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MS-21-006

DECLARATION OF COVENANTS FOR SKYFALL SUBDIVISION

Ramses II Properties, LLC ("Declarant") is the sole owner of real property more particularly described as being 20 acres located in the NW¼ NW¼ of Section 21, Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, also known as 7965, 7975, and 7985 Burgess Road, Colorado Springs, Colorado 80908, and depicted on plat map attached **Exhibit A** and incorporated by this reference known as the Skyfall Subdivision (the "Subdivision"). The Declarant desires to place limited protective covenants, conditions, restrictions, and reservations upon the Subdivision to protect the Subdivision's quality residential living environment, to protect its desirability and value, and to ensure compliance with all applicable court decrees concerning water and water rights to be utilized within the Subdivision.

The Declarant hereby declares that all of the Subdivision as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value and desirability of the Subdivision, and for assurance of legal water usage, and all of which shall run with the land and be binding on and inure to benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns.

Certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception number noted below, and referred to in this Declaration of Covenants as pertaining to the Subdivision. This includes the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree concerning underlying groundwater and approval of a Plan for Augmentation as entered by the Water Court, Water Division No. 2 in Case No. 20CW3070 recorded at Reception No. 221141378 ("Augmentation Plan" or "Water Decree"), attached hereto as **Exhibit B**.

NOW, THEREFORE, the following Declaration of Covenants is made:

1. Shared Access Driveway. Lots 1, 2, and 3 shall be accessed through a perpetual nonexclusive thirty-five (35') access easement ("Easement" or "Shared Access Driveway"), over Lots 1 and 2, as depicted on the attached Plat. The Shared Access Driveway shall be for the purpose of vehicular, equestrian,

and pedestrian ingress, egress, provision of utilities, and easement maintenance upon, over, and through Lots 1 and 2 for the benefit of all Lots.

A. Right of Enjoyment. No Lot Owner shall cause to be constructed, built, or placed a building, structure, object, tree, shrub, fence, landscaping, or other improvement on or within the Shared Access Driveway which restricts any Lot Owner's access or use and enjoyment of the Shared Access Driveway. A Lot Owner shall have the right to remove all improvements from the Shared Access Driveway which interfere with the use and enjoyment of the Easement. The fence crossing the shared access drive between Lot 2 and Lot 3 will provide gate access. If Lot Owners are required to disturb the surface of the Shared Access Driveway for construction, maintenance, or operations, then they shall restore the surface to a reasonable pre-disturbance condition.

B. Use of the Shared Access Driveway. The Access Easement may be utilized by the Lot Owners for all purposes of ingress, egress and access to their respective properties, including residential and commercial purposes, and for purposes of installation and provision of utilities, as otherwise consistent with this Declaration. Lot Owners shall have the right to use and fully enjoy the Shared Access Driveway; provided, however, that the Lot Owner(s) may not use, or allow the use of, the Easement in any way that would interfere with any other Lot Owner's full use and enjoyment of the Shared Access Driveway, nor may any Lot Owner take any action which would act to endanger any of the other Lot Owner's improvements and appurtenances thereto at risk of damage.

C. Responsibility of Shared Access Driveway. The Lot Owners shall participate in maintenance and repair of the Shared Access Driveway only to the extent the Owner(s) utilizes all or a portion of such Easement for the use and enjoyment of their respective property. The Owner of Lot 3 is solely responsible for the forty (40) foot access drive as depicted on the attached Plat.

D. Maintenance of Shared Access Driveway. It shall be the duty and obligation of each Owner of a Lot within the Subdivision to maintain the shared access right-of-way as depicted on the attached Plat ("Shared Access Driveway"). The Shared Access shall be equally maintained by the Lot Owners benefiting therefrom, and each Lot Owner shall each pay an equal portion of maintenance and repair costs, unless the expense to repair is attributable to a specific Lot Owner. The costs of maintenance and repair will be allocated on an equal basis among the Lot Owners based upon each Lot Owner's access to their respective Lots representing a third of the uses of the Shared Access Driveway. Should any of the Lots be lawfully subdivided, such maintenance cost allocation may change based upon the number of users/Owners of said Shared Access Driveway. "Maintenance" or "repair" includes, but is not limited to, graveling, paving, draining, removing snow, clearing, or providing any other maintenance or repair-type service

however defined, on, or within, the Shared Access Driveway. The Shared Access Driveway shall, at a minimum, meet current county standards for gravel or paved driveways, as appliable, though no Lot Owner shall have the ability or authority to require the other Lot Owner(s) to participate in an upgrade of the Shared Access Driveway from its current condition, or to repair or replace with other more costly materials. The Shared Access Driveway will, at all times, be kept in passable condition without potholes, sinkholes, obstructions, or other unstable or unpassable conditions. The Shared Access Driveway may be paved if the sharing parties agree to share the cost of paving, or if one party agrees to bear the total cost for the pavement. In no case shall the Shared Access Driveway fall below the county standard for access drives.

E. Determination of Necessary Maintenance. Shared Access Driveway maintenance and improvements will be made whenever necessary to maintain the Shared Access Driveway in good operating condition and to insure the provision of safe access by the undersigned, their guests, governmental agencies, utility providers, and emergency service providers and vehicles. The Shared Access Driveway must comply with the requirements of all local government ordinances and laws. The Lot Owners will designate a single representative ("Owner Representative") to seek out bids for the maintenance and improvements, and all Lot Owners must agree before accepting a bid for any maintenance or improvement. The Owners shall cooperate in determining equitable allocation of Shared Access Driveway maintenance costs, and shall resolve any disputes concerning the same in the manner provided by this Declaration.

F. Prepayment. Prepayment of maintenance and improvement costs will be made to the Owner Representative prior to initiation of such maintenance and improvement work. The Owner Representative shall provide a written acceptance of payment for the maintenance and improvement costs to the pre-paying party upon receipt of the prepayment funds. Should one Lot Owner elect to undertake maintenance or repairs for which the other Lot Owner has not agreed or prepaid, such funding Lot Owner may seek reimbursement of the other Lot Owner's equal allocation in any manner provided at law and/or in this Declaration for dispute resolution, though such funding Lot Owner advances such funds at their own risk pending such resolution.

2. General Covenants. All real property within the Subdivision are subject to the limitations contained in this paragraph 2 in order to preserve the desirability, attractiveness, and value of property in the Subdivision, to the benefit of all Lot Owners.

A. Property Uses. All Lots shall be used for private residential purposes, and no portion of the Subdivision shall be used at any time, either

temporarily or permanently, for any other purpose. Notwithstanding the foregoing, home-office type purposes may be permissible under El Paso County zoning and land use regulations applicable to the Subdivision, provided that such activities do not result in excessive traffic, parking, or any offensive or noxious activities, or other wise jeopardize the character of the Subdivision, and the business conducted is clearly secondary to the residential use of the Lot.

B. Construction Type. All construction shall be new. No building previously used at another location, nor any building or structure originally constructed as a "RV" or "mobile home" type dwelling, or manufactured housing (to the extent such structures have the appearance of "mobile homes" or "doublewides"), nor domes, may be moved onto any Lot within the Subdivision, except as expressely provided herein for temporary buildings.

C. Construction Completion. All construction work shall be completed within a reasonable period of time, and shall be prosecuted diligently and continuously from the time of commencement until fully completed. "Commencement of Construction" for a building is defined as the obtaining of necessary building permits, if any, and for the undertaking of any visible work, including storage of building materials.

D. Dwelling Area Requirements/Limitations. No main dwelling structure shall be constructed with a finished living space of less than four thousand (4,000) square feet, exclusive of open porches and garages.

E. Temporary Buildings. A moveable or temporary house, trailer, tent, garage, or other outbuilding shall not be placed or erected on a Lot or used for residential occupancy. A temporary structure may be placed on a Lot for the storage of building materials during construction.

F. Accessory Buildings. Any accessory buildings, outbuildings, or other structures shall be constructed in an architecturally pleasing manner, and shall be consistent with the finishes and exterior of the main dwelling structure. Metal and pre-manufactured storage sheds will not be allowed, except to the extent that they likewise blend in with the overall architecture of the main dwelling structure. Any such accessory buildings, outbuilding, or other structures shall be placed on permanent foundations.

G. Maintenance of Lots. It shall be the duty and obligation of each Owner of a Lot within the Subdivision, at such Owner's expense, to beautify and keep neat, attractive, and in good order such Owner's residence and the exterior portions of the dwelling thereon, and to maintain, repair, and replace the same.

H. Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any kind on a Lot, the Lot Owner thereof shall restore or replace the damage or destruction to original, or better, Lot conditions, so as to present a pleasing and attractive appearance. All such restoration, or demolition and removal, shall be completed within one (1) year of the event causing the damage or destruction.

I. Antennas. Visible antennas are prohibited. Attic antennas inside any dwelling (as opposed to roof antennas) are effective, are less vulnerable to damage, and are encouraged. Aerials, antennas, or other devices for the reception of radio, television, microwave device, or other electronic signals may not be mounted on the exterior of dwelling or accessory building. Only devices that preclude unattractive views from adjoining Lots within the Subdivsion, and adhere to Federal Communications Commission (FCC) standards, shall be permitted.

J. Solar Collectors. Solar collectors or other solar devices are permitted so long as they are designed and installed to blend in with the overall architecture of other improvements on the Lot and cannot be ground level freestanding. Any roof or wall-mounted collectors or solar devices must be built-in to the roof or wall, be flush with, and of the same or substantially similar pitch as, the adjacent portions of the building, and be architecturally compatible with the building upon which they are affixed. Solar collectors may be mounted to standing seam metal roofs through attachment at the standing seams.

K. Trailers, Campers, Boats, and Other Vehicles. No boat, trailer, camper (not installed on its supporting vehicle), tractor, commercial vehicle, mobile home, motor home/RV, trail bikes, mini-bikes, motorcycles, all-terrain vehicles, snowmobiles, or any other type of recreational vehicle, or any towed trailer or truck, excepting pickup trucks solely for private use of the residents of a dwelling, shall be parked more than seven (7) consecutive days, on any street or within any Lot, except in a completely enclosed structure or accessory building, or unless they are parked or screened in a manner as to not be visible at ground level from any neighboring or nearby Lot within the Subdivision, or street. Utility trailers under twenty (20) feet in length (excluding the neck and hitch points for the trailer) may be kept and stored in an inconspicuous manner beyond seven (7) consecutive days.

L. Vehicle Repairs. No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, boat, machine, or device may be carried on within the Subdivision except within a completely enclosed structure, or at such location as screens the sight and sound of the activity from the street and from adjoining Lots within the Subdivision.

M. Abandoned/Project Vehicles. No stripped down, abandoned, unlicensed, partially wrecked or junk motor vehicle or part thereof shall be permitted to be parked on any street or on any Lot within the Subdivision in such a manner as to be visible from ground level on any neighboring Lot or street.

N. Refuse. Unsightly objects or materials, including but not limited to ashes, trash, garbage, grass or shrub clippings, scrap material or other refuse, or containers for such items, shall not be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street.

O. Nuisance. No noxious, hazardous, or offensive activity shall be permitted upon any Lot, nor shall actions intended to or tending to cause embarrassment, discomfort, annoyance or nuisance to other Lot Owners within the Subdivision be permitted on any Lot. No annoying lights, sounds or odors shall be permitted to emanate from any Lot. Outdoor lighting will be permitted to the extent it does not create a visual nuisance to neighboring or nearby Lot Owners. Any exterior lighting on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb adjacent or nearby Lot Owners. No activities which pollute or have the potential to pollute any well, surface water right, groundwater aquifer, or other water resource shall be permitted within the Subdivision. No trail bikes, mini-bikes, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within the Subdivision other than on county roads and going to and from Lots, or for use in maintenance activities upon a Lot, or during emergency situations including but not limited to flood, fire, and blizzard/snow emergencies. No activity shall be permitted which will generate a noise level sufficient to interfere with the peaceful and reasonable quiet enjoyment of the persons on any adjoining or nearby Lots within the Subdivision. No hunting of any kind by any form or device, nor the discharge of any type of firearm, explosive, or fireworks devices shall be permitted, unless the discharge of firearms is operated in a reasonable manner and during reasonable hours. Firearms shall be operated in accordance with state law, and Lot Owners must take all reasonable precautions to ensure that projectiles cannot go through, over, or under property or property lines. Lot Owners shall be responsible for damage or injury occurred as the result of reckless or negligent behavior.

P. Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices, except for built-in speakers on the decks and patios adjoined to or in the immediate vicinity of primary dwelling structures, and for security devices used exclusively for security purposes, shall be located, used or placed on any structure or within any Lot. Volumes of such permitted exterior sound devices shall be maintained at such a level as to maintain the peace and tranquility of the community and subdivision.

Q. Animals. No animals or livestock of any kind shall be housed, raised, or kept on any Lot within the Subdivision, either temporarily or permanently, except as expressly provided by the Water Decree described herein. Lot Owners may keep commonly accepted domesticated birds, fish, dogs, cats, and other small domestic animals permanently confined as household pets. Owners of Lots 1 and 2 within the Subdivision may keep up to four horses, or equivalent livestock, per Lot. The Owner of Lot 3 within the Subdivision may keep up to eight horses or equivalent livestock. No such domesticated animals may be kept or maintained in violation of provisions of the Water Decree, attached as **Exhibit B**, nor in violation of any government regulation, and all such domesticated animals must be thoroughly secured and maintained within the Lot of the owner of such animals, and must be kept under the control of the Lot Owner at all times. Any animal, of any kind, which makes an unreasonable amount of noise or odor, harms wildlife, disturbs the peace of the Subdivision, or is otherwise a nuisance, are prohibited. No exterior doghouses or kennels will be permitted. Addittionaly, no kennels, whether for breeding, rent, or sale shall be allowed within the Subdivision. The Owner of a Lot upon which an animal is kept is responsible for payment of any and all damage caused to the property of other Lot Owners. Owners are responsible for cleaning up after their pets.

R. Fences. All fencing, including yard and accent fencing, shall be of white vinyl 4-rail post and board rail fencing with a measured height of 60 inches for the top rail. Fences attached to the primary residence on Lot 1 and Lot 2 within the Subdivision may not enclose more than 10,000 square feet of lawn and gardens, which may be either irrigated, xeriscaped or left it is native condition. Similarly, fences attached to outbuildings (such as barns) may also not enclose more than 10,000 square feet, which may be either irrigated, xeriscaped or left in its native condition. Wire mesh may be attached to fencing for yards and/or fencing enclosing areas for outbuildings, but not generally to perimeter fencing. All irrigated and/or xeriscaping design must conform to the allocated water rights for each lot and shall be in compliance with the Augmentation Plan and any applicable County rules and regulations. Neither Lot 1 nor Lot 2 within the Subdivision shall be permitted to erect a fence within the 100-foot pipeline right-of-way that runs parallel to the pipelines, as depicted on the attached **Exhibit A** plat. Other than the type, measurement, dimension, and the finishing of fences, any remaining restrictions contained within this paragraph R shall not apply to Lot 3 within the Subdivision.

S. Maintenance of Natural Forest and Landscaping. The Skyfall Subdivision is located in a forested environment consisting of mature Ponderosa pine and Douglas fir trees, which create natural visual and sight barriers between Lots. Except for purposes of disease and blight control, public safety, and to the extent necessary to prepare building sites for a primary residence upon a platted Lot, no portion of the natural Ponderosa/Fir tree barrier described in this paragraph

may be removed, timbered, cut down, or otherwise materially altered, absent amendment of these covenants by a majority of Lot Owners. Additionally, Lots shall be landscaped in a neat, attractive, sightly, and well-kept condition, in harmony with the natural surroundings. Such landscaping may include xeriscaping, lawn and garden, or integration of natural and native conditions. All lawn, garden, and other landscaping irrigation is subject to the use and water application limitations in the Augmentation Plan.

T. Weeds and Dead Foliage. Lot Owners are responsible for removing plants infected with noxious insects or plant diseases which are likely to cause a spread of noxious insects or plant diseases to neighboring properties, and for controlling and removing weeds declared noxious by applicable governmental authorities and in accordance with Colorado and El Paso County weed control rules and regulations, whether or not structures have been constructed thereon. This includes removal of dead foliage and trees.

U. Outdoor Burning. Outside burning of leaves, trash, garbage or household refuse shall not be permitted. Owner shall not permit any condition on a Lot that creates a fire hazard or is in violation of fire prevention regulations adopted by the City of Colorado Springs, El Paso County, or any governmental authority having jurisdiction and control over outside burning. If any ban on any type of outdoor fires, cooking devices, heat sources, or similar, is at any time imposed by the City or other applicable governmental authority, such ban shall be observed within the Subdivision.

V. Wells and Mineral Excavation. No portion of any Lot within the Subdivision shall be used to explore for or to remove any water, soil, hydrocarbons, or other minerals of any kind, with the exception of properly permitted and authorized water wells consistent with the augmentation plan described in the Water Decree.

W. Compliance with Laws. Nothing shall be done or kept on any property in violation of an law, ordinance, rule, or regulation of any governmental authority or quasi-government entity of appropriate jurisdiction.

3. Water Decree and Augmentation Plan.

A. Decree/Summary. The subdivision shall be subject to the obligations and requirements set forth in the July 23, 2021 Judgment and Decree affirming the Findings of Fact and Ruling of Referee granting underground water rights and approving a plan for augmentation, as entered by the District Court for Water Division 2, State of Colorado, in Case No. 20CW3070 as recorded at Reception No. 221141378 of the El Paso County Clerk and Recorder, which is incorporated

by reference ("Augmentation Plan" or "Water Decree"). The Augmentation Plan concerns the water rights and water supply for the Subdivision and creates obligations upon the Subdivision and the Lot Owners, which run with the land. The water supply for the Subdivision shall be by individual wells to the not-nontributary Dawson aquifer, under the Augmentation Plan. The Augmentation Plan contemplates that each Lot Owner will be responsible for obtaining a permit from the Colorado Division of Water Resources and drilling an individual well for water service to their residence and lot to the Dawson aquifer and use of such well as consistent with the terms of the Augmentation Plan, including wastewater treatment through a non-evaporative individual septic disposal system ("ISDS"). Lot Owners will be the Owners of the water within the aquifers underlying their Lots, and also own the plan for augmentation. The lot Owners will be responsible for reporting and administration based on pumping records, and eventually for replacement of any injurious post-pumping depletions requiring construction of deep wells to the Laramie-Fox Hills aquifer at such time as all Dawson aquifer pumping ceases.

B. Water Rights Ownership.

i. Declarant will transfer and assign to each Lot Owner their portion of all right, title and interest in the Augmentation Plan and water rights thereunder. Those water rights assigned include ground water in the nontributary Laramie-Fox Hills aquifer (at least 571 acre-feet total) of the Denver Basin as adjudicated in the Augmentation Plan, and as reserved for replacement of any injurious post-pumping depletions. Specifically, Declarant will transfer and assign to the Owners of Lots 1 and 2 a total of at least 141.215 acre-feet in the Laramie-Fox Hills aquifer, and will transfer and assign to the Owner of Lot 3 a total of at least 288.57 acre-feet in the Laramie-Fox Hills aquifer for the replacement of post-pumping depletions pursuant to the Augmentation Plan.

ii. Declarant will transfer and assign to each of the Owners of Lots 1 and 2 at least 138 total acre-feet (0.46 acre-feet per year for 300 years) of the not-nontributary Dawson aquifer groundwater for use on their respective Lots. Declarant will transfer and assign to the the Owner of Lot 3 at least 282 acre-feet (0.94 acre-feet per year for 300 years) of not-nontributary Dawson aquifer groundwater for use on Lot 3. The Declarant will further transfer and assign to each Lot Owner a proportionate prorata-per-acre interest in the not-nontributary Denver aquifer and the nontributary Arapahoe aquifer as adjudicated in the Water Decree as the physical source of supply for each Lot. The Dawson aquifer well on each Lot shall be augmented per the Augmentation Plan as administered by the Lot Owners.

iii. The Declarant will further assign to each Lot Owner all obligations and responsibilities for compliance with the Augmentation Plan,

including monitoring, accounting and reporting obligations. By this assignment to the Lot Owners, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Augmentation Plan. Such conveyance shall be subject to the obligations and responsibilities of the Augmentation Plan and said water rights may not be separately assigned, transferred or encumbered by the Lot Owners. The Lot Owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such augmentation responsibilities by decree of the Water Court, or properly entered administrative relief.

iv. Each Lot Owner's water rights in the not-nontributary Dawson aquifer underlying their respective Lot shall remain subject to the Augmentation Plan, and shall, transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarant to the initial Owner of a Lot, whether or not separately deeded. The ground water rights in the Dawson and Laramie-Fox Hills aquifers subject to the Augmentation Plan cannot and shall not be severable from each respective Lot, and each Lot Owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

v. All not-nontributary Denver Basin groundwater in the Denver aquifer, and groundwater in the nontributary Arapahoe and Laramie-Fox Hills aquifers underlying each Lot are likewise to be deeded, assigned and transferred to the overlying Lot Owner on a prorata-per-acre basis, and may be used in said Lot Owner's sole and complete discretion, subject to the terms and conditions of this Declaration and the Augmentation Plan.

vi. The Dawson aquifer water rights, the not-nontributary Denver aquifer, and the nontributary Arapahoe and Laramie-Fox Hills water rights conveyed to each Lot Owner, as described in this Paragraph 3.B., and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Augmentation Plan decreed in Case No. 20CW3070 and these Covenants, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

C. Water Administration.

i. The Owners of Lots 1 and 2 shall limit the pumping of each their respective Dawson aquifer wells to a maximum of 0.46 acre-feet annually, and the Owner of Lot 3 shall limit the pumping of their Dawson aquifer well to 0.94 acre-feet annually, or a combined total of 1.86 acre-feet annually, consistent with the Augmentation Plan. Each Lot Owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Augmentation Plan is maintained, as between in-house, irrigation, stock water and

other allowed uses. Each Lot Owner shall use non-evaporative septic systems in order to ensure that return flows from such systems are made to the stream system to replace depletions during pumping and shall not be sold, traded or used for any other purpose. Each lot served by a Dawson aquifer well must have an occupied single-family dwelling that is generating return flows from a non-evaporative septic system prior to any application of water for irrigation or animal watering. The Lot Owners, as the Owners of all obligations and responsibilities under the Augmentation Plan, shall administer and enforce the Augmentation Plan as applies to each Lot Owner's respective Lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Augmentation Plan and taking all necessary and required actions under the Augmentation Plan to protect and preserve the ground water rights for all Lot Owners. Each Lot Owner has the right to specifically enforce, by injunction if necessary, the Augmentation Plan against any other Lot Owner for failing to comply with the Lot Owner's respective obligations under the Augmentation Plan, including the enforcement of the terms and conditions of well permits issued pursuant to the Augmentation Plan, and the reasonable legal costs and fees for such enforcement shall be borne by the party against whom such action is necessary. The use of the not-nontributary Dawson ground water rights owned by each Lot Owner is restricted and regulated by the terms and conditions of the Augmentation Plan and this Declaration, including, without limitation, that the Owners of Lots 1 and 2 are each subject to the maximum annual well pumping of 0.46 acre feet, and the Owner of Lot 3 is subject to the maximum annual well pumping of 0.94 acre-feet, for a combined total of 1.86 acre-feet annually, in accordance with the Augmentation Plan. Failure of a Lot Owner to comply with the terms of the Augmentation Plan may result in an order from the Division of Water Resources under the Augmentation Plan to curtail use of ground water rights.

ii. Each Lot Owner shall promptly and fully account to the Division of Water Resources for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Augmentation Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources. The Lot Owners shall provide the Division of Water Resources with accounting for pumping of their not-nontributary individual Dawson aquifer wells on each Lot on an annual basis, unless otherwise reasonably requested by the Division of Water Resources.

iii. At such time as construction of a Laramie-Fox Hills aquifer well is required for replacement of post-pumping depletions under the Augmentation Plan, the Lot Owners shall be responsible for all costs and expenses in the construction of said well, as well as all reasonable reporting requirements of the Division of Water Resources associated therewith.

D. Well Permits.

i. Each Lot Owner shall be responsible for obtaining a well permit for the individual well to the not-nontributary Dawson aquifer for provision of water supply to their respective Lot. All such Dawson aquifer wells shall be constructed and operated in compliance with the Augmentation Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot Owner's respective expense. Each Lot Owner shall comply with any and all requirements of the Division of Water Resources to log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Augmentation Plan. It is acknowledged that well permits, and individual wells, may be in place on some of the Lots at the time of sale, and by this Declaration no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

ii. The Lot Owners shall be responsible for obtaining any well permits, rights and authorities necessary for the construction of wells to the nontributary Laramie Fox Hills aquifer, though such wells shall be constructed only for purposes of replacing any injurious post-pumping depletions, consistent with the Augmentation Plan, and shall not be constructed unless and until such post-pumping depletions must be replaced. The Lot Owners shall comply with any and all requirements of the Division of Water Resources to log such wells, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide all necessary accounting under the Augmentation Plan.

iii. No party guarantees to the Lot Owners the physical availability or the adequacy of water quality from any well to be drilled under the Augmentation Plan. The Denver Basin aquifers which are the subject of the Augmentation Plan are considered a nonrenewable water resource and due to anticipated water level declines the useful or economic life of the aquifers' water supply may be less than the 100 years allocated by state statutes or the 300 years of El Paso County water supply requirements, despite current groundwater modelling to the contrary.

4. Compliance. The Lot Owners shall perform and comply with all terms, conditions, and obligations of the Augmentation Plan, and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources pursuant to the Augmentation Plan, as well as all applicable statutory and regulatory authority.

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

6. Enforcement. Any aggrieved Lot Owner shall have the right, but not the obligation, to enforce any or all of the provision, covenants, conditions, and restrictions contained in this Declaration against any Lot Owner who fails to comply with the provisions contained herein. The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation or attempted violation of any provision, covenants, or restrictins within this Declaration and specific execution thereof, in addition to all other rights and remedies available at law or in equity. In any action maintained under this paragraph, the prevailing party shall be awarded its reasonable attorneys' fees and costs.

7. Dispute Resolution Process. Parties bringing any claim or action to enforce any covenant, condition, or restriction contained in this Declaration, or other disputes arising from this Declaration, shall be subject to mediation as a condition precedent to other dispute resolution, if the parties have not resolved the dispute within thirty (30) days following the notice of claim through discussions and negotiations among or between the parties. Any and all parties involved in a claim, dispute, or other matter, shall endeavor to resolve all claims and disputes in good faith by mediation prior to an arbitration, litigation, or other dispute resolution proceeding. The parties shall share the mediator's fee and any associated fees equally, and the mediation shall be held in a mututally agreed upon place. All mediations shall be confidential based on terms acceptable to the mediator and/or mediation service provider, and shall be conducted in compliance with the Colorado Dispute Resolution Act and all applicable Colorado Statutes, including C.R.S. §§ 13-22-302 to 13-22-308.

8. El Paso County Requirements. El Paso County may enforce the provisions regarding the Replacement Plan as set forth in this Declaration, should the Lot Owners fail to adequately do so.

9. Governing Law. This Declaration shall be governed by, and construed in accordance with, the laws of the State of Colorado, and venue shall be proper in a Court of competent jurisdiction in El Paso County, Colorado.

10. Amendments. No changes, amendments, alterations, or deletions to this Declaration may be made which would alter, impair, or in any manner compromise the Augmentation Plan, or the water rights of the Lot Owners without the written approval of said parties, El Paso County, and Court with proper jurisdiction.

11. Terms of Covenants and Severability. These Covenants shall run with the land and shall remain in full force and effect until amended or terminated, in whole or part, by the owners of the entirety of the Subdivision (i.e. all Lot Owners), and filed for record with the Clerk and Records of El Paso County. If any portion of this Declaration is held invalid or becomes unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

12. Amendment of Declaration of Covenants. Except as expressly mandated by applicable law, and except for the provisions in Paragraph 3 (requirements and obligations of the Water Decree and Augmentation Plan), this Declaration and the Plat may be amended only by unanimous vote or agreement of the Lot Owners. An amendment may not create or increase the number of Lots, change the boundaries of a Lot, change the vested property interests of a Lot or Lot Owner, or the uses to which a Lot is restricted, except by unanimous consent of the Lot Owners.

13. Recordation of Amendments. Each amendment to this Declaration must be recorded in the records of the Clerk and Recorder for El Paso County, Colorado, and the amendment is effective only upon recording.

14. Compliance with Documents. All Lot Owners, tenants, occupants of dwellings on Lots, and, to the extent they own Lots, mortgagees and the Declarant, shall comply with this Declaration, and shall be subject to all rights and duties under the Declaration. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the occupancy of a Lot constitutes agreement that the provisions of this Declaration are accepted and ratified by that Lot Owner, tenant, mortgagee, or occupant. All provisions recorded in this Declaration are covenants running with the land and shall bind any Persons having at any time any interest or estate in any Lot.

15. Captions. The captions contained in this Declaration are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the Declaration or the intent of any provision thereof.

16. Waiver. No provision contained in this Declaration is abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

17. Conflict. This Declaration is not intended to comply with the requirements of the Colorado Common Interest Ownership Act, other than C.R.S. §§38-33.3-105 to 38-33.3-107, as the Community is exempt from all other provisions of the Act. If there is any conflict between this Declaration and C.R.S. §§38-33.3-105 to 38-33.3-107, or any other applicable statutes, the provisions of such statutes shall control.

BY DECLARANT:

Ramses II Properties, LLC
By: Donnie W. Wisenbaker, Manager of Ramses II Properties, LLC

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

Subscribed and sworn to before me this 13 day of January, 2022 by Donnie W. Wisenbaker, as Manager of Ramses II Properties, LLC, as Declarant of the Skyfall Subdivision.

My commission expires: April 20, 2025

Witness my hand and seal.

Sarah C Currie
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214015672
MY COMMISSION EXPIRES April 20, 2025

Notary Public

EXHIBITS:
A – Plat Map of the Subdivision
B - Case No. 20CW3070 Amended Decree