an Applicant fails to complete a proposed Improvement within twelve months after the date the Design Review Committee gave its Approval to the Applicant, the Applicant shall be in noncompliance with the requirements of this Article 5 and the District may take such action as it deems appropriate.

(b) Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, the provisions contained in this Declaration as to the Lot or Parcel upon which the construction is taking place shall be deemed to have been suspended temporarily to the extent necessary to permit such construction subject to the conditions that (i) construction is proceeding with due diligence, (ii) nothing is being done that will result in a violation of any of the provisions of the Governing Documents upon completion of construction, and (iii) nothing is being done that will constitute a nuisance or unreasonable interference with the use and enjoyment of other Lots or Parcels.

(c) Inspection. Upon completion of the Improvement to Property, the Applicant shall give Notice of completion to the Design Review Committee. Following receipt of a Notice of completion, the Design Review Committee shall have the right to inspect any Improvement to Property prior to or after completion. If the Design Review Committee finds that any Improvement to Property has been done without the required Approval of the Design Review Committee or was not done in complete conformity with the Application or was not completed within twelve months after the Design Review Committee gave its Approval, the Design Review Committee shall give Notice to the Applicant of such noncompliance. The Notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the non-compliance.

(d) Noncompliance. If the Design Review Committee determines that the Improvements are not in compliance with the Application as Approved by the Design Review Committee, the Applicant shall remedy or remove the same within a period of not more than forty-five days from the giving of the Notice of Noncompliance by the Design Review Committee. If the Applicant has not remedied such noncompliance within such period, the Committee may, at its option, Record a Notice of Noncompliance against such Parcel, may enter upon such Parcel and remove the noncomplying Improvement to Property, or otherwise remedy the noncompliance, and the Applicant shall reimburse the Design Review Committee, upon demand, for all expenses, including attorneys' fees, incurred therewith. The Applicant and Owner of the Parcel shall have no Claim on account of the entry upon such Parcel and the removal of the non-complying Improvement therefrom.

5.4 Unsightly Conditions; Variances.

(a) Unsightly Conditions. If an Occupant, Owner, or Resident asserts or files a Claim that an Unsightly Condition exists on a Parcel, then the Design Committee shall determine

whether a condition on such Parcel constitutes an Unsightly Condition and may prescribe what action, if any, that the Owner of the Parcel must take with respect to such Unsightly Condition and the date by which the Owner must complete such remedial action.

(b) Variance from Requirements of Governing Documents. The Design Review Committee may authorize variances from compliance with the Governing Documents, including variances from restrictions on floor area, height, location, placement, or size of Improvements based upon aesthetic or environmental considerations, hardship, natural obstructions, topography, or such other circumstances as the Design Review Committee deems appropriate or relevant.

(c) Variance Procedure and Effect. Requests for a variance must be made in writing to the Design Review Committee, and if the Design Review Committee is willing to Approve a variance, then such Approval shall (i) be in writing and set forth conditions of, any limitations on such Approval, (ii) apply only to the Owner requesting the variance, (iii) not constitute an amendment, modification, release, termination, or waiver of the Design Guidelines, (iv) not evidence compliance of the requested variance with Applicable Law, it being the responsibility of the requesting Owner to determine such compliance, and (v) not constitute a precedent binding the Design Review Committee or the District to Approve subsequent requests for variances.

5.5 Design Review Committee Actions and Decisions. The actions taken by, and the decisions made by, the Design Review Committee and the rights of Owners with respect to such actions and decisions as set forth in this Article 5 and elsewhere in this Declaration are subject to the following:

(a) Approval and Review. The Design Review Committee shall review Improvement Plans, inspect Improvements, and take actions pursuant to this Article 5 for the limited purpose of determining whether such Improvement Plans and Improvements comply with the Design Guidelines. Approval by the Design Review Committee is not intended to, and does not constitute compliance (or evidence of compliance) with Applicable Laws governing the design and construction of improvements to real property and including laws relating to building codes, fire codes, health and safety codes, occupancy requirements, and permit issuance. It is the sole duty and responsibility of all Applicants and all Owners to comply with Applicable Law, to obtain building permits, construct Improvements that comply with building and fire codes, and to obtain certificates of occupancy as needed to occupy and use Improvements made by them to Townhomes.

(b) Final and Nonappealable Nature of Decisions. The Design Review Committee shall exercise its good faith, reasonable, and subjective judgment in making its decisions and determinations pursuant to this Declaration (including any determinations regarding application of the design criteria specified in Section 5.2(a) above, compliance of proposed Improvements with Design Guidelines, whether conditions on property constitute Unsightly Conditions, whether it should grant or withhold Approval of variances, and similar exercise of judgment). All decisions of the Design Review Committee shall be final and shall not be subject to appeal to the board of the District, and the District shall not have the authority, power, or right to reverse or require the revision of decisions made by the Design Review Committee.

(c) Release of Liability. There shall be no liability imposed on any member of the Design Review Committee or a Director or Officer for any Claim, damage, liability, or loss arising out of, based upon, or in any way related to the performance by the Design Review Committee of its duties hereunder and the exercise of its judgment. In reviewing any matter, the Design Review Committee shall not be responsible for reviewing, nor shall its Approval of an Improvement constitute compliance with, Applicable Laws (including building, fire, health, and safety codes, practices, and requirements) and the Governing Documents.

ARTICLE 6
Authority and Powers of District

6.1 Authority and Delegation. Declarant, for itself and its successors, hereby (a) assigns and delegates to the District the authority and power to (i) enforce the Covenants, Easements, and Restrictions and the other conditions, limitations, provisions, and terms of this Declaration and (ii) perform the duties and obligations of the District, as set forth herein, with respect to the Community Area, Improvements, and the Occupants, Owners, and Residents and (b) pursuant to C.R.S. § 32-1-1004(8)(a)(II), designates the District as the entity responsible for enforcement of the Covenants, Easements, and Restrictions established by this Declaration. By accepting title to a Parcel or occupying an Improvement, each Owner and Occupant accepts such designation by Declarant of the District as the entity responsible for enforcement of the Declaration and accepts the authority and powers granted to the District (including the authority, power, and right of the District to enforce the Covenants, Easements, and Restrictions, the Governing Documents and to establish the Regulations and Rules that govern the Community Area).

6.2 Authority and Powers. In addition to the authority and powers vested in the District by Applicable Law and the Special Districts Act, the District shall have the following authority and powers:

(a) Adoption of Regulations and Rules. In accordance with, and subject to, Applicable Law, the District shall have the authority and power to adopt, establish, and promulgate appropriate policies, procedures, regulations, and rules as the District deems appropriate, desirable, or necessary to (i) enforce this Declaration and (ii) maintain, repair, and replace the Common Area as and when necessary, in the discretion and judgment of the District.

(b) Delegation. At its option and as the District, in its discretion and judgment, deems advisable or necessary, the District may contract with, and delegate to, other metropolitan districts or to third parties to enforce this Declaration and to maintain, repair, and replace the Common Area as and when necessary, in the discretion and judgment of the District. Any agreement for professional management of the business of the District or any other contract providing for services by Declarant shall have a maximum term of one year and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than thirty days' prior Notice.

(c) Design Guidelines. The District shall have the right from time to time to (i) amend the Design Guidelines in order to better achieve the general planning and development objectives specified in the Design Guidelines, (ii) specify the circumstances under which the District

may waive strict application of limitations or restrictions under this Declaration, in whole or in part, if in the sole discretion of the District the strict application of such limitations or restrictions would be unreasonable or unduly harsh under specified circumstances or on a case-by-case basis, (iii) exempt certain Improvements to Property from the requirement for Approval, if such Approval is not reasonably required to carry out the purposes of this Declaration, and (iv) delegate to the Design Review Committee the authority, power, and right to amend the Design Guidelines without the prior Approval or review by the District.

(d) Easements and Entry onto a Parcel. The District and the District Parties shall have the benefit and use of all of the Easements created hereby and all other easements and rights-of-way established and reserved by Declarant in the Declaration. By accepting title to a Parcel or occupying a Residence, each Owner, Occupant, and Resident (i) grants the District and the District Parties the authority and irrevocable license to enter upon a Parcel, during business hours and upon reasonable notice, for the purpose of exercising its rights and performing its duties under this Declaration and (ii) releases and waives any Claims against the District and the District Parties arising under or relating to such entry, exercise of rights, and performance of duties hereunder.

(e) Enforcement. Subject to Applicable Law, the District shall have the authority, power, and right to enforce the Covenants, Easements, and Restrictions to the following with respect to this Declaration: (i) establish and levy fines against Owners who do not comply with the Covenants, Easements, and Restrictions as specified in this Declaration, (ii) pursue all remedies and rights available to special districts pursuant to the Special Districts Act including (A) the commencement of civil actions against Owners to collect such fines and specifically enforce this Declaration and (B) Recording, and enforcing by foreclosure, liens against the Townhomes of Owners who fail to comply with this Declaration, (iii) after reasonable prior Notice to the Residents, enter upon a Parcel for the purpose of installing, maintaining, repairing, or replacing Community Fences and Utility Equipment, (iv) without Notice to the owner of a Vehicle, remove and tow a Vehicle if the District, in its discretion, determines that such Vehicle poses a fire, health, or safety danger or threat, and (v) mitigate damage, injury, or loss in emergency circumstances.

(f) Supplemental Services. Subject to Applicable Law, the District shall have the authority and power, but not the obligation, to contract, on behalf and in the name of the Owners, with one or more contractors to supplement the following services to the extent they are not provided by the City: (i) snow removal in the Common Area, (ii) maintenance and repair of paving in the Common Area, and (iii) the pick-up and removal of recyclables, garbage and trash from Parcels and Common Area in the Community Area. If the District contracts with a contractor to provide such supplemental services, then the District shall determine, in its discretion, the conditions and terms of such contracts, the nature and type of supplemental services needed, and the extent, manner, and times at which such contractors will provide such supplemental services.

6.3 Committees and Fees.

(a) Committees. By resolution, the board of Directors may designate (i) two or more Directors to constitute an executive committee or other committee as designated in such resolution or (ii) Directors, Officers, or Owners to constitute a committee to perform such functions and serve such purposes as the board may determine. Such committees may exercise all authority as

the resolution shall set forth or shall be granted by statute, and may be abolished by majority vote of the Directors. No such committee shall have the power or authority to elect, appoint, or remove any Director or to take any other action not permitted by, or provided for in, the Special Districts Act.

(b) Design Review Committee. The District may delegate some or all of its authority, duties, and powers created and established by this Declaration to such committees as the board of Directors may determine and to a committee (the ***Design Review Committee***) created for such purpose from time to time. The District shall (i) appoint the members of the Design Review Committee who need not be Directors, Occupants, Officers, or Owners, (ii) establish such bylaws or other rules that will govern the manner and time at which the Design Review Committee will meet and conduct its affairs, (iii) establish the procedures, regulations, and rules by which the Design Review Committee will perform its duties and obligations under Article 5 (including establishing Design Review Fees as set forth in Section 6.3(c) below), (iv) have the right, from time to time, to amend, modify, replace, or supplement the Design Guidelines, (v) have the right to exempt certain types of Improvements from the requirements of Article 5, and (vi) have the authority, power, and right to delegate to the Design Review Committee some or all of its powers pursuant to this Section 6.3(b). If the District does not appoint or establish a Design Review Committee, then the District shall act as a design review committee and all references hereto to *Design Review Committee* shall mean and refer to the District.

(c) Fees. Without limiting the powers granted by the Special Districts Act, the District shall have the right to establish, impose, and collect (i) such charges and fees as are permitted to be assessed and charged by the Special Districts Act and (ii) a fee (a ***Design Review Fee***) to pay the cost and expense of the Design Review Committee and the District in reviewing an Application. In establishing the Design Review Committee, the District may provide for uniform Design Review Fees for similar types of Improvement to Property subject to the right of the District to vary from uniform Design Review Fees if necessary to reflect additional costs, expenses, and time based upon the estimated cost of the proposed Improvement to Property, the complexity of the Improvements and Improvement Plans being reviewed, and the anticipated costs to be incurred by the District in reviewing the application.

6.4 Estoppel and Waiver. No action, or failure to act, by any Benefited Party (including Declarant and the District) shall constitute (a) an acceptance by a Benefited Party of any liability for the enforcement of the Covenants, Easements, and Restrictions or the performance of the duties and obligations imposed by this Declaration or (b) an estoppel against, or a release or a waiver, with respect to, future action by a Benefited Party with respect to any of the Covenants, Easements, and Restrictions or other powers and rights of such Benefited Party hereunder.

6.5 Liability for District Action or Omission. The District, the District Parties, and the Benefited Party shall not (a) have any liability for any Claim, costs, damages, expenses, liabilities, or losses arising from, based upon, or resulting from the performance of, or the failure to perform, any duty imposed upon the District by this Declaration, (b) be responsible for reviewing, nor shall its Approval of an Improvement to Property constitute an Approval of, any aspect of the ownership or use of a Parcel with respect to (i) conformance with building and fire codes, industry practices or standards, or other Applicable Laws, (ii) the Governing Documents, or (iii) health and safety requirements and standards, or (c) have any liability for any Claim, costs, damages, expenses,

liabilities, or losses arising from, based upon, or resulting from (i) the failure of an Occupant, Owner, or Resident to maintain a Building, Parcel, or Townhome in the condition required by the Covenants and Restrictions or otherwise comply with the Governing Documents or (ii) the existence of an Unsightly Condition in the Community Area or any condition that any other Person asserts is an Unsightly Condition.

6.6 Resignation by District.

(a) Resignation Notice. A District may resign its duties pursuant to this Declaration at any time by Recording a Notice in which (i) the District identifies this Declaration by Recording Information, (ii) states that it is exercising its right to resign its duties hereunder, (iii) states the effective date of its resignation, (iv) designates a successor metropolitan district organized and existing pursuant to the Special Districts Act, and (v) the successor metropolitan district accepts such designation and agrees to act as District hereunder.

(b) Resignation Procedure. Upon the Recording of such Notice, (i) the metropolitan district resigning its duties hereunder shall turn over to its successor all books and records in its custody or possession regarding the Community within a commercially reasonable time following such Recording and (ii) the resigning metropolitan district shall not have any duties or obligations pursuant to this Declaration after the later to occur of the Recording of such Notice or the effective date of the resignation set forth in such Recorded Notice. Notwithstanding the foregoing and following the effective date of its resignation pursuant to this Section 6.6(b), the metropolitan district resigning its duties hereunder and its District Parties shall continue to have the benefit of Article 8 and Sections 5.5(c), 6.6, and 10.8.

6.7 Revisions. Notwithstanding anything to the contrary contained in this Declaration, the duties imposed on the District pursuant to this Article 6 and the other provisions of this Declaration may be amended, revised, or terminated only (a) in compliance with Article 9 and (b) with the prior Approval of the District if the effect of such amendment is to amend, increase, or modify the duties of the District or impose any financial duty, liability, or obligation on the District.

ARTICLE 7
Declarant Reservations and Rights

7.1 Duration of Reserved Rights. Declarant shall have, retain, and reserve the rights set forth in this Article 7, which reserved rights shall continue in full force and effect during the Declarant Rights Period. Acceptance of a deed by an Owner or occupancy of a Townhome by an Occupant shall constitute acceptance by such Occupant and Owner of the rights reserved by Declarant pursuant to this Article 7. As set forth in Section 10.1 below, Declarant may assign and convey any of the rights, reservations, and easements hereinafter set forth to a successor Declarant if such assignment or conveyance is set forth in a Recorded instrument.

7.2 Reserved Rights. Notwithstanding anything to the contrary in this Declaration and during the Declarant Rights Period, Declarant shall have, and hereby reserves, the following rights:

(a) Construction and Development Rights. Declarant shall have, and hereby reserves, the right to (i) develop the Common Area, Lots, and Parcels at such time, in such manner, in such order, and in such stages as Declarant may determine subject to such Approvals as may be required under Applicable Law, (ii) revise development decisions and Improvement Plans for Buildings and Townhomes (including the right to revise development and design decisions and withdraw specific development Improvement Plans), (iii) to combine Lots or Parcels, reconfigure Lots or Parcels, subdivide Lots or Parcels, or convert a Building, Lot, or Parcel to condominium ownership, and (iv) construct Townhomes of such design, floor area, location, size, and type subject to Applicable Law, the Governing Documents, and the requirements of Government Mortgage Agencies and the right of Declarant to revise such Improvement Plans based on market and other considerations.

(b) Construction, Development, Marketing, and Sales Activities. Declarant shall have, and hereby reserves, the right to conduct all construction, development, marketing, and sales activities as Declarants may determine advisable or necessary to complete the development of the Community, construct the Common Area and Townhomes planned by Declarant for the Community, and market and sell Townhomes to homebuyers. Such activities include conducting, constructing, maintaining, and operating (i) construction offices, construction storage yards, construction staging areas, parking areas for construction personnel, and related Improvements on any portion of the Community Area owned by Declarant, (ii) Improvements, construction and sales offices and trailers, parking areas, and similar facilities on any unimproved portion of the Community owned by Declarant, (iii) construction and development activities including (A) altering constructing, demolishing, and replacing Improvements, (B) cutting, excavating, filling, or grading land, and (C) constructing Improvements and Townhomes in the Community Area, (iv) marketing and sales activities in the Community Area (including advertising the Community, constructing and operating model homes, posting signs, and doing any other act or thing incidental to the development of Parcels and the advertisement, construction, lease, marketing, promotion, and sales of Townhomes in the Community), and (v) storage areas and facilities construction materials, supplies, equipment, tools, waste or other items on property within the Community Area that is owned by Declarant.

(c) Construction of Common Area. Declarant and the District shall have, and hereby reserve, the right, but not the obligation, to construct additional Improvements on the Common Area at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Owners.

(d) Creation and Grant of Easements. Declarant shall have, and hereby reserves, the right to create or grant permanent or temporary easements for access, drainage, Utilities, and other purposes incident to development and sale of the Community Area located in, on, under, over, and across the Common Area and Lots and Parcels owned by Declarant and Common Area.

(e) Use of Common Area, Lots, and Parcels. Declarant shall have, and hereby reserves, the right to reasonable use of the Common Area and Building, Lots, Parcels, and Residences owned by Declarant in connection with the promotion and marketing of the Community. Such use may include (i) erecting and maintaining on any part of the Common Area and on any Building, Lot, Parcel, or Residence owned by Declarant such signs, temporary buildings, and other structures as Declarant may deem necessary or proper in the promotion, marketing, and sale of real

property within the Community, (ii) Vehicles and equipment using portions of the Common Area and Parcels owned by Declarant for promotional purposes, (iii) permitting prospective purchasers of property within the boundaries of the Community Area who are not Owners to use Common Area at reasonable times and in reasonable numbers, and (iv) referring to the Common Area and the Community in the development, promotion, and marketing of property and Townhomes in the Community.

7.3 Designation of Successor Declarant. Declarant shall have, and hereby reserves, the right to assign some or all of its rights hereunder to a Principal Builder and the right to assign and designate a Person to succeed to some or all of the rights of Declarant as the declarant under this Declaration. Declarant may exercise this right by a Recorded instrument in which Declarant sets forth the Person who will become a successor to Declarant and any limitation on the Parcels or rights to which such successor shall succeed. Any assignment of the rights of Declarant shall be effective as of the date of Recording of the instrument effecting such assignment.

ARTICLE 8
Alternative Dispute Resolution

8.1 Alternative Dispute Resolution. Declarant intends by this Article 8 to encourage the amicable resolution of all Claims without the emotional and financial costs of litigation, and as provided in Section 8.2 below, the Persons (***Bound Parties***) bound by this Article 8 are (a) Declarant (including any successor declarant designated pursuant to Section 7.3), the District, Occupants, Owners, Residents, and any Person asserting a Claim by, through, or under any of such Persons. Notwithstanding the foregoing, Mortgagees enforcing rights pursuant to a Mortgage shall not be Bound Parties. Mortgagees and Mortgagors shall not be bound by the alternative dispute resolution procedures set forth in this Article 8 and shall have the right to enforce Mortgages, and resolve disputes regarding such Mortgages, at such time, in such forums, and in such manner as the Mortgagees and Mortgagors may determine.

8.2 Claims.

(a) Claim Resolution. Except as provided in this Section 8.2, Claims among or between Bound Parties arising under, based upon, in connection with, or otherwise regarding this Declaration, the Common Area, the District, the Governing Documents, and the Improvements shall be subject to this Article 8 and the Bound Parties shall resolve such Claims in the manner specified in Section 8.3.

(b) Exception to Claim Resolution. Notwithstanding anything to the contrary in this Declaration, unless all Bound Parties thereto otherwise agree, (i) a Claimant may assert a Claim or file a Claim Notice against only one Bound Party in a Claim, (ii) only one Claimant shall have the right to assert a Claim or file a Claim Notice against a Bound Party, (iii) other Bound Parties shall not have the right to join in, or seek recovery, in an Arbitration or other proceeding pending against a Bound Party unless all Bound Parties agree to their joinder, (iv) a Claimant cannot recover, or seek the recovery of, damages or relief on behalf of any Person other than such Claimant, and (v) a Claimant cannot claim, recover, or seek the recovery of, consequential, exemplary, or punitive damages.

(c) Exception to Claims of District. As set forth in Section 5.5(b), decisions of the Design Review Committee are final and not subject to appeal or challenge as a Claim pursuant to this Article 8 or otherwise. The District shall have the right to enforce the Covenants, Easements, and Restrictions by exercising its remedies and rights as specified in Section 6.2(e) without having to mediate or arbitrate such Claims pursuant to this Article 8. Notwithstanding the foregoing, if the District exercises its remedies and rights as set forth in Section 6.2(e) and an Owner contests such action or asserts a counterclaim, then, at its option, the District shall have the right to stay such proceeding pending resolution of the Claims asserted by an Owner by Arbitration or mediation pursuant to Section 8.3.

8.3 Procedure. Subject to Section 8.3(a) below, each Bound Party covenants and agrees to submit Claims to binding Arbitration as specified in this Section 8.3. By acceptance of a deed for a Parcel, each Owner agrees to abide by the terms of this Article 8, and by occupancy of a Townhome, each Occupant and Resident agrees to submit any Claims to the procedures specified in this Section 8.3. Any applicable statute of limitation shall apply to the alternative dispute resolution procedures specified in this Article 8.

(a) Amicable Resolution by Mediation. Before submitting a Claim Notice demanding resolution of a Claim by Arbitration, the Bound Parties shall make every reasonable effort to meet, confer, and resolve a Claim within forty-five days (the ***Mediation Period***) after a Bound Party initiates efforts to resolve a Claim by giving Notice (a ***Mediation Request***) requesting that the Bound Parties involved in such Claim mediate or otherwise meet to negotiate an amicable resolution (a ***Mediation***). Following the making of a Mediation Request, the participants to the Mediation shall (i) agree in writing that (A) participation in a Mediation is not an admission of any fact or liability or waiver of any Claim or defense and (B) any statement made during the course of a Mediation shall not be admissible into evidence in any subsequent Arbitration or proceeding, (ii) identify a Person to conduct the Mediation (a ***Mediator***), (iii) establish the procedures and rules that will govern such Mediation (including the manner in which the participants to the Mediation shall share its cost), and (iv) instruct the Mediator to reduce any successful resolution of a Claim to writing that the participants to the Mediation shall execute and thereafter perform. If the parties to the Mediation are unable to resolve a Claim amicably within the Mediation Period, then either participant in the Mediation may submit a Claim Notice, in which event the participants to the Mediation shall proceed as specified in Sections 8.3(b) and 8.3(c) below.

(b) Notice of Claim. If the Bound Parties are unable to resolve a Claim by Mediation on or before the expiration of the Mediation Period, then the Bound Parties shall resolve such Claim through mandatory, binding Arbitration. Notwithstanding the foregoing, Bound Parties may not give a Notice of a Claim and initiate Arbitration unless one or both of the Bound Parties have made a Mediation Request and the Mediation Period has expired without resolution of the Claim. Following the making of a Mediation Request and the expiration of the Mediation Period without an amicable resolution of the Claim, either participant to the Mediation (a ***Claimant***) may initiate Arbitration by giving a Notice of a Claim to the other Bound Parties (each, a ***Respondent***) in which the Claimant demands binding Arbitration pursuant to the procedures specified in Section 8.3(c). The Claim Notice shall state plainly and concisely (i) the nature of the Claim, including all Persons involved and role of the Respondent in the Claim, (ii) the factual and legal basis of the

Claim (*i.e.*, the facts underlying the Claim and the specific legal authority supporting the Claim), and (iii) the relief or remedy requested.

(c) Procedure for Resolution of Claims. Each Bound Party shall submit all Claims to mandatory, binding arbitration (***Arbitration***) conducted in accordance with the Colorado Uniform Arbitration Act, C.R.S. § § 13-22-201, *et seq.*, or such other Applicable Law as the Bound Parties may mutually agree. The procedure for the Arbitration shall be as follows:

(i) Arbitration. Within a commercially reasonable period following the giving of a Claim Notice, either Bound Party may initiate Arbitration in accordance with the rules established by the Arbitrator for such Arbitration. Any court having jurisdiction over a Claim may enforce any judgment upon the award rendered by the Arbitrator. Unless otherwise agreed by the Parties in writing, there shall be one Arbitrator who shall be a retired Colorado state court judge, a retired Federal judge, or an attorney licensed to practice law in the State of Colorado for at least ten years. To the extent feasible, the Arbitrator shall have expertise in the area of the Claim including legal expertise if legal issues are involved.

(ii) Arbitration Award. The Arbitrator shall not have the authority to make, and Claimant shall not be entitled to claim or receive, consequential, exemplary, or punitive damages. The Arbitrator shall make an award that shall include detailed written findings of fact and conclusions of law. Except as required by law or for confirmation of an award, neither a Bound Party nor an Arbitrator may disclose the existence, content, or results of Arbitration without the prior written consent of all Parties.

(iii) Arbitration Rules. The Colorado Rules of Civil Procedure shall govern disclosure, discovery, and other prehearing proceedings in the Arbitration, and the Colorado Rules of Evidence shall govern the admissibility of evidence at any Arbitration hearing. Subject to the foregoing, the Arbitrator shall conduct the Arbitration in accordance with (A) the Construction Industry Arbitration Rules of the American Arbitration Association Industry Arbitration Rules and the Procedures for Large, Complex Construction Claims of the American Arbitration Association then in effect, (B) if the Bound Parties select an Arbitrator other than the American Arbitration Association, then the rules selected by such Arbitrator, or (C) such other rules as the Bound Parties may agree in writing. The Arbitration shall be closed to the public, the decision of the Arbitrator shall not be published, and the decision by the Arbitrator shall not be cited as precedent in subsequent Claims between the Bound Parties participating in the Arbitration or in Claims involving other Bound Parties.

(iv) Decision of Arbitrator. The Arbitrator shall issue an award within thirty days of the completion of an Arbitration hearing or if post-hearing briefs are submitted, within thirty days of receipt of briefs or other post-hearing submittals by the Bound Parties. If the Bound Parties file post-hearing briefs, the Bound Parties shall submit such post-hearing briefs within twenty days of the completion of the hearing and the Arbitrator shall not grant any extensions of time for the filing of briefs. The Bound Parties shall comply with the award of the Arbitrator, and if a Bound Party does not comply with the award, then judgment upon an Arbitration award may be entered and enforced in any court having jurisdiction over such matters in the City and County of Denver, Colorado.

(v) Cost and Expense of Arbitration. The Bound Parties participating in Arbitration shall share the costs of such Arbitration, and if the Arbitrator requires payment of costs and fees in advance fees, then the Bound Parties will pay those costs and fees equally. If one Bound Party pays more than its proportionate share of the costs and fees of the Arbitration, then the Arbitrator shall, in the Arbitration award, make such adjustments as are necessary so that each Bound Party shall have paid its equal share of the costs and fees of Arbitration. Notwithstanding the foregoing, if a Bound Party unsuccessfully contests the validity or scope of Arbitration in a court of law or in Arbitration, then 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 Bound Party. If a Bound Party incurs costs and attorney's fees in enforcing the award of an Arbitrator, such Bound Party shall be entitled to an additional award of its costs and reasonable attorneys' fees incurred in the enforcement of such an award.

8.4 Construction Defect Action Reform Act. Declarant does not intend that the provisions of this Declaration be applied as an express waiver of, or limitation on, the legal rights, remedies, or damages of a property owner provided by (a) the Construction Defect Action Reform Act (C.R.S. §§ 13-20-801 *et seq.*), (b) the Colorado Consumer Protection Act as specified in C.R.S. § 13-20-806, (c) the ability of a homebuyer to enforce such legal rights, remedies, or damages within the time provided by applicable statutes of limitation or repose, or (d) other Applicable Law. Damages claimed or recovered by an Owner in connection with the Townhome shall be limited as specified in the foregoing statutes and other Applicable Law.

8.5 Consent to Mandatory Binding Arbitration. By acceptance of title to a Townhome, whether by a deed from the Declarant or from a subsequent Owner, each Owner acknowledges, consents to, and agrees to (a) the resolution by binding, mandatory Arbitration of all Disputes between Owners and between Owners and Bound Parties that arise in connection with, are based upon, or are otherwise related to the Benefited Parties, the Buildings, the Community, the Common Area, the Declarant, the District, the District Parties, the Lots, the Parcels, the Townhomes, and this Declaration and (b) conduct such Arbitration pursuant to the Dispute Resolution Procedures set forth in this Article 8. This Declaration shall not extend any rights or obligation under this Declaration to any Occupant that is not also an Owner.

ARTICLE 9
Term, Modification, and Rights of Mortgagees

9.1 Term of Declaration. Unless amended as herein provided, the term (as extended, the ***Term***) of this Declaration shall begin on the date of its Recording and shall continue thereafter for (a) forty years after Recording and (b) thereafter for additional periods of ten years each unless, on or before the expiration of the then current extension of the term, two-thirds of the Owners and two-thirds of Mortgagees execute, deliver, and Record an instrument terminating the Declaration. If the requisite Owners and Mortgagees Approve such a termination, the Recorded instrument effecting such termination shall specify the effective date of such termination, which cannot be before the expiration of the then current Term of the Declaration.

9.2 Amendment of Declaration. The Owners may amend this Declaration only by a Recorded instrument executed, delivered, and Recorded by the District in which the District (a) sets

forth the provisions of the Declaration being amended, (b) references this Declaration by Recording information and the description of the Community Area set forth in Attachment 1, (c) certifies that two-thirds of the Owners have Approved the amendment, with the Approval of Owners being based on one vote for each Parcel, (d) certifies that two-thirds of the Mortgagees have Approved the amendment, with the Approval of Mortgagees being based on one vote for each Parcel encumbered by a Mortgage, (e) certifies that written evidence of Approvals by the requisite number of Owners and Mortgagees are available for inspection at the offices of the District during normal business hours, (f) with respect to amendments made during the Declarant Rights Period, certifies that Declarant has Approved such amendment as evidenced by the execution and acknowledgement by Declarant of the Recorded instrument of amendment, (g) with respect to amendments made after the Declarant Rights Period, certifies that the Declarant Rights Period has expired, and (h) with respect to amendments of Article 6, the District has Approved such amendment as evidenced by the execution and acknowledgement by the District of the Recorded instrument of amendment. An instrument purporting to amend this Declaration that does not comply with the requirements of Section 9.2 shall be null, void, and of no force and effect. Owners may amend this Section 9.2 only if the Owners have received the Approvals set forth in clauses (a) through (h) of this Section 9.2.

9.3 First Mortgagee Approval. Notwithstanding any other provisions of this Declaration to the contrary, the Owners shall not seek to abandon or terminate the Declaration, whether by act or omission, or amend any provisions of this Declaration that are for the express benefit of First Mortgagees without the prior Approval and favorable vote of (a) at least two-thirds of the Owners with the votes of Owners being based on one vote for each Parcel owned, (b) at least two-thirds of the First Mortgagees of Parcels with the votes of First Mortgagees being based on one vote for each First Mortgage held, (c) HUD or VA or both, as the case may be, if either agency has insured or guaranteed a First Mortgage, and (d) with respect to amendments made within the Declarant Rights Period, has received the prior written consent of the Declarant as evidenced by the execution and acknowledgement by Declarant of the Recorded instrument of amendment. Unless a First Mortgagee, HUD, or the VA has responded negatively to a request for the abandonment or termination of this Declaration within sixty days after receipt of Notice requesting Approval, such First Mortgagee, HUD, or VA, as applicable, shall be deemed to have given its Approval and favorable vote of any of the matters requiring their Approval pursuant to this Article 9. Any instrument purporting to abandon or terminate the Declaration or amend any provision of the Declaration that is for the express benefit of First Mortgagees shall comply with the requirements of Section 9.2 and shall be null, void, and of no force and effect if such instrument does not comply with the requirements of Section 9.2.

9.4 Special Rights of First Mortgagees. Any First Mortgagee that has made a written request with the District to be notified of any proposed action requiring the Approval of First Mortgagee shall be entitled to (a) receive Notice from the District of any default by the Mortgagor of such Parcel in the performance of the Mortgagor's obligations under this Declaration, which default is not cured within sixty days after the District learns of such default, (b) examine the books and records of the District during normal business hours, and (c) receive sixty days' prior Notice of any proposed material amendment to this Declaration requiring the Approval of First Mortgagees.

9.5 First Mortgagee Exemptions. Any First Mortgagee who obtains title to any Parcel pursuant to the remedies provided in the Mortgage held by such First Mortgagee or pursuant to any

foreclosure of Mortgage or by deed or assignment in lieu of foreclosure shall be exempt from (a) imposition of any transfer fees pursuant to this Declaration and (b) any right of first refusal if any such right of first refusal is ever contained in this Declaration or in any Declaration.

9.6 Amendment Required by Government Mortgage Agencies. Notwithstanding the provisions of this Article 9 and during the Declarant Rights Period, any covenant, condition, equitable servitude, restriction, or provision contained in this Declaration that any Government Mortgage Agency requires to be amended or repealed may be amended or repealed solely by Declarant and no Approval, consent, or vote of any other Person or entity shall be required, other than the prior Approval of the VA or FHA if either agency has insured or guaranteed a Mortgage on a Parcel. Any such amendment or repeal shall be effective upon the Recordation of a certificate, executed by Declarant, setting forth the amendment or repeal in full.

ARTICLE 10
General Provisions

10.1 Assignees and Successors of Declarant. This Declaration shall be binding upon, and inure to the benefit of, (a) the Owners and their respective assigns, beneficiaries, devisees, heirs, representatives, and successors that acquire title to a Parcel and (b) any Person designated as a successor Declarant pursuant to a Recorded instrument as to all, or some, of the rights of Declarant under this Declaration as set forth in Section 7.3.

10.2 Attorneys' Fees and Costs. If Declarant or the District commences an action or Arbitration proceeding to enforce any of the Covenants, Easements, and Restrictions or any of the other terms of this Declaration and the arbitrator or judge in such proceeding determines that Declarant or the District is the substantially prevailing party, then the parties to such proceeding shall request the court or arbitrator to award Declarant or the District its costs and reasonable attorneys' fees incurred by it in such proceeding.

10.3 Common Interest Act. Declarant intends that the Community created hereby, the Community Area, and this Declaration are subject only to Sections §§ 38-33.3-105 to 38-33.3-107 of the Common Interest Act because this Declaration does not impose any liability on any portion of the Community Area for the payment of common expenses. To the extent any liability is imposed on any portion of the Community Area for the payment of common expenses, Declarant hereby limits the annual liability of any such assessment or liability to an amount not to exceed $400 per year, as adjusted pursuant to Section 38-33.3-116 of the Common Interest Act.

10.4 Computation of Time. In the computation of time from a specified date to a later specified date, the word *from* means *from and including*; the words *to* and *until* each mean *to but excluding*; and the word *through* means *to and including*. Unless otherwise specified, all references in this Declaration to times of day shall be references to time in Denver, Colorado (daylight or standard, as applicable). The term *business day* means any day other than a Saturday, a Sunday, or other nationally recognized holiday. If any date upon which performance of a term, covenant, or provision of this Declaration is to occur is a date other than a business day, then the Parties shall extend the date for such performance to the next succeeding business day.

10.5 Construction of Terms. The definitions of terms in this Declaration shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The Parties shall construe, deem, and interpret (a) the words *include*, *includes*, and *including* as being followed by the phrase *without limitation*, (b) the word *will* as having the same meaning and effect as the word *shall*, (c) any definition of, or reference to, this Declaration or other agreement, document, or instrument as referring to this Declaration or other agreement, document, or instrument as amended, supplemented, or otherwise modified, (d) any reference in this Declaration to any Person as including the assigns, representatives, and successors of such Person, (e) references in this Declaration to articles, sections, and attachments as referring to the articles and sections of, and attachments to, this Declaration, (f) references to any law as referring to all statutory and regulatory provisions amending, consolidating, interpreting, replacing, or supplementing such law, and (g) article, attachment, and section headings in this Declaration as being for convenience of reference only and not affecting its interpretation or meaning.

10.6 Disclaimer of Representations or Warranties. Except as specifically made in writing, Declarant, the Directors, the District Parties, the Districts, the Officers, and the Principal Builders and their respective agents, consultants, directors, officers, and shareholders have not made, and by this Declaration do not make, and hereby disclaim, any representation or warranty of any kind, nature, or type (including expressed or implied representations and warranties), regarding (a) the Community, the Community Area, the Lots, and the Parcels, (b) any Building, Townhome, or other Improvement in the Community, (c) compliance of the Community Area with Applicable Laws, (d) the fitness of the Community Area and the Townhomes constructed thereon for their intended use (including their physical condition and zoning), (e) the development and use of surrounding property, (f) the maintenance and the cost of maintaining the Common Area, the Buildings, the Lots, the Parcels, and the Townhomes, (g) the market value and marketability of Townhomes, (h) the mill levies assessed (or to be assessed), and fees charged (or to be charged) by the District or other Government Agencies on Townhomes, and (i) the density, kind, nature, or type of Parcels that the Community will contain.

10.7 Governing Law. The laws of the State of Colorado shall govern the construction, interpretation, and enforcement of this Declaration, the Governing Documents, and the rights of the Benefited Parties (including Declarant and the District), Occupants, Owners, and Residents.

10.8 Governmental Immunity. No Person shall construe or interpret this Declaration as a limitation, modification, or waiver, in whole or in part, of any governmental immunity that may be (a) afforded, or available, by law to the District, Directors, members of the Design Review Committee, Officers, and Persons acting on behalf of the District and the District and (b) afforded, or available, to public entities and public employees pursuant to the Colorado Governmental Immunity Act, C.R.S §§ 24-10-101, *et seq.*

10.9 Interpretation of Declaration. Except for judicial construction, the District shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the construction or interpretation of the provisions of this Declaration by the District shall be binding, conclusive, and final as to all Persons and property benefited or bound by the covenants and the provisions of this Declaration.

10.10 Invalidity of Any Provision. If any court or arbiter concludes that any condition or covenant is invalid or void, then Declarant, Occupants, Owners, and District, as the case may be, shall (a) reform such condition or covenant in a manner that will result in its being binding and valid, and (b) deem said condition or covenant severable from the remainder of this Agreement that does not affect any other condition or covenant of this Declaration. No covenant or other provision specified in this Declaration shall be invalid due to its scope or breadth. If a court concludes that such provision is invalid, then the Persons affected by such conclusion shall deem it valid and applicable to the extent of the scope or breadth permitted by law.

10.11 Limitation on Liability. Declarant, the Directors, the District Parties, the Districts, the Officers, and the Principal Builders and any agent, director, Director, employee, member, manager, owner, officer, Officer, or representative of any of them shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

10.12 Notices. Unless specified otherwise in this Declaration, any Approval, consent, demand, notice, or other communication (collectively, a ***Notice***) that a Person may or must give pursuant to this Declaration must be made in writing and shall be addressed to (a) Declarant, a District, Principal Builder, or the District at their respective principal places of business, (b) an Occupant at its Townhome, (c) an Owner at the Townhome, or (d) such other address as a Person may designate in writing to the District for the delivery of Notice. Bound Parties, Declarant, Districts, Occupants, Owners, Parties, Principal Builders, and the District shall deem a properly addressed Notice given on (*w*) the date personally delivered, (*x*) the date sent by email if the recipient of the Notice has given an email address to the sender for such purpose, (*y*) the next business day after given to an overnight delivery service for next day delivery, and (*z*) three business days after the date deposited in the U.S. mail, postage prepaid.

10.13 Owner Information. All Owners of a Townhome shall provide the District with the address to which the District shall deliver assessments and Notices under this Declaration. The Owner (or the representative of an Owner) shall furnish such registered address to the secretary of the District within ten days after transfer of title to the Townhome to such Owner or Owners. In addition, each Owner shall register with the District the names and addresses of all Occupants within ten days after execution of any Lease for any Townhome (or portion of a Townhome). Such registration shall be in written form and signed by all of the Owners of the Townhome or by such persons as are authorized to represent the interests of all Owners of the Townhome.

10.14 References in Deeds. Deeds to and instruments affecting any Townhome or any other part of the Community Area may contain the provisions specified in this Declaration by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the conditions, covenants, easements, reservations, and restrictions specified in this Declaration shall bind all Persons claiming through any deed or other instrument and its assigns and successors.

10.15 Rule Against Perpetuities. If, and to the extent that, any of the covenants or other provisions in this Declaration would otherwise be unlawful or void for violation of the rule against perpetuities, the rule restricting restraints on alienation, or any other applicable statute or common

law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned shall continue and endure only until the expiration of a period of twenty-one years after the death of the last to survive of the class of persons consisting of the descendants of John Wright Hickenlooper, Jr., living at the date of the Recording of this Declaration.

10.16 Special Districts Act. Pursuant to Section 32-1-1004(8)(a)(II) of the Special Districts Act and as more particularly specified in Article 6, Declarant intends, and hereby designates, the District as the entity responsible for the enforcement of the conditions, covenants, reservations, and restrictions set forth herein with respect to the Community Area. This Declaration sets forth the conditions, provisions, and terms of such assignment and designation in Article 6.

10.17 Waiver. No delay or omission to exercise any power or right accruing upon any default, omission, or failure of performance under this Declaration shall impair any power or right or shall be construed to be a waiver of such power or right, but the holder of such power and right may exercise it from time to time and as often as may be deemed expedient. The conduct, custom, or course of dealing of a Person shall act as a waiver of a power or right, and to bind a Person, all waivers must be in writing and signed by the Person waiving such power or right.

10.18 Waiver of Jury Trial. Each Bound Party shall submit all Claims to binding Arbitration in accordance with Article 8. To the extent a Claim cannot be arbitrated or is not subject to Arbitration, then each Bound Party waives the right to a jury trial in any action or proceeding based upon or related to any aspect of this Declaration or other agreement or document executed or delivered in connection with the Community Area.

10.19 Violations of Law. Any violation of any Applicable Law pertaining to the ownership, occupation, or use of any property within the Community Area shall be a violation of this Declaration and shall be subject to the enforcement procedures specified in this Declaration.

[*Signature and acknowledgment of Declarant are on the next page*]

THE DECLARANT has executed and delivered this Declaration of Covenants, Conditions, and Restrictions for Oak Crest.

CLAYTON PROPERTIES GROUP II, INC.,
a Colorado corporation

By: _____
David Bracht, Assistant Secretary

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 28TH day of SEPTEMBER, 2018, by David Bracht as Assistant Secretary of Clayton Properties Group II, Inc., a Colorado corporation.

Witness my hand and official seal.

ELYSE J RAMSEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20024027326
MY COMMISSION EXPIRES 08/23/2022

Elyse J Ramsey
Notary Public
My Commission Expires: Aug 23, 2022

ATTACHMENT 1
(Legal Description of Community Area)

The following described real property, located in the City and County of Denver, State of Colorado, is the Community Area and is subject to the conditions, provisions, and terms of this Declaration:

Lots 1 through 13, inclusive,
GREEN VALLEY RANCH FILING NO. 72,
Recorded on October 19, 2017, at Reception No. 2017137551,
City and County of Denver, Colorado.

ATTACHMENT 2

(Easements, Licenses, and Other Matters of Record)

1. Denver Water Letter recorded November 24, 1998, at Reception No. 9800197190 and at Reception No. 9800197191.

2. Ordinance No. 666 Series 2000 recorded September 8, 2000, at Reception No. 2000129828.

3. Development Agreement Green Valley Ranch North recorded February 28, 2003, at Reception No. 2003032407.

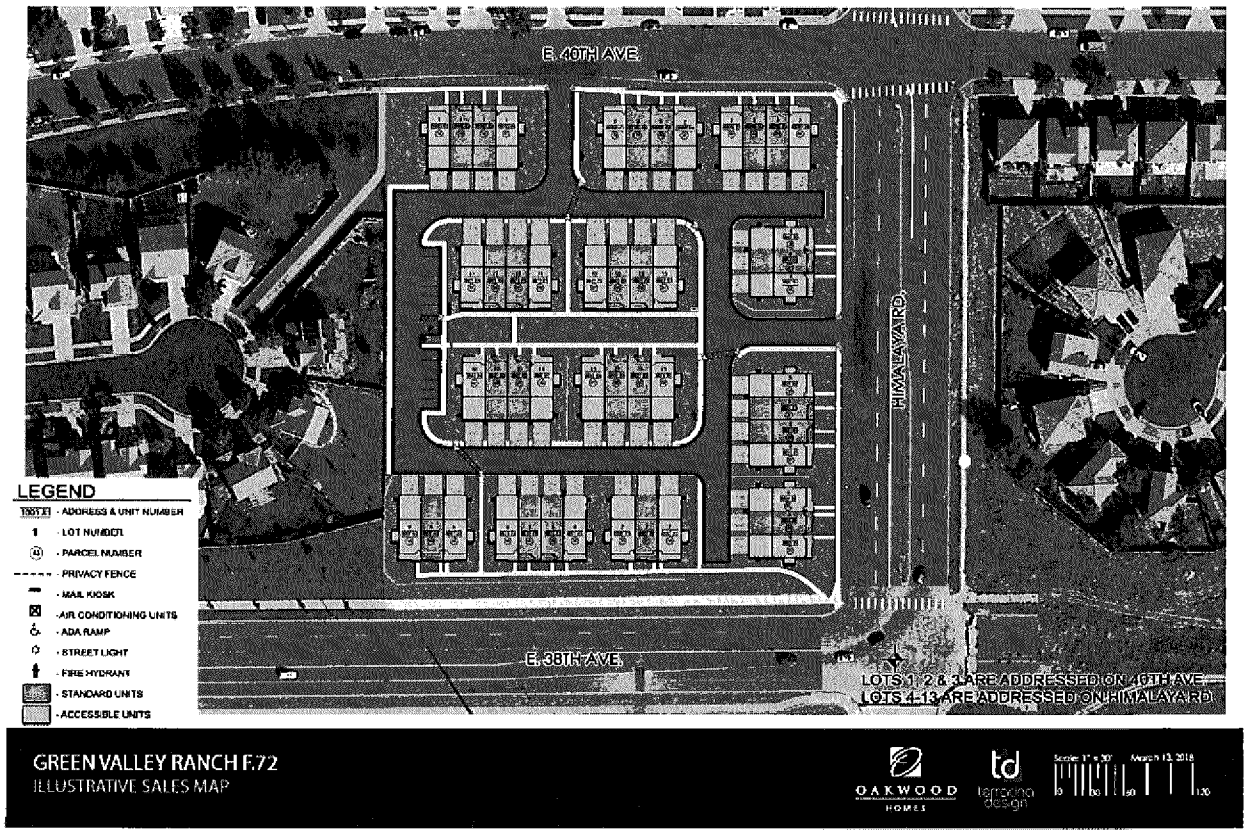
4. Public Service Company of Colorado Easement recorded March 24, 2006, at Reception No. 2006046841

5. Easement Agreement to City and County of Denver Board of Water Commissioners, recorded at Reception No. 2001045598.

6. Ordinance No. 20160508, Series of 2016, Changing the Zoning for 3801 Himalaya Road recorded September 1, 2016, at Reception No. 2016118067.

7. Denver Assessor's Parcel Reconfigurations that have been, or will be Recorded, with respect to each of the Lots.

ATTACHMENT 3
(Depiction of Lots and Parcels)



ATTACHMENT 4
(List of Lots and Parcels)

Lot	Parcel	Address
1	14	19990 E. 40th Avenue, No. 1
1	15	19990 E. 40th Avenue, No. 2
1	16	19990 E. 40th Avenue, No. 3
1	17	19990 E. 40th Avenue, No. 4
2	18	20000 E. 40th Avenue, No. 1
2	19	20000 E. 40th Avenue, No. 2
2	20	20000 E. 40th Avenue, No. 3
2	21	20000 E. 40th Avenue, No. 4
3	22	20090 E. 40th Avenue, No. 1
3	23	20090 E. 40th Avenue, No. 2
3	24	20090 E. 40th Avenue, No. 3
3	25	20090 E. 40th Avenue, No. 4
4	26	3851 Himalaya Road, No. 1
4	27	3851 Himalaya Road, No. 2
4	28	3851 Himalaya Road, No. 3
5	29	3821 Himalaya Road, No. 1
5	30	3821 Himalaya Road, No. 2
5	31	3821 Himalaya Road, No. 3
5	32	3821 Himalaya Road, No. 4
6	33	3805 Himalaya Road, No. 1
6	34	3805 Himalaya Road, No. 2
6	35	3805 Himalaya Road, No. 3
7	36	3807 Himalaya Road, No. 1
7	37	3807 Himalaya Road, No. 2
7	38	3807 Himalaya Road, No. 3
8	39	3811 Himalaya Road, No. 1
8	40	3811 Himalaya Road, No. 2
8	41	3811 Himalaya Road, No. 3
8	42	3811 Himalaya Road, No. 4
9	43	3817 Himalaya Road, No. 1
9	44	3817 Himalaya Road, No. 2
9	45	3817 Himalaya Road, No. 3
10	46	3841 Himalaya Road, No. 1
10	47	3841 Himalaya Road, No. 2
10	48	3841 Himalaya Road, No. 3
10	49	3841 Himalaya Road, No. 4
11	50	3871 Himalaya Road, No. 1
11	51	3871 Himalaya Road, No. 2
11	52	3871 Himalaya Road, No. 3
11	53	3871 Himalaya Road, No. 4
12	54	3861 Himalaya Road, No. 1
12	55	3861 Himalaya Road, No. 2
12	56	3861 Himalaya Road, No. 3
12	57	3861 Himalaya Road, No. 4
13	58	3831 Himalaya Road, No. 1
13	59	3831 Himalaya Road, No. 2
13	60	3831 Himalaya Road, No. 3
13	61	3831 Himalaya Road, No. 4

Notes to Attachment 4:

All Lots are in Green Valley Ranch Filing No. 72, and all Parcels are established by Denver Assessor's Parcel Reconfiguration that have been, or will be Recorded, with respect to each of the Lots.