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## FOREST LAKES

EL PASO COUNTY CLERK AND RECORDER: INDEX IN GRANTEE INDICES UNDER FOREST LAKES RESIDENTIAL AND FOREST LAKES RESIDENTIAL OWNERS ASSOCIATION AND UNDER GRANTOR, FOREST LAKES RESIDENTIAL DEVELOPMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY.

### DECLARATION

of

**Covenants, Conditions, Restrictions and Easements**

for

**FOREST LAKES RESIDENTIAL**

EX A "COMMUNITY AREA"  
IS ZA & ZB

**DECLARATION**  
of  
**Covenants, Conditions, Restrictions and Easements**  
for  
**FOREST LAKES RESIDENTIAL**

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**EXHIBIT A - LEGAL DESCRIPTION OF THE COMMUNITY AREA ..... Exhibit A-1**

**EXHIBIT B - LEGAL DESCRIPTION OF THE EXPANSION PROPERTY BALANCE OF FOREST  
LAKES ..... Exhibit B-1**

**DECLARATION**  
of  
**Covenants, Conditions, Restrictions and Easements**  
for  
**FOREST LAKES RESIDENTIAL**

This DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FOREST LAKES RESIDENTIAL is made effective as of NOVEMBER 1<sup>ST</sup>, 2015 ("Declaration"), by Forest Lakes Residential Development, LLC, a Colorado limited liability company ("Declarant").

**ARTICLE 1**  
**GENERAL**

Section 1.1 Non-CCIOA Community. The name of the community created by this Declaration is "Forest Lakes Residential." Forest Lakes Residential is a limited expense planned community as defined in the Colorado Common Interest Ownership Act ("CCIOA"), Colorado Revised Statutes ("C.R.S.") Section 38-33.3-116(2). Therefore, the annual average common expense liability of each Lot (including Common Assessments and Special Assessments), exclusive of optional user fees and any insurance premiums paid by the Association, may not exceed the limitation calculated pursuant to C.R.S. Section 38-33.3-116(2) and (3). The Association may not impose assessments which are in excess of this limitation. All of Forest Lakes Residential is located in El Paso County, Colorado.

Section 1.2 Property Affected. Declarant is the owner of real property in El Paso County, Colorado, described on **Exhibit A** attached hereto and incorporated herein by this reference. The property described on **Exhibit A** is referred to in this Declaration as the "Community Area." It is expressly acknowledged that the Community Area does not include Lot 1, Forest Lakes Filing No. 1, El Paso County, Colorado ("Lot 1"), but Lot 1 is part of the Expansion Property described in this Declaration. Lot 1 is a school site owned by the County.

Section 1.3 Purposes of Declaration. The purpose of this Declaration is to: (a) further a common and general plan for those parcels of land which are part of the Community Area; (b) protect and enhance the quality, desirability and attractiveness of all property within the Community Area; (c) provide for the Association to hold, maintain and manage certain common properties and amenities in the Community Area and to perform certain functions for the benefit of owners of land within the Community Area; (d) define the duties, powers and rights of the Association; and (e) define certain duties, powers and rights of Owners.

Section 1.4 General Scheme and Plan of Community Area. The Community Area created by this Declaration encompasses all of the property described in **Exhibit A**. Declarant reserves the right to add all or portions of the real property described on **Exhibit B** attached hereto (the "Expansion Property") to the Community Area. Declarant may elect to add all or portions of the Expansion Property to the Community Area from time to time. If none or only a



portion of the Expansion Property is added to the Community Area pursuant to this Declaration, the validity of this Declaration shall not be affected, and this Declaration shall remain in full force and effect as to the real property then comprising the Community Area. Unless and until a particular portion of the Expansion Property is added to the Community Area, such portion of the Expansion Property **shall not** be a part of the Community Area and this Declaration shall not apply thereto. The Community Area shall only include the property described on **Exhibit A** and those portions of the Expansion Property which have been added to the Community Area pursuant to the terms of this Declaration and when added, (i) Association votes will be reallocated as provided in Section 7.4 with each Lot having one (1) vote, and (ii) the Owners of Lots within property added to the Community Area will be subject to Assessments at the time and in the manner provided for in Article 11.

Section 1.5 Declaration. Declarant hereby declares that the Community Area, and each part thereof, shall, on and after the date this Declaration is recorded, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, easements, limitations, reservations, exceptions and other provisions set forth in this Declaration, all of which are declared to be a part of and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Community Area. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with Section 15.1 hereof, shall bind, be a charge upon and inure to the mutual benefit of: (a) all of the property within the Community Area and each part or parcel thereof; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all other persons and entities having or acquiring any right, title or interest in any property which is part of the Community Area or any part or parcel thereof or any Improvement (defined in Section 2.16) thereon, and their encumbrancers, claimants, heirs, personal representatives, successors and assigns.

Section 1.6 Plat References. This Declaration replaces in full all references in a Plat of any portion of the Community Area to that certain Master Declaration of Covenants, Conditions, and Restrictions for Forest Lakes, dated August 31, 2006 and recorded on August 31, 2006 at Reception No. 206129814 of the real property records of El Paso County, Colorado.

## **ARTICLE 2 DEFINITIONS**

Unless otherwise expressly provided in this Declaration, the following words and phrases, whenever used in this Declaration, shall have the meanings specified in this Article 2.

Section 2.1 Architectural Control Committee. "Architectural Control Committee" shall mean the applicable approving authority then in effect as described in Section 6.1 of this Declaration.

Section 2.2 Assessment. "Assessment" shall mean a "Common Assessment," pursuant to Section 11.3, a "Special Assessment," pursuant to Section 11.8, and/or a "Site Assessment," pursuant to Section 11.9, as applicable.

Section 2.3 Association. "Association" shall mean Forest Lakes Residential Owners Association, a Colorado nonprofit corporation, its successors and assigns.

Section 2.4 Association Documents. "Association Documents" shall mean the various operative documents of the Association, whether recorded or adopted at this time or as the same have been or may be amended, modified, supplemented, or otherwise changed from time to time, all of which are incorporated herein by this reference, and shall include the following:

- (a) the Articles of Incorporation of the Association (the "Articles of Incorporation");
- (b) the Bylaws of the Association (the "Bylaws");
- (c) this Declaration and all amendments to this Declaration;
- (d) the Plats;
- (e) The Development Plan;
- (f) Forest and Fire Management guidelines and rules adopted from time to time by the Association; and
- (g) Community Standards as defined in Section 2.8.

Section 2.5 Association Properties. "Association Properties" or "Association Property" shall mean all real and personal property, together with any and all Improvements now or hereafter located within the Community Area and appurtenances and rights thereto, hereafter owned by the Association or property which the Association hereafter maintains, holds or uses for the common use and enjoyment of all of the Members as provided herein, without ownership thereof, and for other purposes as may be permitted by this Declaration. The Association Properties shall include the tracts of land within the Community Area identified on the Plats as real property improvements which will be owned and/or maintained by the Association and which consist, without limitation, decorative parking areas in the street at the Community Area entry and at trail crossings within the Community Area, as well as any Metro District property that is located within or adjacent to Forest Lakes Residential which is hereafter owned and/or maintained by the Association, if any, including recreational areas, facilities, improvements and rights.

The Association may, from time to time, be granted additional Association Properties, including portions of the Expansion Property which is hereafter annexed into the Community Area pursuant to Section 10.4 below. The Association shall be obligated to maintain all aspects of any Association Properties which are granted to it, other than those aspects which are specifically identified on the Plats or in the public record as being the obligation of another party.

Section 2.6 Board. "Board" shall mean the Board of Directors of the Association.

Section 2.7 Community Area. "Community Area" shall mean the real property described on **Exhibit A**, together with any and all Improvements now or hereafter on such real property and appurtenances and rights to such real property. If and when added by the Declarant, the Community Area shall also include those portions of the Expansion Property that have been made subject to this Declaration, as provided in Sections 1.4 and 10.4 hereof. Other than the Expansion Property, the Community Area will not be expanded to include any other property without the written approval of a majority vote of the Owners in the Community Area.

Section 2.8 Community Standards. "Community Standards" shall mean the Forest Lakes Residential Design Guidelines and rules and/or regulations, as adopted from time to time by the Association.

Section 2.9 Declarant. "Declarant" shall mean Forest Lakes Residential Development, LLC, a Colorado limited liability company, its successors and assigns. A Person shall be deemed a "successor and assign" of Declarant only if specifically designated in a duly recorded instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument. Notwithstanding the foregoing, a successor to Declarant, by consolidation or merger shall automatically be deemed a successor or assign of Declarant under this Declaration.

Section 2.10 Declaration or Covenants. "Declaration" or "Covenants" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Forest Lakes Residential, in its entirety, including all attached exhibits and all subsequent amendments.

Section 2.11 Development Plan. "Development Plan" shall mean and refer to the Forest Lakes Preliminary Plan/PUD Development Plan, dated July 11, 2003, as approved by El Paso County, Colorado (the "County"), and all amendments thereto.

Section 2.12 Dwelling Unit. "Dwelling Unit" shall mean an Improvement on a Lot which is intended or used as a single family (attached or detached) home, as applicable.

Section 2.13 Expansion Property. "Expansion Property" shall mean and refer to the real property described on **Exhibit B** attached hereto. The Expansion Property, together with all appurtenances thereto and all Improvements now or hereafter located thereon, may be annexed into the Community Area pursuant to Section 10.4 of this Declaration.

Section 2.14 First Mortgage. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the Office of the Clerk and Recorder of the County of El Paso, Colorado (the "County"), pertaining to a Lot and having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 2.15 First Mortgagee. "First Mortgagee" shall mean and refer to any Person named as a mortgagee or beneficiary under any First Mortgage or any successor to the interest of any such Person under such First Mortgage.

Section 2.16 Improvements. "Improvements" shall mean all structures and any appurtenances thereto or components thereof of every type or kind, including, but not limited to, buildings, outbuildings, concrete additions or pavers, gardens, swimming pools, basketball backboards and supporting structures, decks, porches, patios, patio covers or screening, awnings, painting or other finish material of any exterior surfaces or any visible structure, additions, walkways, bicycle and/or pedestrian trails, sprinkler pipes, garages, carports, guest quarters, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, fixtures, Landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, swamp coolers, solar equipment, and exterior air conditioning and water softener fixtures. "Improvements" shall also mean an excavation or fill the volume of which exceeds two cubic yards, and any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

Section 2.17 Landscape. "Landscape" shall mean a type of Improvement consisting of the treatment of ground surface with live plant materials, wood chips, crushed stone, decorative rocks, mulch materials or other decorative surfacing materials. For purpose of this definition, the word "Landscape" shall include all other forms of the word Landscape, such as "Landscaped" and "Landscaping."

Section 2.18 Lot. "Lot" shall mean a parcel of land within the Community Area which is shown as a lot on the Plats upon which at least one Dwelling Unit may be constructed pursuant to County ordinances, and which is not part of the Association Properties.

Section 2.19 Lot Lines. Front, side and rear "Lot Lines" shall be as follows: a front Lot Line is each boundary line (whether one or more) between the Lot and any street; a side Lot Line is any boundary line which meets and forms an angle with a street except that for a corner Lot with two front Lot Lines, the side Lot Line is the boundary which forms an angle with the street that affords the principal access to the Lot; all other Lot Lines are rear Lot Lines.

Section 2.20 Member. "Member" shall mean a member of the Association, who must also be an Owner. Membership in the Association shall be appurtenant to, and may not be severed from, ownership of a Lot.

Section 2.21 Owner. "Owner" shall mean the record title holder, including Declarant, whether one or more Persons, of fee simple title to a Lot, including sellers under executory contracts under Colorado law.

Section 2.22 Person. "Person" shall mean a natural person, a corporation, a limited liability company, a partnership (including general, limited and limited liability partnerships) or any other public or private entity recognized as being capable of owning real property under Colorado law.

Section 2.23 Plats. "Plats" shall mean the plats that are the current plats of all or a portion of the Community Area, together with any supplemental plats recorded in the real property records of El Paso County, Colorado.

Section 2.24 Related User. "Related User" shall mean: (a) any Person who resides with an Owner within the Community Area; (b) a guest or invitee of an Owner; (c) an occupant, tenant or contract purchaser of any Dwelling Unit on a Lot; and (d) any family member, guest, employee, agent, representative, licensee, contractor, invitee or cohabitant of any of the foregoing Persons.

Section 2.25 Rules and Regulations. "Rules and Regulations" shall mean the rules and regulations, if any, adopted by the Board as provided in Section 8.9 of this Declaration, and which shall thereafter be a part of the Community Standards.

Section 2.26 Metro District. "Metro District" shall mean one or more of the special districts respectively known as the Forest Lakes Metropolitan District ("FLMD"), the Pinon Pines Metropolitan District No. 1 ("PPMD") as to the Community Area and Pinon Pines Metropolitan District No. 2 as to the Expansion Property (collectively "PPMD"). FLMD and PPMD are jointly referred to as the "Metro Districts", the boundaries of which may be adjusted from time to time in accordance with the applicable laws and regulations.

### ARTICLE 3 DECLARATION TO PRESERVE THE RESIDENTIAL CHARACTER OF THE COMMUNITY AREA

Section 3.1 Property Uses. Except as otherwise provided in this Article 3, all Lots in the Community Area will be used exclusively for private single-family (attached or detached) residential purposes in accordance with the Community Area's applicable residential zoning. Human service establishments, including human service homes, human service residences, human service facilities and human service shelters, health care support facilities, hospices and youth homes and any other similar or dissimilar group home are each prohibited on a Lot and in the Community Area. No Dwelling Unit erected or maintained within the Community Area shall be used or occupied for any purpose other than for a single family dwelling. No business, profession or other activity conducted for gain shall be carried on or within any Lot or Dwelling Unit; provided that any uses that are permitted under the County home occupation regulations (the "Home Occupation provisions") shall be permitted. If the Home Occupation provision is hereafter repealed, then for purposes of this Declaration and its enforcement, the provisions of the Home Occupation provision in effect at the time of the recordation of this Declaration shall be incorporated herein as a part of this Declaration. Any violation of the Home Occupation provision shall be a violation of this Declaration. The Declarant or the Association shall have the

right, from time to time, to establish Rules and Regulations regarding the use of a Dwelling Unit for any home occupations, including regarding increased traffic within the Community Area.

Section 3.2 Improvements. No Improvement shall be erected within the Community Area except single family attached or detached Dwelling Units approved by the Architectural Control Committee and other Improvements which have been approved by the Architectural Control Committee or Improvements which Declarant or its designees are authorized to place or construct within the Community Area by the terms of this Declaration. All Improvements shall be required to comply with the Development Plan. No Improvement, other than a Dwelling Unit and approved guest quarters, may be used for living purposes. No other Improvement may be placed on any Lot before completion of the Dwelling Unit upon such Lot except with the permission of the Architectural Control Committee.

Section 3.3 Construction Type. All construction shall be new. No building previously used at another location nor any building or Improvement originally constructed as a mobile dwelling may be moved onto a Lot except as expressly provided in Section 3.7 for temporary construction, sales or administration buildings.

Section 3.4 Storage. No building materials shall be stored on any Lot except temporarily during continuous construction of an Association approved Improvement or its alteration unless such building materials are stored in the garage on the Lot or otherwise enclosed and fully screened in a manner approved by the Architectural Control Committee.

Section 3.5 Substantial Completion. A Dwelling Unit shall not be occupied in the course of original construction until substantially completed and, if required by applicable law, until a Certificate of Occupancy has been issued by Pikes Peak Regional Building Department ("Regional Building") and any other necessary governmental or quasi-governmental authority. All construction work shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 3.6 Construction Completion. The exterior of all Dwelling Units, completion of the installation of the driveway improvements and final grading of Lots must be completed within nine (9) months after the commencement of construction. Landscaping must be completed within six (6) months after the issuance of a Certificate of Occupancy for the Dwelling Unit in accordance with the terms of Section 5.9 of this Declaration. Construction of any Improvements on a Lot, other than a Dwelling Unit and Landscaping, must be completed within nine (9) months after commencement of construction. The deadlines set forth above shall apply, except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities and except if the Architectural Control Committee approves a longer period of construction due to unusual circumstances. For purposes of this Section 3.6, "commencement of construction" for a Dwelling Unit is defined as the obtaining of necessary building permits and the excavation of earth for a foundation, and for all other Improvements is defined as the undertaking of any visible exterior work. If construction is not completed within the above time periods or such later time approved by the Architectural Control Committee, or if construction shall cease for a period of forty-five (45) days without

permission of the Architectural Control Committee, the Architectural Control Committee may give the Owner of the Improvements involved written notice of such fact, and if construction on such Improvement is not diligently commenced within thirty (30) days after such notice and thereafter diligently prosecuted to completion, the unfinished Improvement or unfinished portion thereof may be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner, which right shall be in addition to, and not in lieu of, the provisions contained in Article 14 of this Declaration.

Section 3.7 Construction or Sales Offices. Temporary buildings for construction or administration purposes or for sales offices may be erected or maintained only by Declarant or with the permission of the Declarant or the Architectural Control Committee. Model homes may be used and exhibited as model homes and for public event purposes only by Declarant or with the permission of the Declarant or the Architectural Control Committee. Temporary buildings permitted for construction or administration purposes or for sales offices shall be promptly removed when they cease to be used for these purposes.

Section 3.8 Construction Debris. During the progress of construction, the Owner of a Lot shall use commercially reasonable efforts to ensure that the Lot is kept free of debris and trash, all of which shall be deposited in the trash container area. When construction is commenced upon a Lot, the Owner shall provide a trash container and cause it to be properly used and maintained during construction. Such trash containers must be placed within the Owner's Lot unless the Declarant or the Architectural Control Committee, in its sole discretion, authorizes its location within the street. The Owner shall use commercially reasonable efforts to ensure that no construction materials, debris or trash shall be allowed on the property of others and any materials, trash or debris blown off the Lot shall be promptly retrieved and disposed of properly. In addition, the Owner of a Lot shall cause all excess dirt which may be generated from excavation on the Lot to be removed from the Lot or street following completion of construction.

Section 3.9 Drilling Structures. No derrick or other Improvement designed for use in or used for boring or drilling for water, oil or natural gas shall be permitted by any Owner or any Related User upon or above the surface of any Lot, nor shall any water, oil, natural gas, petroleum, asphaltum or other hydrocarbon substances be produced from any well located upon, in or under any Lot. The foregoing is not intended to prohibit temporary drilling to obtain samples in connection with the investigation of soils or temporary drilling necessary in the construction of Improvements, by all people, other than those that have rights that are prior in interest to this Declaration.

Section 3.10 Aircraft Noise Notice. Each Owner is hereby placed on notice that all property within Forest Lakes Residential may be impacted by noise or other sensory effects of flight caused by aircraft used in the United States Air Force Academy's Airmanship Program and that the following Notices are contained in the Plat:

(a) **NOTICE:** This property may be impacted by noise and other effects of flight by aircraft used in the United States Air Force Academy's Airmanship Program. In conjunction with this notice, Lot Purchaser agrees to waive and release any right or cause of action which

they now have or may have in the future against the United States Air Force Academy, its successors and assigns, due to noise and other affects by operation of such aircraft. This notice shall be in effect until the Air Force Academy shall cease to be used for training purposes, or all airports on the Air Force Academy shall cease to be actively used. This notice shall run with the land.

(b) **NOTICE:** This property may be impacted by noise and other effects of combat field training conducted at the United States Air Force Academy's Cadet Basic Training, Jack's Valley Training Area. In conjunction with this notice, Lot Purchaser agree to waive and release any right or cause of action which they now have or may have in the future against the United States Air Force Academy, its successors and assigns, due to noise and other affects by field training operation. This notice shall be in effect until the Air Force Academy shall cease to be used for training purposes. This notice shall run with the land.

Section 3.11 **Forest Management.** Each Owner acknowledges that the Community Area may be subject to fire and forest management guidelines as adopted from time to time by the Association, which guidelines, as adopted, will be part of the Community Standards.

Section 3.12 **Metro Districts Maintenance.** The Metro Districts are responsible for water and sewer service, the operation of the central water system and the maintenance and repair of all water wells, and water tanks that are used to provide services to Forest Lakes Residential, all FLMD parks (including trails within those parks), fencing adjacent to open space tracts or easements and Landscaping in all common open space tracts adjacent to the Community Area to the extent set forth in the Development Plan. In addition, landscape entry features, open space tracts, parks, and trails in the vicinity of the Community Area shall be owned and maintained by the FLMD (defined in Section 15.4) to the extent set forth in the Development Plan. All medians within Forest Lakes Residential streets shall be maintained by FLMD.

PPMD has contracted with FLMD to maintain landscaping, entry monumentation, park areas within Forest Lakes Residential, all stormwater drainage infrastructure, and other operations activities. FLMD reserves the right to charge Owners a monthly landscaping service fee which may be adjusted from time to time.

#### **ARTICLE 4 DENSITY, SETBACK AND QUALITY STANDARDS**

Section 4.1 **Limitation on Dwellings and Subdivisions.** No more than one (1) Dwelling Unit shall be constructed or maintained within any Lot, which limitation will not prohibit the construction of guest quarters within those Lots that are expressly authorized to have guest quarters pursuant to the Development Plan and that are properly approved by the Architectural Committee. No Lot shall be replatted or otherwise subdivided without the approval of the Architectural Control Committee and applications for such approval will not be favored in the absence of extreme hardship. Lot Line adjustments which do not result in an increase in the number of Lots and which are made to accommodate building plans approved by the Architectural Control Committee may be approved by the Architectural Control Committee in its



sole discretion. This section does not apply to and shall not restrict Declarant's rights under Article 10. An Owner will be solely responsible for obtaining all required governmental approvals for any such Lot line adjustments and approval by the Architectural Control Committee shall not remove that obligation.

Section 4.2 Setbacks and Easements. All construction must conform to the setback requirements of the County building code, zoning code and subdivision regulations and all other applicable governmental or quasi-governmental agencies having appropriate jurisdiction for front, rear and side Lot lines, as of the date of commencement of construction. All Lots are subject to the minimum setbacks and easements for public utilities and drainage purposes as set forth on the Plat and Development Plan. Owners acknowledge that the Development Plan sets forth various set back requirements for different types of Lots within the Community Area, including without limitation, the requirement that certain Lots locate the primary Dwelling Unit within the specified centrum for that Lot.

Section 4.3 Minimum Floor Area. No Dwelling Unit shall be erected which, exclusive of basements below garden level, porches, patios, covered but unenclosed areas, garages and any attached accessory building, has a gross livable floor area less than as specified in the Design Guidelines or Community Standards for the applicable neighborhoods, filings or Lot(s).

Section 4.4 Height Restrictions. The height of any Dwelling Unit or other Improvements constructed or to be constructed on any Lot within the Community Area is hereby restricted and shall not exceed the applicable restriction contained in the Development Plan or any more restrictive height contained in the Community Standards for the applicable Lot. Height shall be measured in accordance with the County's height standards and requirements.

Section 4.5 Exterior Colors and Materials. All exterior colors and materials, including roofing materials, used on Dwelling Units and other Improvements shall be as determined by Declarant at the time of initial installation and thereafter must be as approved by the Architectural Control Committee, all in accordance with the Community Standards. Acceptable materials and standards will be as set forth in the Community Standards.

Section 4.6 Antennae and Roof Projections; Satellite Dishes. Except as provided below in this Section 4.6, no aerial, antenna, or other device for reception or transmission of radio or television or other electronic signals shall be maintained on the roof of any building, nor shall any such aerial, antenna or other device be mounted at any location so as to be visible from neighboring properties or adjacent streets. Plans for Improvements, other than FCC Protected Structures, as defined below, must be submitted to and approved by the Architectural Control Committee prior to installation. If the Architectural Control Committee disapproves such structure, the party requesting approval may modify its plans to eliminate the Architectural Control Committee's objections and resubmit them for approval. If any such aerial, antenna, satellite dish or other device is installed without the approval of the Architectural Control Committee, the Architectural Control Committee shall have the rights set forth in this Declaration. Notwithstanding the above, a customer-end antenna that is (i) designed to receive direct broadcast satellite service that is one meter or less in diameter, (ii) designed to receive

video programming services via multiple distribution services that is one meter or less in diameter or diagonal measurement, or (iii) designed to receive television broadcast signals, all as defined by the Federal Communications Commission or the Telecommunications Act of 1996, as may be amended from time to time (collectively, "FCC Protected Structures"), shall be permitted so long as the means, method and location of such antennae comply with the rules adopted from time to time by the Architectural Control Committee. No antenna used to transmit signals to, and/or receive signals from, multiple customer locations will be permitted. No unreasonable delay or unreasonable increase in the cost or installation or maintenance of an FCC Protected Structure shall be imposed by such rules, nor shall the rules prevent reception or otherwise make reception impossible for any Owner who shall seek to install an FCC Protected Structure, other than for health and safety reasons.

Section 4.7 Rebuilding or Restoration. If any Dwelling Unit or other Improvement is destroyed in whole or in part by fire, windstorm or from any other cause or act of God, it must be rebuilt or all debris must be removed and the Lot restored to a sightly condition. Such rebuilding or restoration must be commenced within three (3) months after the damage or destruction occurs and thereafter diligently pursued to completion within a reasonable time, not to exceed one (1) year after the date the damage occurred or such longer period of time as may be approved by the Architectural Control Committee due to unusual circumstances. If restoration, rebuilding or removal is not completed within the above time periods or such later time approved by the Architectural Control Committee, or if the restoration, rebuilding or removal shall cease for a period of sixty (60) days without permission of the Architectural Control Committee, the Architectural Control Committee will give the Owner of the Lot involved written notice of such fact, and if the restoration, rebuilding or removal of the Improvements is not diligently commenced within thirty (30) days after such notice, the damaged or destroyed Improvements shall be deemed a nuisance. The Association shall have the right thereafter to enter upon the Lot involved and remove the damaged or destroyed Improvements at the expense of the Owner. Such an entry and removal shall not be deemed a trespass and the Owner shall be liable for all costs incurred in connection with the removal.

Section 4.8 Fences. Fences, other than fences constructed by the Declarant or the Association, are discouraged within the Community Area. All proposed fencing must be approved by the Architectural Control Committee and must be consistent with any Declarant installed fencing and must comply with the Design Guidelines or Community Standards and the Development Plan. The Architectural Control Committee may establish from time to time standards for fences within the Community Area, which shall be enforced pursuant to the terms of this Declaration. All fences within the Community Area will be subject to the provisions contained in Section 4.9 of this Declaration.

Section 4.9 Open Space Fences and Landscaping. Fencing installed adjacent to or in the vicinity of the Community, **if installed by the Declarant and/or the Metro District, shall thereafter be maintained and kept in good condition and repair by a Metro District** ("Open Space Fencing"). The height, design, color and/or other aspect of the Open Space Fencing may not be increased, altered or modified by any Lot Owner adjacent to such fencing. Except as otherwise approved in writing by the Architectural Control Committee, any fence proposed to be

installed on a Lot which abuts an Open Space Fence shall be required to conform, in addition to the overall fencing requirements set forth in Section 4.8 and this Section 4.9, to the fencing standards which may be established from time to time by the Architectural Control Committee for such additional fencing. No additions or attachments shall be made to any Open Space Fencing, other than connecting approved rear and side Lot fences into the Open Space Fencing. No sign of any type shall be displayed from the Open Space Fencing, other than promotive sales signs for initial Lot or home sales by Declarant or persons authorized by the Declarant or the Architectural Control Committee, and not for home resales or unauthorized home builders. Entry on an applicable Lot by the Metro District in order to construct, maintain or repair the Open Space Fencing shall not be deemed a trespass. Except in a case of an emergency, prior notice will be given to the applicable Lot Owner before any such entry by the Metro District. Neither the District nor Declarant shall be liable for any loss, costs or damages to any applicable Lot Owner within the Community Area on account of its performance of such construction, maintenance or repair, except for any such loss, cost or damage caused by the applicable Person's gross negligence or willful misconduct. The Metro District may from time to time record in the real property records of the County, a map or other documentation confirming the location of Open Space Fencing within the Community Area.

Section 4.10 Underground Utilities. All utilities that will be installed within the Community Area after the date of execution of this Declaration, including electrical, telephone, and cable television service, and excepting lighting standards and customary service devices for access, control or use of utilities, shall be installed underground. The Declarant may grant approval for temporary aboveground utility lines as needed during construction.

Section 4.11 Garage and Driveway. The Dwelling Unit on each Lot shall include a **minimum of a two-car**, fully enclosed garage or such equivalent garage arrangements as may be approved by the Architectural Control Committee. Garages will be required to be attached to the Dwelling Unit for all Lots, other than Lots within Forest Lake Filing No. 1, which Lots will be permitted to have detached garages. All driveways shall be improved with **concrete or asphalt** unless otherwise approved by the Architectural Control Committee. No Lot shall contain more than one (1) driveway which directly accesses the garage from a public right of way. No additions, alterations, or modifications (other than repairs or equivalent replacements) shall be permitted to be made to the garage or driveway following initial construction without Architectural Control Committee approval.

Section 4.12 Percentage Grade Restriction. Unless a variance is granted, the grade of each driveway, following completion of Improvements, will not exceed 13% rise measured at the center of the driveway access from the street to the center of the driveway garage access. Each Owner acknowledges that Architectural Control Committee has the right, but not the obligation, to grant variances to this requirement when it determines a variance is warranted due to the topography of an applicable Lot ("Grade Variance"). A Grade Variance will be in addition to any applicable County approvals and requirements.

Section 4.13 Access Restriction. All persons or entities having any interest in any of the Lots are required to and shall each arrange and maintain any drives, dwellings, or other Improvements so that ingress and egress to and from their respective Lots is exclusively from a

publicly dedicated street and not through other private property or adjoining public lands other than as provided in Section 13.8. There shall be no direct vehicular access from any Lot in Forest Lakes Filing No. 1 to Mitchell Avenue or Baptist Road, with the exception of Tract A, Forest Lakes Filing No. 1 and no direct vehicular access directly from any Lot in Forest Lakes Filing No. 3 to Forest Lakes Drive.

Section 4.14 Compliance with Building Codes. All construction must conform to the County building codes, zoning codes and subdivision regulations and Development Plan, which regulations and restrictions may vary from the provisions of this Declaration; provided, however, if this Declaration is more restrictive than such governmental codes and regulations, then the more restrictive provisions of this Declaration shall control.

Section 4.15 General Architectural Standards. Declarant shall have the right and authority to establish and amend specific architectural standards from time to time as provided in Section 6.2 hereof.

Section 4.16. Wildfire Hazard Requirements. The Community Area is subject to the following Wildfire Hazard Requirements: All site plans for a Lot and proposed construction shall be reviewed by the Association to ensure that the building placement, materials, and landscape plan meet the requirements set forth in the Forest Lakes Wildfire Hazard and Mitigation Report, dated January 18, 2003 and filed with the Country and in the items listed below.

- a. Landscape Requirements:
  - i. Oak brush that is left in the landscape of each Lot should be a minimum of fifteen feet away from any structures, whenever possible.
  - ii. Oak brush that is left within fifteen feet of structures should be thinned adequately enough to allow the annual removal of dead leaves and any other flammable material or debris. Any dead limbs or oak stems should be pruned and removed.
  - iii. In areas slated for development where a severe oak brush hazards exists, spacing between the individual oak clumps should be fifteen feet apart. This will help to reduce the rate of spread of a wildfire. Natural breaks between oak clumps should be utilized whenever possible and the spacing between the clumps should meet the fifteen-foot minimum distance.
  - iv. The use of ornamental junipers in the landscape is prohibited within thirty feet of a structure's foundation in areas of extreme wildfire hazard.
  - v. In areas of extreme wildfire hazard or where Lots have a slope exceeding 20%, a five-foot width of stone should be installed around the structure and no plant material should be placed within this (or the first five feet of a larger) rock border.
- b. Architectural Requirements:
  - i. Decks that are planned at ground level (within 4 feet of existing grade) are to be sealed off and enclosed in order to prevent the accumulation of flammable debris underneath them.

ii. Roof vents in structure overhangs (soffits) should be secured at six points of contact Instead of four, particularly where the positioning of the roof vents will not be readily accessible for regular maintenance.

iii. Non-combustible roof materials should be used in the construction of all structures on this site.

iv. It is recommended that where slopes exceed 15% in areas where the wildfire hazard is considered extreme, noncombustible siding materials should be used in the construction of structures.

Section 4.17. Outdoor Lighting Management Plan. Each Owner acknowledges that the development of a Lot will require compliance with the Outdoor Lighting Management Plan contained within the Development Plan and the requirements provided for in the Community Standards. The Architectural Control Committee will review proposed building and site plans, which shall include an outdoor lighting plan as part of the submission. This outdoor lighting plan shall identify all outdoor lighting fixtures by location, size, type, height, and wattage and include manufacturer's information sheets detailing the actual fixture to be used. All fixtures shall be full cut-off and be directed and focused in such a way to minimize the impacts to the surrounding Dwelling Units and adjoining properties. Seasonal holiday lighting shall be permitted from Thanksgiving to one week after New Year's.

The following are the standards for outdoor lighting within the Community Area:

· All permanent or semi-permanent outdoor lighting used within Community Area shall be limited to "fully-shielded" fixtures as defined by the **International Dark-Sky Association**, or similar organization in their absence.

· Lights shall be oriented toward the ground. Lighting may be reviewed after installation for final adjustments, if necessary.

· A maximum of 100 watt fixtures are permitted for all outdoor lighting.

· Other than very low-level light sources, used for path lighting, address identification and similar purposes, no stand-alone exterior light fixtures shall be allowed without the express prior approval of the Association. Such approvals, and any exceptions from the requirement for "fully-shielded" fixtures shall be granted only after consideration of good lighting principals as maintained by the **International Dark-Sky Association**.

· Lighting in common areas such as parks, entry signage, utilities buildings and structures shall be permitted but will follow the design practices as outlined by the **International Dark-Sky Association**.

Lighting in excess of the above standards shall be allowable if absolutely required to meet any applicable federal or state law, regulation or requirement. Additionally, the Architectural Control Committee with the approval of the County Planning Director shall have authority to allow and/or require exceptions to this outdoor lighting plan provided such modifications are justified for the purposes of protecting health or safety. This would specifically include a demonstrated need for downcast streetlights in excess of 100 watts.

Section 4.18 Stormwater Drainage. Each Owner is responsible for maintaining proper stormwater drainage in and through his Lot.

## **ARTICLE 5 LIVING ENVIRONMENT STANDARDS**

Section 5.1 Building and Grounds Maintenance. Each Owner shall maintain the exterior of the Dwelling Unit and all other Improvements on his Lot in good condition and shall cause them to be repaired as the effects of damage or deterioration become apparent. Each Owner shall keep the vegetation, including turf, within his Lot trimmed and mowed and all Landscaping properly maintained. Each Owner hereby acknowledges that the requirement in this Declaration to maintain each Lot or any Improvement in "good condition" and "properly maintained" shall be based upon a standard of care which is appropriate for single family residential areas in the County which are of a comparable quality and nature and in accordance with the Development Plan. If the Owner fails to properly perform such maintenance, Declarant or the Architectural Control Committee may, after giving thirty (30) days written notice and at the Owners' expense, effect such repairs and maintenance as it deems necessary in its judgment to maintain the standards of the Community Area and assess the owner for the cost of such repairs and maintenance as a Site Assessment. Entry to affect such repairs and maintenance shall not be deemed a trespass, and the Owner shall be liable for all costs incurred in connection with the repairs and maintenance.

Section 5.2 Garage Doors. Garage doors shall be kept closed except when being used to permit ingress and egress to or from the garage.

Section 5.3 Outside Storage. When not in use, all equipment for the maintenance of a Lot or Dwelling Unit shall be stored in an enclosed building or otherwise adequately screened so as not to be visible from neighboring properties or adjoining streets.

Section 5.4 Clotheslines. No outdoor clothes poles, clotheslines or other facilities for drying or airing clothing or household goods shall be placed on any Lot, and no laundry or wash shall be dried or hung outside any Dwelling Unit or other Improvement.

Section 5.5 Swingsets and Play Areas. No swingsets, jungle gyms, slides or other similar Improvements shall be installed on a Lot unless substantially screened in a manner permitted by the Community Standards or approved by the Architectural Control Committee prior to construction or installation of such Improvements.

Section 5.6 Refuse. No unsightly objects or materials, including but not limited to ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefor, shall be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street, except during refuse collections. After a period of two (2) weeks of continued violation of this Section 5.6, the Association or Declarant shall have the right to enter upon the Lot involved and remove such unsightly objects or materials

at the expense of the Owner. Such an entry shall not be deemed a trespass, and the Owner shall be liable for all costs incurred relative thereto.

Section 5.7 Nuisances. No noxious or offensive activity shall be carried on upon any Lot or anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No offensive or hazardous activities may be carried on within any Lot or in any Dwelling Unit. Expressly excluding the activities described in Articles 3 and 10 of this Declaration, no annoying lights, sounds or odors shall be permitted to emanate from any Lot or Dwelling Unit.

Section 5.8 Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for security purposes, shall be located, used or placed on any Improvement or within any Lot. With the prior approval of the Architectural Control Committee, an Owner may install exterior stereo speakers, provided that the sound levels from such speakers are not objectionable to neighbors.

Section 5.9 Landscaping. Expressly subject to the terms and conditions of the Development and Landscape Assurance Program provided for in Article 17 of this Declaration, within six (6) months following receipt of a Certificate of Occupancy for the Dwelling Unit for a Lot, or within any extension (if any) of that period granted by the Architectural Control Committee, all yards and open spaces within that Lot shall be Landscaped and thereafter maintained and kept in good condition. Prior to commencing any Landscaping within a Lot, the Owner thereof shall be required to submit his proposed Landscape plan to the Architectural Control Committee and the County for its approval in accordance with Article 6 of this Declaration. Landscape plans and maintenance shall comply with the requirements of these Covenants, the Community Standards and the Development Plan regarding Landscaping. All buildings, including homes on Lots, shall be sited to preserve as much existing vegetation, including scrub oak and trees, and rock outcroppings.

Section 5.10 Weeds. All yards and open spaces and the entire area of every Lot on which no building has been constructed shall be kept free from plants and weeds infected with noxious insects or plant diseases and from weeds which, in the reasonable opinion of the Association or Declarant, constitute a nuisance or are likely to cause the spread of infection or weeds to neighboring property, and free from brush or other growth or trash which in the reasonable opinion of the Association or Declarant causes undue danger of fire.

Section 5.11 Mowing and Pruning. In order to effect insect, weed and fire control and to prevent and remove nuisances, each Owner of a Lot upon which a building has not been constructed shall mow, cut, prune, clear and remove from his Lot unsightly brush, weeds and other unsightly growth and shall remove trash which may collect or accumulate on the Lot. All tree removal shall require the prior approval of the Architectural Control Committee and any committee established pursuant to the Association adopted forest and/or fire management program as provided in Section 3.11 of this Declaration.

Section 5.12 Grading Patterns. No material change may be made in the ground level, slope, pitch or drainage patterns of any Lot as fixed by the original, approved finish grading plan for a Lot except after first obtaining the prior consent and approval of the Declarant or the Architectural Control Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and so as to protect foundations and footings from excess moisture. Any construction, grading or swales should direct surface waters to a drainage easement or to the street. Surface waters should not be concentrated and directed differently than the historic direction of flow. Special attention should be paid to the revegetation of approved grades, cuts and fills to eliminate erosion.

Section 5.13 Transmitters. No electronic or radio transmitter of any kind other than garage door openers, electronic devices and transmitters permitted by Title 47, Part 15 of the United States Code and remote control devices for televisions, stereos, video cassette recorders and similar equipment shall be operated in or on any Improvement or Lot.

Section 5.14 Animals. No animals, except domesticated birds or fish and other small domestic animals permanently confined indoors and those permitted pursuant to this Section 5.14, shall be permitted within any Lot. By way of example and not in limitation of the above restriction, none of the following animals will be permitted in the Community Area: (i) horses; (ii) chickens; (iii) roosters; or (iv) goats. Domesticated dogs and domesticated cats may be kept or maintained in or on any Lot within the Community Area only if kept as pets and the total number of which may not exceed three (3) animals. No animals shall be kept, bred or maintained within the Community Area for any commercial purposes. No dogs or other pets shall be chained or enclosed on a Lot outside of the Dwelling Unit for any extended period of time, except by means of underground electronic fences or other invisible barriers or fences. Dog runs and other similar enclosures are generally discouraged; an Owner must obtain prior Architectural Control Committee approval therefor, which approval will be based on the size, location, specifications, and materials used for any enclosure (as may be set forth in the Community Standards). Notwithstanding the above, no animal of any kind shall be permitted which in the opinion of the Association makes an unreasonable amount of noise or odor or is a nuisance.

Section 5.15 Parking of Vehicles. Following construction of a Dwelling Unit, no boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor homes any towed trailer unit or truck shall be parked overnight on any street or within any Lot except in a completely enclosed building such as a garage, or unless screened in a manner approved by the Architectural Control Committee. Pickup trucks having a 3/4 ton or less manufacturer's rated capacity, with or without bed toppers, and passenger vans for the private use of the residents of a Dwelling Unit as primary transportation on a day-to-day basis, shall not be considered trucks for purposes of the foregoing restrictions.

Section 5.16 Inoperative Vehicles. No unused, stripped down, partially wrecked or inoperative motor vehicle or part thereof shall be permitted to be parked on any street or on any Lot in such a manner as to be visible at ground level from any neighboring property or street, unless fully screened in a manner approved by the Architectural Control Committee. An unused vehicle shall be any vehicle which is not properly licensed or as determined by the Association.



Nothing contained in this Section shall permit or be deemed to permit any Owner to maintain more than one (1) inoperative motor vehicle or part thereof, even if screened, within his Lot.

Section 5.17 Vehicle Repairs. No maintenance, servicing, repair, dismantling, sanding or repainting of any type of vehicle, boat, machine or device may be carried on except within a completely enclosed Improvement which screens the sight and sound of the activity from adjoining streets and from neighboring property.

Section 5.18 Signs. Subject to the signage rights created by applicable law, the only signs permitted on any Lot or Improvement shall be those permitted by the Community Standards. Except for permitted signs, there shall not be used or displayed on any Lot or Improvement any signs or any banners, streamers, flags, lights or other devices calculated to attract attention in aid of sale or rental, except by the Declarant or with the prior written permission of the Declarant. All permitted signs must be professionally painted, lettered and constructed. If a permitted sign is not in compliance with the provisions of this Section 5.18, the Association may, upon notice, require it to be modified or removed.

Section 5.19 Outdoor Burning. There shall be no outdoor fires on any Lot or any of the Association Properties, except fires in barbecue, braziers and outside fireplaces contained within facilities or receptacles intended for such purpose. In no event shall any such facility or receptacle be used for burning of trash. Any such facilities or receptacles shall be subject to the Rules and Regulations, which may include limitations on the time and manner in which fires will be permitted and may permit the Association to impose total outside fire bans when deemed appropriate by the Association. No Owner shall permit any condition on such Owner's Lot which creates a fire hazard or is in violation of fire prevention regulations adopted by the County or any governmental authority having jurisdiction and control over outside burning. If any ban on outdoor fires is at any time imposed by the County or a governmental authority having jurisdiction and control over outside burning, such ban shall be observed within the Community Area.

Section 5.20 Drainage. The soils within the state of Colorado consist of both expansive soils and low-density soils which will adversely affect the integrity of the Dwelling Units or other Improvement and the Lot containing it if not properly maintained. Expansive soils contain clay minerals which have the characteristic of changing volume with the addition or subtraction of moisture, thereby resulting in swelling and/or shrinking soils, and the addition of moisture to low-density soils causes a realignment of soiled grains, thereby resulting in consolidation and/or collapse of the soils.

An Owner shall not permit the moisture content of the soil supporting the foundation and supporting the concrete slabs forming a part of the Dwelling Unit to increase to an extent that would adversely affect the foundation and concrete slabs, and shall not introduce excessive water into the soil surrounding the Dwelling Unit. An Owner shall maintain the grading and drainage patterns of the Lot in accordance with the terms of Section 5.12 of this Declaration.

An Owner shall not impede or hinder in any way the water flowing on his Lot from reaching the drainage courses established for the Lot and the Property or areas shown on the approved drainage plans.

By virtue of the review and submittals described in this Section 5.20 and Section 5.12, the Declarant is in no manner certifying, guaranteeing or otherwise making any representations or warranties with respect to the adequacy, sufficiency or appropriateness of any grading plan applicable to the Lot. Each Owner of a Lot acknowledges and agrees that the Declarant shall have no responsibility or liability whatsoever with respect to such issues and each Owner shall be fully and solely responsible for the same.

**The Owner of each Lot hereby acknowledges that it is solely responsible for any damage which results, directly or indirectly, from a change in the grading pattern of the Lot in violation of the provisions of this Section 5.20 or Section 5.12 of this Declaration.**

Section 5.21 Hazardous Materials. No materials shall be transported to, from or within the Community Area in such a way as to create a nuisance or hazard. Storage, use or disposal of asbestos or hazardous or radioactive material, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), within the Community Area is prohibited. Any continued or intensive use of pesticides or herbicides is deemed to be a use of hazardous materials.

Section 5.22 Solar Devices, Air Conditioning Units, Etc. All solar devices, exterior air conditioning units and systems, swamp coolers and other similar devices must either be architecturally and aesthetically integrated into the building they serve or be screened from the view of adjacent Lots and streets in a manner satisfactory to the Architectural Control Committee and approved in the manner required by the Community Standards.

Section 5.23 Storage Sheds. No storage sheds of any kind will be permitted to be constructed or installed within any Lot without the prior specific written approval of the design, color, materials to be used in connection therewith and location thereof by the Architectural Control Committee in accordance with the terms of this Declaration.

Section 5.24 Intentionally Reserved.

Section 5.25. Mandatory Trash Collection. In an effort to avoid multiple trash collections within the Community Area, the Association may (but is not required to) select, from time to time, one residential trash collection service provider and residential trash collection plan for all completed Dwelling Units within the Community Area, which service provider will collect trash on a specified date for the entire Community Area. The Owners of Lots upon which a Dwelling Unit has been completed and occupied will then be obligated to pay the applicable charge for trash services, regardless of whether or not the Association has commenced Common Assessments for the Community Area.

## ARTICLE 6

## ARCHITECTURAL CONTROL

Section 6.1 Architectural Control Committee. Until Declarant has sold all of the Lots in the Community Area, or until such earlier time as Declarant elects to assign the right to appoint the Architectural Control Committee to the Association's Board of Directors, the Architectural Control Committee for the Community Area shall consist of one (1) to three (3) members appointed by Declarant from time to time. After the right to appoint the Architectural Control Committee for the Community Area has been transferred to the Board of Directors of the Association, the Architectural Control Committee for the Community Area shall consist of at least three (3) and not more than five (5) individuals, all of whom shall be appointed by the Board. All references in this Declaration to the Architectural Control Committee shall be deemed to refer to the Architectural Control Committee, whether such committee is appointed by the Declarant or the Board. The members of the Architectural Control Committee need not be Members of the Association. The Architectural Control Committee shall exercise the functions assigned to it by this Declaration and the Community Standards, including reviewing and approving all plans for Improvements as provided in this Declaration.

Section 6.2 Community Standards. The Architectural Control Committee has enacted the Community Standards, and may, at any time and from time to time, modify, amend, repeal, re-enact, and enforce, a design guide for the Community Area or other design or architectural guidelines to interpret and/or implement any provisions of this Declaration (collectively, the "Community Standards"). The Community Standards may (without limitation): (i) contain guidelines to clarify the types of designs and materials that may be considered in design approval; (ii) state requirements for submission in order to obtain review by the Architectural Control Committee; (iii) state procedural requirements; (iv) specify acceptable Improvements that may be installed without the prior approval of the Architectural Control Committee; (v) specify the materials and other information required for the Architectural Control Committee's review for determination of compliance with applicable Wildfire Mitigation Obligations and Outdoor Lighting Management Plan. Any Community Standards so adopted by the Architectural Control Committee shall be consistent, and not in conflict with, this Article 6 or this Declaration. Copies of the Community Standards will be available from the Association or the Architectural Control Committee.

Section 6.3 Approval Required. No Improvement shall be placed, erected, installed or permitted to occur or exist on any Lot, nor shall the exterior of any existing Improvements be altered, nor shall any construction be commenced on any Improvements, unless and until the plans and specifications for such Improvements shall have been submitted to and approved in writing by the Architectural Control Committee or unless otherwise permitted by the Community Standards. Matters which require the approval of the Architectural Control Committee include but are not limited to:

- (a) the construction, installation, erection or expansion of any building, structure, or other Improvements, including the exterior appearance, finish material, color or texture thereof;

- (b) the installation, addition or modification of Landscaping;
- (c) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;
- (d) the grading, excavation, filling or similar disturbance to the surface of the land; and
- (e) any change or alteration of any previously approved Improvements, including any change of exterior appearance, finish material, color or texture.

Section 6.4 Plans Submissions. All plans, samples and other materials to be submitted to the Architectural Control Committee shall be submitted in duplicate, together with the fee described in Section 6.5 hereof. The minimum scale of such plans shall be 1/20th inch equals one foot. The plot plan shall show in scale the location of all matters impacting the Lot and the proposed Improvements, including but not limited to all buildings, drives, walks, fences, decks, patios, easements, preservation areas, lot lines, drainage flow and the Lot's topograph. Plans shall show all exterior elevations, and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples. Landscaping plans shall show the location of all Landscaping elements, including grass, ground cover, shrubs, trees and other Landscape materials for all the area of the Lot not covered by Improvements. The size and type of all new plant materials shall be indicated. The Declarant shall have no obligation to retain any submitted plans following action by the Architectural Control Committee.

In discharging its rights and obligations hereunder, the Architectural Control Committee makes no representations or warranties to the Owner or any other person or entity concerning the construction of the Improvements on the Lot, and the Architectural Control Committee shall have no liability or responsibility for defective construction or other similar matters. Each Owner of a Lot acknowledges and agrees that the Declarant, in discharging its rights and obligations hereunder, is not making any warranty or representation, expressed or implied, that any Improvement to be constructed by an Owner upon a Lot is suitable for that Lot. **Each Owner further acknowledges that each Owner, and such Owner's representatives or contractors, are ultimately and fully responsible for any construction techniques, measures and means utilized in the construction of an Improvement upon a Lot.**

Section 6.5 Approval Process. All action required or permitted to be taken by the Architectural Control Committee shall be in writing, and any such written statement shall establish the action of the Architectural Control Committee and may protect any person relying on the statement. The procedure for submitting requests and obtaining approvals shall be as established from time to time by the Architectural Control Committee. **The Architectural Control Committee may charge reasonable fees to cover expenses incurred in review of all plans (including without limitation Architectural and/or Landscaping plans), samples and materials submitted pursuant to this Declaration, not including reimbursement or compensation to the members of the Architectural Control Committee for their services.**

The Architectural Control Committee reserves the right to collect (and hold in escrow) such review fees from each Lot purchaser at the time of the first closing of the Lot following completion of a Dwelling Unit on the Lot. The Architectural Control Committee shall be entitled to retain one (1) copy of all approved plans as part of its files and records. Approvals of all plans and specifications for an Improvement will automatically expire within one (1) year after approval if construction is not commenced within one (1) year after approval, and if approval so expires, the applicant must resubmit a request for approval of the Improvement.

Section 6.6 Approval Standards. All Improvements to be constructed or installed within the Community Area must comply with the Community Standards and this Declaration. In granting or withholding approval of matters submitted to it, the Architectural Control Committee shall consider the specific standards and specifications set forth in this Declaration. The Architectural Control Committee shall have the right to disapprove any plans, specifications or details submitted to it if it determines, in its sole discretion, that (i) the proposed Improvement is not consistent with any provision of this Declaration; (ii) the plans and specifications as submitted are incomplete; or (iii) the plans, specifications or details, or any part thereof, are contrary to the interest, welfare or rights of all or any part of the Community Area, the Association or the Owners. If the Architectural Control Committee believes there may be questions of structural integrity, it may, as part of the approval requirements, require the Owner to obtain certification of the final plans and specifications by a professional architect or engineer licensed in Colorado. The decisions of the Architectural Control Committee shall be final and binding.

Section 6.7 No Liability. Neither Declarant, the Board nor the Architectural Control Committee or any member thereof shall be liable in damages or otherwise to anyone submitting plans to them for approval or requesting a variance, or to any Owner by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval or failure to approve the plans, specifications or variance. Approval by the Architectural Control Committee shall not mean that plans and specifications are in compliance with the requirements of any local building codes, zoning ordinances or other governmental regulations, and it shall be the responsibility of the Owner or other person submitting plans to the Architectural Control Committee to comply with all codes, ordinances and regulations.

Section 6.8 Variances. The Architectural Control Committee shall have the authority to grant for a Lot a variance from the terms of this Declaration or the Community Standards, if any, subject to terms and conditions which may be fixed by the Architectural Control Committee and which will not be contrary to the interests of the Owners and residents of the Community Area where, owing to exceptional and extraordinary circumstances, literal enforcement of this Declaration or the Community Standards could result in unnecessary hardship. It is hereby acknowledged that the Architectural Control Committee has the right to grant Grade Variances when the topography of the Lot warrants it in the Architectural Control Committee's determination. **The Architectural Control Committee may charge reasonable fees to cover expenses incurred in review of all variances submitted pursuant to this Declaration, not including reimbursement or compensation to the members of the Architectural Control Committee for their services.**

Following an application for a variance:

- (a) The Architectural Control Committee shall, within thirty (30) days after the request for the variance was delivered, determine whether to grant or deny the variance. If the Architectural Control Committee fails to act on the request for the variance within this thirty (30) days, the variance shall be deemed not to be granted as of the expiration of such thirty (30) days.
- (b) A variance granted hereunder shall run with the Lot for which it is granted.
- (c) A variance shall not be granted unless the Architectural Control Committee first finds that all of the following conditions exist: (i) the variance will not authorize a use not otherwise permitted by this Declaration; (ii) owing to the exceptional and extraordinary circumstances, literal enforcement of this Declaration could result in unnecessary hardship; (iii) the variance will not substantially or permanently injure the use of other property in the Community Area; (iv) the variance will not alter the essential character of the Community Area; (v) the variance will not weaken the general purposes of this Declaration; (vi) the variance will be in harmony with the spirit and purpose of this Declaration; and (vii) the circumstances leading the applicant to seek a variance are unique to the Lot or its Owner and are not applicable generally to Lots in the Community Area or their Owners.
- (d) If a variance is denied, another application for substantially the same variance for the Lot involved may not be made for a period of at least one (1) year from the date of submittal of the original request.

## ARTICLE 7 ASSOCIATION OPERATION

Section 7.1 Association Structure. The Association has been formed as a Colorado corporation under the Colorado Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in the Association Documents. As more specifically set forth hereinafter, the Association shall have a Board to manage its affairs. The Board shall be elected by its Members; provided, however, that the Declarant shall have the sole right to appoint a majority of the members of the Board for the period of time provided in Section 7.5.

Section 7.2 Board of Directors. The affairs of the Association shall be managed by a Board. The Board shall consist of a **minimum of three (3) members** during the Period of Declarant Control stated in Section 7.5 and thereafter shall consist of **at least three (3) but not more than seven (7) members**, as determined by the Board. All members of the Board shall be representatives of Declarant or Members of the Association. The terms and qualification of the members of the Board shall be fixed in the Articles of Incorporation and Bylaws. The Board may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents and employees of the Association, but

such delegation of authority shall not relieve the Board of the ultimate responsibility for the management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board or any duly authorized committee, officer, agent or employee without a vote of Members, except as otherwise specifically provided in this Declaration or by Colorado law. All lawful decisions, agreements and undertakings by the Board, or its authorized representatives, shall be binding upon all Members, Owners, Related Users and other Persons.

Section 7.3 Membership in Community Association. Each Owner shall be a Member of the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Lot, and the membership shall automatically pass with fee simple title to the Lot. Declarant shall hold one membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot, except an Owner may assign some or all of the Owner's rights as an Owner and as Member of the Association to a contract purchaser, tenant or First Mortgagee, and may arrange for such Person to perform some or all of such Owner's obligations as provided in this Declaration, but no such delegation or assignment shall relieve an Owner from the responsibility for fulfillment of the obligations of the Owner under the Association Documents. The rights acquired by any such contract purchaser, tenant or First Mortgagee shall be extinguished automatically upon termination of the sales contract, tenancy, or First Mortgage. The assignment of rights by an Owner pursuant to this section shall not be subject to any present or future statutory time limit for the duration of duly notarized proxy rights, but shall be in writing, and delivered to the Association before such Person shall be entitled to exercise any membership rights or privileges. All rights, title and privileges of membership shall be subject to the Association Documents.

Section 7.4 Voting Rights of Members. Subject to the provisions of Section 7.5 which shall control, Members shall have the right to cast votes for the election of Board and on such other matters to be voted on by the Members as provided in the Association Documents. One vote is allocated to each Lot and Members shall have one vote for each Lot owned. The one vote for each Lot may not be split if there is more than one Owner of the Lot. If more than one of the multiple owners are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority agreement of the present owners. There is a majority agreement if any one of the multiple owners casts the vote allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the Lot. If the owners are not in majority agreement, then the Owners shall be deemed to have abstained. Voting rights and procedures may be further defined in the Articles of Incorporation and Bylaws.

Section 7.5 Declarant's Reserved Right to Appoint. Declarant hereby reserves the right to appoint the Board, to control the Association and to appoint and remove the officers and members of the Board at all times subsequent to the date of recordation of this Declaration and continuing for a period of twenty (20) years following the date on which this Declaration is recorded (the "Period of Declarant Control"). Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. It is

hereby expressly acknowledged that any action by Declarant to surrender its authority over the Association or its Board will in no way limit Declarant's rights and authority with respect to architectural control matters as provided in this Declaration, unless such rights are expressly terminated or waived by Declarant. Within sixty (60) days after the Owners, other than Declarant, elect a majority of the members of the Board, the Declarant shall deliver to the Association the following: (i) copies of all of the Association Documents, as may be amended, and the Association's minute books and other books and records; (ii) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends; (iii) the Association funds or control thereof; (iv) all tangible personal property that has been used exclusively in the operation of the Association Properties; (v) a copy of any plans and specifications used by Declarant in the construction of any improvements on the Association Properties; (vi) all insurance policies then in force, in which the Association or the Board or its officers are named as insured persons; (vii) a roster of Owners and mortgagees and their addresses, if known; and (viii) any employment contracts and service contracts in which the Association is a contracting party.

## ARTICLE 8 DUTIES AND POWERS OF ASSOCIATION

Section 8.1 General Duties and Powers of Association. The Association has been formed to further the common interests of the Members and to maintain the Association Property. The Association, acting through the Board or representatives to whom the Board has delegated such powers, shall have the duties and powers given non-profit corporations, including without limitation those hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance Association Properties, to improve and enhance the attractiveness, desirability and safety of the Community Area, and to use Association funds to enforce this Declaration. The Association shall have and may exercise all powers authorized under the Association Documents, and shall also have the power and authority to acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, subject to approval by Owners entitled to cast at least sixty-seven percent of the votes in the Association, including sixty-seven percent of the votes allocated to units not owned by Declarant, and to impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments. Except as expressly otherwise provided in the Association Documents or by Colorado law, the Association shall act through the Board, without the vote or meeting of the Members, and the Board may exercise all rights, powers and interests of the Association, as described in this Article or elsewhere in the Association Documents.

Section 8.2 Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to any property, including without limitation any Improvements thereon, any easement or other right, and personal property transferred to the Association by Declarant or by any third party with Declarant's permission, and equipment related thereto, together with the responsibility to perform any and all Association functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Property interests transferred to the



Association by Declarant may include fee simple title, easements, leasehold interests and contractual rights or licenses to use property. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association free and clear of all liens (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration. No representation, express or implied, is made that the Declarant will or will not transfer property to the Association, except as specifically provided in Section 9.2.

Section 8.3 Duty to Manage and Care for Property. To the extent owned by the Association, the Association shall manage, operate, care for, maintain and repair all Association Properties and keep the same in an attractive and desirable condition for the use and enjoyment of the Members; provided, however, maintenance responsibilities for any Association Properties shall not commence until Common Assessments commence. In addition, the Association may manage, operate, care for, maintain and repair property other than Association Properties, if some or all of the Members will benefit thereby or if such Association action is required pursuant to the Plats or the Development Plan. It is the intent that under this Declaration that the properties, Improvements and facilities the Association will be required to maintain will include (i) the Association Properties described in Section 2.5, and (ii) all other Improvements and areas required to be maintained by the Association by this Declaration, the Declarant, the Plats, or the Development Plan. The specific enumeration of the foregoing items shall not be a limitation on the power and authority of the Association to maintain other items not specifically listed where such repair and maintenance of other items would be in the common interests of the Association and the Owners.

Section 8.4 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Association Properties owned by the Association and all other taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful. The Association may maintain reserves for any taxes, interest and penalties which could be incurred as a result of an adverse ruling on any position taken by the Association.

Section 8.5 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration and as required by Colorado law.

Section 8.6 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

Section 8.7 Power to Provide Security. The Association shall have the right, but not the obligation, to provide for the security of the Owners by hiring a security patrol and

performing any other functions relating to safety and security authorized by the Board or the Members.

**Section 8.8 Power to Acquire and Maintain Property and Construct Improvements.** The Association may acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The Association may construct or reconstruct Improvements on property and may demolish existing Improvements. The Association shall have the power to maintain public or private rights of way and to perform maintenance on any portion of the Community Area, whether or not owned by the Association.

**Section 8.9 Power to Adopt Rules and Regulations.** The Association may adopt, amend, repeal and enforce such Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and matters related thereto, the operation of the Association, the use and enjoyment of Association Properties, and the use of any other property within the Community Area, including Lots. Any such Rules and Regulations shall be reasonable and uniformly applied as determined by the Board in its sole discretion. Rules and Regulations shall be effective upon adoption by resolution of the Board. Written notice of the adoption, amendment or repeal or any Rule or Regulation shall be provided to all Members by the Association, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the copying cost. Each Owner, Related User, Member and other Person shall comply with such Rules and Regulations, and each Owner shall be responsible for ensuring that the Related Users of such Owner comply with the Rules and Regulations. Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

**Section 8.10 Power to Enforce Declaration and Rules and Regulations.** The Architectural Control Committee, the Association or Declarant, including an assignee or delegate thereof, may give notice to the Owner of the Lot where a violation of this Declaration occurs or which is occupied by the persons causing or responsible for the violation, which notice shall state the nature of the violation, and the intent of the Architectural Control Committee, the Association or Declarant to invoke this Section unless within a period stated in the notice (which notice shall not be less than ten (10) calendar days unless a shorter period of time is otherwise provided for in this Declaration), the violation is cured and terminated or appropriate measures to cure and terminate are begun and are thereafter continuously prosecuted with diligence. If the violation is not cured and terminated as required by the notice, the Architectural Control Committee or Declarant (whichever gives the notice) may, but shall not be obligated to, cause the violation to be cured and terminated at the expense of the Owner or Owners so notified, and entry upon such Owner's Lot as necessary for such purpose shall not be deemed a trespass. Each Owner of a Lot hereby grants a license to the Declarant, the Association and the Architectural Control Committee for the purpose of entering onto a Lot to remedy violations or breaches of this Declaration. Declarant, the Association and the Architectural Control Committee may delegate their entry and removal rights hereunder to agents and independent contractors. The cost so incurred by the Architectural Control Committee, the Association or Declarant shall be

paid by the Lot Owner and the person responsible for the breach and if not paid within thirty (30) days after such Owner has been sent notice of the amount due, such amount, plus interest at the rate of eighteen percent (18%) per annum and costs enforcement and of collection (including reasonable attorneys' fees), shall be a lien on the ownership interest in the Lot (including improvements thereon) and shall in all respects be the personal obligation of the Owner. Such lien shall be junior to all other liens or encumbrances of record with respect to the Lot on the date this lien is recorded but shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against the lien established in this Section 8.10 and Section 11.15. The Architectural Control Committee, the Association or Declarant may bring an action at law for recovery of the costs so incurred by it, plus interest and costs of enforcement and collection against the Owner and may bring an action to foreclose the lien against the Lot and Improvements subject to the lien and there shall be added to the amount of such obligation the costs of enforcement and collection, and the judgment in any such action shall include interest as above provided and the costs of collection, including reasonable attorney's fees. The waiver of homestead exemption set forth above shall apply to any foreclosure action for the lien imposed by this Section 8.10 and Section 11.15. The foregoing specified rights and remedies shall not limit the right of any Lot Owner to enforce this Declaration pursuant to Section 11.15 or as otherwise may be provided herein or by law or equity; provided, however, that only the Declarant, the Association and the Architectural Control Committee shall have the right to proceed under this Section 8.10. In the event that the Declarant, the Association or Architectural Control Committee, whether acting for themselves or through their agents and representatives, elect to exercise the right to enter upon a Lot to remedy a violation of this Declaration, they shall not be liable to the Owner of the Lot for any loss or damage occasioned by the entry on the Lot unless (i) damage is caused to the Lot or Improvements thereon that is unrelated to the remediation of the breach of the Declaration and (ii) is caused by the willful and wanton acts of the Declarant or the Architectural Control Committee. In no event shall there be any liability for damage to an Improvement that is in violation of this Declaration.

Section 8.11 Power and Duty to Enforce Association Documents. The Association shall have the power to enforce the covenants, terms and provisions of the Association Documents.

Section 8.12 Power to Provide Special Services. The Association shall have the power to provide special services beyond this Declaration to a Member or group of Members and any services to any other Person. Any such service or services shall be provided pursuant to an Agreement in writing, or through one or more amendments to this Declaration, which shall provide for payment to the Association by such Member or group of Members or other Persons of the costs and expenses which the Association estimates it will incur in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns or the Member or group of Members or other Persons, and may be collected in the same manner as a Site Assessment, or, if the written

agreement so provides, in installments as part of the Common Assessments or may be collected in any manner permitted by law or statute or the Association Documents.

Section 8.13 Power to Operate and Charge for Facilities. The Association shall have the power to acquire, create, own and operate any and all such services as it deems appropriate, including, without limitation, Landscape maintenance and to establish charges for the use of services. Such charges or fees shall be as determined from time to time by the Board.

Section 8.14 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under Association Property for any lawful purpose, including, without limitation, the provision of emergency services, utilities, telephone, television, or other uses or services to some or all of the Members or to facilitate the development of the Community Area, including any Expansion Property added thereto.

Section 8.15 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a manager or managers to undertake any of the management of any functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the manager. Any contract or agreement with a manager shall be terminable by the Association for cause on no more than thirty (30) days prior written notice, and shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety (90) days prior written notice. No such contract or agreement shall be for a term of more than one (1) year. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board shall remain ultimately responsible for the performance and exercise of such duties, power and functions. In addition to a manager, the Association may employ and pay a consultant, which may be Declarant, an affiliate of Declarant, or a third party, to assist in operating and managing the Association after the Declarant's reserved rights under Section 7.5 terminate.

Section 8.16 Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents (except as otherwise provided in management contracts) and to retain and pay for such legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under the Association Documents.

Section 8.17 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act, subject to any limitations, restriction, or requirements expressly set forth in the Association Documents.

Section 8.18 Other Powers. The Association shall have the power to regulate the days and hours during which trash and solid waste may be collected or put out for collection in any portion of the Community Area, and the Association may require all Owners to use a common trash collection company or entity selected by the Board as further provided in Section 5.25. The

Association shall also have the power, but not any duty, to sponsor or conduct various community activities or special events of a social or recreational nature, to hire and provide a security or courtesy patrol, which shall be unarmed and shall not be a substitute for the municipal police, and to provide general informational services which may include, without limitation, community newsletter, radio broadcast, cable television services and similar services.

## ARTICLE 9 ASSOCIATION PROPERTIES

Section 9.1 Right of Association to Regulate Use. To the extent that the Association hereafter owns, holds or has property, the provisions of this Article 9 shall apply. The Association, acting through the Board, shall have the power to regulate use of Association Properties by Members to enhance further the overall rights of use and enjoyment of all Members, including without limitation, imposing limits on the times of use and numbers of guests permitted to use the Association Properties.

Section 9.2 Property to be Conveyed to the Association. The Declarant shall be obligated to convey to the Association any tract of land that is identified on the Plats as a "Tract" for open space or trails that the Association is required to own pursuant to the Plat, if any. The properties to be conveyed to the Association shall be conveyed to the Association on or before the expiration of the Period of Declarant Control under Section 7.5, and such conveyance shall exclude all water rights, if any. Declarant is not obligated to convey any other real property to the Association. The Association shall be obligated to accept title to each such Tract when conveyed to it by Declarant.

Section 9.3 No Partition of Association Properties. No Owner shall have the right to partition or seek partition of the Association Properties or any part thereof.

Section 9.4 Liability of Owners for Damage. Each Owner shall be liable to the Association for any damage to Association Properties or for any expense or liability incurred by the Association, to the extent not covered by insurance, which may be sustained by reason of the negligence or willful misconduct of such Owner or a Related User of such Owner of the Association Documents. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Site Assessment against a Member, Owner, Lot, Related User, or other Person to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of the Association Documents, including without limitation, the deductible on any insurance of the Association, interest, costs, expenses and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 9.5 Damage to Association Properties. In the event of damage to or destruction of all or a portion of the Association Properties due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, then the Association shall levy a Special Assessment in the aggregate amount of such

insufficiency pursuant to this Declaration and shall proceed to make such repairs or reconstruction, unless the Owners and First Mortgagees by a majority vote agree not to repair and reconstruct such damage in accordance with the terms and provisions of this Declaration. No distributions of insurance proceeds shall be made to the Owners, unless made jointly payable to Owners and the First Mortgagees, if any. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction or replacement, the Association may use the excess for future maintenance, repair, and operation of and improvements to Association Properties.

Section 9.6 Association Powers in the Event of Condemnation.

(a) If proceedings are initiated by any government or agency thereof seeking to take the Association Properties or any interests therein or part thereof, including any Improvements, the Association shall give prompt notice thereof, including a description of the part of or interest in the Association Properties or Improvements thereon sought to be so condemned, to all Owners. The Association shall have full power and authority to defend in said proceedings, and to represent the Owners in any negotiations, settlements and agreements with a condemning authority for acquisition of the Association Properties, any part thereof, or any interest therein, and each Owner hereby appoints the Association as the Owner's attorney-in-fact for such purposes. Any award or proceeds of settlement shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings.

(b) If all of the Association Properties are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, any award or settlement shall be apportioned by the Association on such a fair and equitable basis as the Association determines to be appropriate in the circumstances, or as determined by judicial decree. If the allocation of the condemnation award is already established in the negotiations, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent that it is relevant and applicable.

(c) If less than all of the Association Properties are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, the condemnation award shall first be applied by the Association to the rebuilding and replacement of those Improvements on the Association Properties which are damaged or taken by the condemning public authority, if such rebuilding or replacement is reasonably practical, unless Members with at least sixty-seven percent (67%) of all Member votes and at least sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be distributed by the Association on the same basis as indicated in subparagraph (b) of this section. No provision of this Declaration or any other document relating to the Association Properties shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee, pursuant to a First

Mortgage, awarding distribution of insurance proceeds or condemnation awards for losses to or taking of Association Properties.

## ARTICLE 10

### DECLARANT'S DEVELOPMENT RIGHTS, SPECIAL RIGHTS AND RESERVATIONS

Section 10.1 Period of Declarant's Rights and Reservations. Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Association Properties for a period of twenty (20) years after the date this Declaration is recorded in the real property records of El Paso County, Colorado or until such earlier date when Declarant ceases to own any real property within the Community Area. The rights and reservations set forth in this Declaration shall be deemed excepted and reserved in each conveyance of property by Declarant, whether or not specifically stated therein, and in each deed or other instrument by which any property within the Community Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of the Association Documents and may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of the Association Documents. Declarant's consent to any one such amendment shall not be construed as a consent to any other amendment.

Section 10.2 Declarant's Development Rights. For the period stated in Section 10.1, Declarant shall have the following development rights:

- (a) Subject to the limitations contained in Section 10.8, Declarant may create additional Lots within the Community Area;
- (b) Declarant may create additional Association Properties within the Community Area or convert any of the Declarant owned Lots within the Community Area to Association Properties; and
- (c) Annex all or portions of the Expansion Property into the Community Area.

All of the development rights set forth in this Declaration may be exercised by Declarant with respect to all or any portion of the Community Area. No assurances are made by Declarant concerning which portions of the Community Area may be affected by Declarant's exercise of its development rights or the order in which portions of the Community Area may be affected. Declarant is not obligated to exercise any of its development rights and may elect not to exercise any or all of them. If Declarant does exercise a development right in any portion of the Community Area, Declarant is not obligated to exercise that development right in all or any other portion of the remainder of real estate affected by the exercise of the development right or in all or any other portion of the remainder of the Community Area.

Section 10.3 Special Declarant Rights. For the period stated in Section 10.1, and as more particularly set forth in this Article 10 or elsewhere in this Declaration, Declarant shall have the following special Declarant rights:

- (a) to complete any Improvements shown on the Plats and the Development Plan;
- (b) to exercise any development rights set forth in this Article 10;
- (c) to maintain anywhere within the Community Area, sales offices, management offices, signs advertising the Community Area and model homes;
- (d) to use easements through the Association Properties and easements granted to the Association for the purpose of making improvements within the Community Area and completing development of the Community Area; and
- (e) to appoint or remove any officer of the Association or any member of the Board appointed by Declarant.

Section 10.4 Expansion Property.

(a) Right to Expand. Until the expiration period indicated in Section 10.1, Declarant reserves the right to expand the Community Area, without the approval of the Owners or First Mortgagees, to include additional land and one or more additional buildings located upon all or any part of the Expansion Property. By accepting a deed to a Lot, each Owner hereby grants to Declarant a right to expand the Community Area.

(b) Procedure for Expansion. Such expansion may be accomplished by the filing for record by Declarant with the Clerk and Recorder of El Paso County, Colorado no later than the expiration of the period set forth in Section 10.1, an amendment or amendments to this Declaration containing a legal description of the land area to be added to the Community Area, together with any supplemental plats which may be required. Any such amendment or amendments to this Declaration shall also contain a listing of the total number of Lots then contained within the Community Area. The expansion may be accomplished in "phases" by successive amendments.

(c) Effect of Expansion.

(1) In the event of such expansion, the definitions used in the Declaration shall automatically be expanded to encompass and refer to the Community Area as so expanded; e.g., "Community Area" shall mean the real property described on Exhibit A and any portion of the Expansion Property added by any annexation amendment to the Declaration. Similarly, "Lots" shall include those areas located within the real property described on Exhibit A as well as those so designated on any annexation amendment or supplemental plat relating to any Expansion Property which is annexed pursuant to this Section 10.4. References to the Declaration shall mean the Declaration, any annexation amendments and any future amendments to the Declaration.



(2) Upon recording of the annexation amendment or amendments to the Declaration and any supplemental plat with the Clerk and Recorder of the County, the additional Lots shall be subject to the provisions of the Declaration, as amended.

(3) Until the expansion of the Community Area is accomplished by recording the annexation amendment(s) to the Declaration and supplemental plat(s), the Expansion Property and any improvements constructed thereon shall not be subject to the Declaration in any way whatsoever, including, but not limited to, consideration for the purpose of apportioning assessments or determining voting rights or privileges. If such expansion does not occur, nothing contained in the Declaration or any amendment shall restrict, impair, hinder, encumber or burden, in any way whatsoever, Declarant's or its successors' or assigns' sole and complete right, title and interest to the Expansion Property and any improvements constructed thereon. The Declarant alone shall be liable for all expenses of the Expansion Property unless and until annexed hereunder, and shall be entitled to any income and proceeds therefrom. The Declarant's right to annex may be exercised at different times and as to different portions of the Expansion Property, and so no assurances are made hereby regarding the boundaries of any portion of real property which may be annexed hereunder nor the order in which said portion may be annexed.

Section 10.5 Right to Construct Additional Improvements on Association Properties. Declarant shall have and hereby reserves the right, but shall not be obligated, to construct additional Improvements on Association Properties, at Declarant's cost, at any time and from time to time in accordance with this Declaration for the improvement and enhancement of the Association Properties and for the benefit of the Association and the Owners.

Section 10.6 Declarant's Rights to Use Association Properties in Promotion and Marketing. Declarant shall have and hereby reserves the right to use the Association Properties and to use services offered by the Association in connection with the promotion and marketing of property within the boundaries of the Community Area or nearby areas. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Association Properties such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of real property within the Community Area; may use vehicles and equipment on Association Properties for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Community Area to use Association Properties.

Section 10.7 Declarant's Rights to Complete Development of Community Area. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete the development of property within the boundaries of the Community Area or nearby areas and to subdivide, resubdivide, or rezone any portion of such property; to grant licenses, easements, reservations and rights-of-way; to construct or alter Improvements on any property owned by Declarant within the Community Area; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within the Community Area; or to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the boundaries of the Community Area. Nothing contained in this Declaration shall limit the right of Declarant or

require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant; to make changes or modifications to Article 6 of this Declaration by means of an amendment to this Declaration; to change any Landscaping, grading, drainage, vegetation, or view; or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure on any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within the boundaries of the Community Area. Nothing in this section shall limit or impair the reserved rights of Declarant as may be elsewhere provided in the Association Documents, which rights are incorporated in this section by this reference.

Section 10.8 Estimated Maximum Number of Lots. Notwithstanding any other provision of this Declaration, the maximum number of Lots that Declarant estimates will be created within Forest Lakes Residential as initially encumbered by this Declaration is Two Hundred and Seventy Five (275), NOT including any Expansion Property.

Section 10.9 Declarant's Approval. Until Declarant no longer has the right to appoint a majority of the Board, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change or alter the use of Association Properties; mortgage the Association Properties; use Association Properties other than for the benefit of Members; levy any Special Assessment; change or repeal any rules of the Architectural Control Committee; make any substantial reduction or change in Association services; or make any amendment of Association Documents. Nothing contained in this Article 10 limits in any way the Declarant's express rights contained in this Declaration, including without limitation those rights set forth in Articles 14 and 15.

Section 10.10 Declarant's Rights Incident to Completion of the Development. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Association Property and the right to store materials thereon and to make such other uses thereof as may be reasonably necessary or incidental for the purpose of the completion of Improvement for the Community Area, the performance of Declarant's obligations hereunder, the sale of the Lots and/or Dwelling Units and the exercise of Declarant's special rights under this Article 10; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access by any Owner.

## ARTICLE 11 ASSESSMENTS

Section 11.1 Obligation for Assessments. Each Owner, for each Lot owned within the Community Area, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all Assessments applicable to his Lot which are provided for in the Association Documents and which shall be both a personal obligation of the Owner and a lien against his Lot as provided therein. Each Owner hereby acknowledges that no Special or Common Assessments will be payable by the Owner of any property which is not

annexed into this Declaration. Each Owner shall be jointly and severally liable to the Association for the payment of all applicable Assessments attributable to his Lot. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for herein by non-use of the Association Properties or the facilities contained therein, by non-use of any service provided by the Association for all Owners, by abandonment or leasing of his Lot, or by asserting any claims against the Association, the Declarant or any other person or entity. In addition to the foregoing Assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by the Metro Districts and/or any other Colorado governmental subdivisions against his Lot. All property dedicated to and accepted by a public or governmental authority and the Association Properties shall be exempt from Assessments hereunder.

Section 11.2 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Association Properties as more specifically provided herein.

Section 11.3 Common Assessments. The Common Assessments may include, but shall not be limited to, the following common expenses:

- (a) expenses of management of the Association and its activities;
- (b) taxes and special assessments upon the Association Properties, both real and personal property;
- (c) premiums for all insurance which the Association is required or permitted to maintain;
- (d) common services to Owners as authorized in accordance with the terms of this Declaration.
- (e) Landscaping and care for the Association Properties and any recreational or other Association Improvements located thereon, if any;
- (f) repairs and maintenance that are the responsibility of the Association, including, without limitation, the obligations described in Section 8.3 of this Declaration;
- (g) wages for Association employees and payments to Association contractors;
- (h) legal and accounting fees for the Association
- (i) any deficit remaining from a previous Assessment year;

(j) the creation of reasonable contingency reserves, surpluses, and sinking funds, and adequate reserve funds for maintenance, repairs and replacement of those elements of Association Property or maintenance that must be done or replaced on a periodic basis and are payable in regular installments, rather than by Special Assessments, subject to the provisions of Section 11.19;

(k) the creation of reasonable contingency reserves for any applicable insurance deductibles and emergencies, subject to the provisions of Section 11.19; and

(l) any other costs, expenses, and fees which may be incurred or may reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Owners under or by reason of this Declaration.

Common Assessments shall be paid as provided in Section 11.5.

Section 11.4 Declarant's Obligation. Until Common Assessments are first levied by the Association pursuant to this Article 11, Declarant shall pay all common expenses of the Association described in Section 11.3.

Section 11.5 Common Assessment Procedure

(a) Each Owner acknowledges that benefits accorded Owners of Lots that are occupied by residences of the Community Area ("Functional Units") are significantly greater than Lots that do not contain Functional Units. In recognition of this fact and to establish a clear, reasonable and cost effective administrative process for the commencement of Common Assessments in light of this distinction in benefits, Common Assessments will commence as follows:

On the date the first homeowner acquires title to a completed residence within a platted portion of the Community Area, all Lots within that platted portion of the Community Area will thereafter be subject to the applicable Common Assessments provided for in this Section 11.5 (the "Start Date"). The recordation of an applicable Plat will constitute that Start Date for any portion of the Expansion Property that is hereafter annexed into this Declaration.

(i) As of the applicable Start Date, all Functional Units, together with all Units that are located in the same building or physically connected to a Functional Unit by a shared wall (collectively a "Functional Building"), will be assessed 100% of applicable Common Assessments (subject to proration as provided in Section 11.5(c));

(ii) As of the applicable Start Date, all Lots and Dwelling Units in the applicable portion of the Community Area, other than those that are located in a Functional Building, will be subject to Common Assessments in an amount that is 10% of the applicable Common Assessment (without proration).

(iii) Following the applicable Start Date, as of the date a Dwelling Unit is conveyed to a resident so as to constitute a Functional Unit (i.e. the sale of the

Dwelling Unit to the initial resident), the applicable Functional Unit and all Dwelling Units within the then Functional Building will thereafter be assessed at 100% of Common Assessments (prorated as provided in Section 11.5(c)).

(b) Promptly after this Declaration is recorded, the Board shall set the total annual Common Assessment for 2016 based upon an estimated budget for the Association for 2016. No later than ninety (90) days before the beginning of each year after 2016, the Board shall set the total annual Common Assessment based upon an advanced budget of the Association's requirements for the following Assessment year. Within thirty (30) days after adoption of the Association's budget for each year, by the Board, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the budget summary. Unless a majority of all Owners present and voting in person or by proxy at the meeting called to discuss the budget or voting by the mailed ballot returned to the Board prior to that meeting reject the budget, the budget is ratified, whether or not a quorum is present at the meeting. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(c) After approval of the budget by the Owners, the Board shall cause to be prepared, delivered or mailed to each Owner as of the billing date, at least thirty (30) days in advance of the date payment is due, a payment statement setting forth the annual Common Assessment. That annual Common Assessment shall be payable in advance in yearly installments due on the first (1st) day of each successive January unless the Board otherwise directs. All payments of Common Assessments shall be due and payable, without any notice or demand, on the due dates declared by the Board. Common Assessments shall be applicable to all Lots within the applicable platted portion of the Community Area for which a Start Date has occurred in an amount as provided for in Section 11.5, including those owned by Declarant. Each Owner who subsequently acquires an applicable Lot shall become responsible for Common Assessments attributed to that Lot as of the date the Lot is transferred to such Owner. The first annual Common Assessment on a Lot shall be adjusted according to the number of months remaining in the fiscal year as established pursuant to the Bylaws of the Association. The Board may adopt rules and regulations requiring the Owner, at the time when Common Assessments first commence upon that Owner's Lot as provided in this section, to prepay the Common Assessments for the balance of the year and an additional period which shall not exceed an additional twelve (12) months; such prepayment shall not relieve the Owner from any additional requirement to pay working capital pursuant to Section 11.18.

Section 11.6 Rate of Assessments. Common Assessments and Special Assessments shall be sufficient to meet the expected needs of the Association. Common Assessments and Special Assessments shall be allocated equally and uniformly among all Dwelling Units that are either Functional Units or are located in a Functional Buildings. The rate for Common Assessments and Special Assessments shall be determined by dividing the total Common Assessments or Special Assessments, as applicable, payable for any Assessment period, as determined by the ratified budget, by the number of Lots within a Functional Building. The

resulting quotient shall be the amount of the Common Assessment or Special Assessment, as applicable, payable with respect to each Dwelling Unit that is either a Functional Unit or located within a Functional Building and the remaining Lots will pay as the applicable amount calculated pursuant to Section 11.5, for both Common Assessments and Special Assessments.

Section 11.7 Failure to Fix Assessment. The failure by the Board to levy an Assessment for any period shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Owner to pay Assessments for that or any subsequent period.

Section 11.8 Special Assessments. The Board may, subject to the provisions of this Section, levy Special Assessments for the purpose of raising funds to construct or reconstruct, repair or replace capital Improvements upon Association Properties, including personal property relating thereto; to add to the Association Properties; to provide for necessary facilities and equipment; to offer the services authorized in this Declaration; to correct any deficit or cost overrun; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. Special Assessments shall be equally, uniformly imposed upon Lots that either contain a Functional Unit or are located within a Functional Building as provided in Section 11.5. No Special Assessment shall be assessed until it has been approved in accordance with a procedure substantially identical to the procedure set forth in Section 11.5(a). At any time that insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed Improvements on the Association Properties, or on any other property which the Association maintains, the Association may levy Special Assessments for the purpose of repair or reconstruction of such damaged or destroyed Improvements; all such Special Assessments shall be equal to the amount by which the costs of repair or reconstruction of Improvements exceeds the sum of insurance proceeds awarded for the damage or destruction, and shall be set in the same manner as other Special Assessments. The Association shall notify Owners in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable, and the Owners shall pay any such Special Assessment in the manner so specified.

Section 11.9 Site Assessments. The Board may, subject to the provisions hereof, levy a Site Assessment against any Member, Owner, or Lot if additional services are provided to a Member, Owner, or Lot or if the willful or negligent acts or omissions of the Member, Owner or a Related User cause any violation of the Association Documents or cause any loss or damage to the Association or Association Properties or cause any expenditure of funds in connection with the enforcement powers of the Association. Except for a default consisting solely of a failure to timely pay any Assessment, including, without limitation, Special Assessments or Common Assessments, which shall not require any notice and hearing, a Site Assessment, other than charges for additional services, shall be levied only after such notice and hearing as may be required by the Bylaws. The amount of the Site Assessment shall be due and payable to the Association upon notice by the Board that the Site Assessment is owing. Imposition or non-imposition of Site Assessments shall not preclude the Association from pursuing simultaneously or subsequently all other legal or equitable rights and remedies. In no event will the amount of

any Site Assessment levied against any Lot be counted in calculating the amount allowed pursuant to C.R.S. Section 38-33.3-116(2) and (3).

Section 11.10 Costs of Enforcement, Late Charges and Interest. If any Assessment is not paid within ten (10) days after it is due, the Member, Owner or other Person obligated to pay the Assessment may be additionally required to pay all costs of enforcement, including without limitation, reasonable attorneys' fees, court costs, witness expenses, and all related expenses ("collection expenses"), and to pay a reasonable late charge to be determined by the Board. Any Assessment which is not paid within ten (10) days after the date of any notice of default given under Section 11.12 shall bear interest from the due date at a rate determined by the Board, not to exceed the lower of eighteen percent (18%) per annum, or the maximum percentage permitted by law, from the due date until paid.

Section 11.11 Attribution of Payments. If any Assessment payment is less than the amount assessed, the sums received by the Association from that Owner shall be credited in such order of priority as the Board, in its discretion, determines.

Section 11.12 Notice of Default and Acceleration of Assessments. If any Assessment is not paid within thirty (30) days after its due date, the Board may mail a notice of default to the Owner and to each First Mortgagee of the Lot who has requested a copy of such notice. The notice shall substantially set forth: (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date not less than twenty (20) days from the date of mailing of the notice by which such default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in the foreclosure of the lien for the Assessment against the Owner's Lot. A default shall not be considered cured unless the past due sums, collection expenses, and all sums coming due through the date of payment are paid to the Association. If the delinquent Assessment and any collection expenses, late charges or interest thereon, plus any other sums due as of the date of the payment, are not paid in full on or before the date specified in the notice, the Board, at its option, may enforce the collection of the Assessment and all collection expenses, charges and interest thereon in any manner authorized by law or in the Association Documents.

Section 11.13 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed. In the event of a default in payment of any Assessment, the Board may, in addition to any other remedies provided under the Association Documents or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided. Each Owner, by acceptance of a deed to a Lot, whether or not it is expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments, together with interest, late charges, and expenses of collection, and this covenant shall be a charge on the land and a continuing lien upon the Lot against which the Assessment is made. The lien created hereby shall exist from the date of each Assessment until all sums are paid, whether or not a Notice of Lien is filed in accordance with Section 11.15.

Section 11.14 Lawsuit to Enforce Assessments. The Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charge, interest, and other costs of enforcement against the defaulting Owner, including, without limitation, court costs and reasonable attorneys' fees.

Section 11.15 Lien to Enforce Assessments. The Association shall have a lien for Assessments (the "Lien"). The Lien under this section is prior to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) a security interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessments became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. The Lien may be foreclosed in like manner as a mortgage on real estate. In addition to or in lieu of bringing suit to collect Assessments, the Association may foreclose its Lien as provided by law and in this Section. The Board may elect (but is not required to) to file a claim of lien against the Lot of the defaulting Owner by recording a notice ("Notice of Lien") substantially setting forth: (a) the amount of the claimed delinquency, (b) the interest and expenses of collection which has accrued thereon and which shall continue to accrue in accordance with the terms of Section 11.10 of this Declaration, (c) the legal description and street address of the Lot against which the lien is claimed, and (d) the name of the record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The Lien shall be prior to any declaration of homestead rights recorded after the time that the Lot becomes part of the Community Area. **The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver by the Owner of the homestead exemption as against said Lien.** The Lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Lien, including, without limitation, all collection expenses, court costs, recording costs and filing fees, have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien, if recorded, upon payment by the Owner of a reasonable fee as fixed by the Board to cover the cost of preparing and recording the release of the Notice of Lien. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including public trustee foreclosures of deeds of trust), or in any other manner permitted by law. The Association shall have the right and power to bid on the Lot at the sale and to acquire and hold, lease, mortgage, and convey the same. The lien under this Section shall be subject to the provisions and restrictions of Article 14.

Section 11.16 Estoppel Certificates. Upon the payment of such reasonable fee as may be determined from time to time by the Board, and upon the written request of any Member or Owner and any Person which has acquired, or intends to acquire, any right, title or interest in the Lot of such Member or Owner, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the Owner thereof, and setting forth the amount of any Assessment levied against such Lot which is not yet due and payable. Such statement shall, with respect to the Person whom it is issued, if relied thereupon in good faith and without actual knowledge to the contrary, be conclusive against the Association.



Section 11.17 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offset, abatement or reduction thereof shall be permitted for any reason whatsoever, including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration, or for inconvenience or discomfort arising from any activity of the Association Properties, or the non-use by an Owner of Association Properties or services provided by the Association or because an Owner claims that a particular function funded by the Assessment does not benefit that Owner directly, or for any other reason.

Section 11.18 Working Capital Fund. The Board may, at its option, require each Lot purchaser, expressly excluding Declarant, at the time of each transfer of title to the Lot following completion of a Dwelling Unit on the applicable Lot, to make a nonrefundable contribution to the Association of an amount established from time to time by the Board, but in no event will the amount exceed three (3) times the amount of the annual Common Assessment against the Lot in effect on the date of delivery of the deed conveying the Lot. All such contributions shall be maintained in a non-segregated account for the use and benefit of the Association for, among other purposes, meeting unforeseen expenditures, funding Association deficits or purchasing additional equipment, property or services. **The working capital contribution shall be in addition to the Assessment, and shall not relieve the Owners from paying all Assessments as they come due.** Declarant is excluded from the provisions of this Section because the Association and Owners of Lots with completed Dwelling Units will receive all of the benefits from payments made under this Section.

Section 11.19 Association Reserves. Each Owner hereby acknowledges that it has purchased its Lot and Dwelling Unit within the Community Area with the knowledge and consent that the Association will NOT collect funds to establish reserve funds ("Reserves") for the Association until such time as each Lot within the entire Community Area has a Dwelling Unit constructed thereon. At such time, the Association may establish such Reserves for the Association as the Association, through its Board in consultation with its property management company, if any, determines to be reasonable in its sole discretion. Each Owner further acknowledges that the Association will NOT have any obligation to establish reserves at a level which will fully fund the replacement of all Association Properties, but merely a commercially reasonable offset of such anticipated expenses.

## ARTICLE 12 INSURANCE

Section 12.1 Insurance on Association Properties. The Association shall maintain insurance as required by the Act and will insure the Association Property to the extent and as long as that insurance is reasonably available to the Association at a reasonable cost based on the insured risks and the costs charged and other financial considerations related to that insurance. The Association shall perform and evaluate Association insurance on a reasonable cost/benefit analysis. All insurance costs incurred by the Association will be included in the Association budget that will determine the Association's Common Assessments. In addition, the Association

may maintain such insurance on such other property as the Board of Directors may determine in its discretion from time to time, or as may be hereinafter required. The Association may also consider, in determining the type and amount of insurance it needs to obtain, the then-existing requirements of the applicable governmental agencies.

- (a) Property insurance on all insurable Association Properties for broad form covered causes of loss, and, if reasonably available, the total amount of insurance must not be less than the full insurable replacement cost of all the insured property less applicable deductibles at the time the insurance is purchased and such renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies.
- (b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Association Property, insuring the Association in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, insuring the Board of Directors, the Association, any managing agent and their respective employees, agents and all Persons acting as agents. Declarant shall be included as an additional insured in its capacity as an Owner of Lots and member of the Board of Directors. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with an Owner's membership in the Association. The insurance shall cover claims of one or more insured parties against other insured parties.
- (c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Community and/or any Owner who disburse of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate assessments on the Functional Unit, plus such reserve funds as calculated from the current budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Community Area to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subsection (c).
- (d) If any Association Properties are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

(i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

(ii) one hundred percent (100%) of current replacement costs of all buildings and other insurable property located within a designated flood hazard area.

(e) In addition, the Association may obtain insurance against such other risks of similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including but not limited to personal liability insurance to protect directors and officers of the Association and the members of the Architectural Control Committee and other representatives.

Section 12.2 General Provisions of Insurance Policies. If available at a reasonable price, policies of insurance carried by the Association shall be carried in blanket policy form naming the Association, as insured, or its designee, as trustee and attorney-in-fact for all Owners, as the insured, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory clause in favor of each First Mortgagee or other mortgagee (collectively "Security Interest Holder"), and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until thirty (30) days prior written notice thereof is given to the insured and to each Security Interest Holder, insurer or guarantor of a security interest. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest including Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any act or neglect of an Owner where such Owner is not under the control of the Association. Insurance obtained by the Association, to the extent reasonably feasible, shall name Declarant as an additional insured and shall contain a waiver of subrogation rights against Declarant. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Association Properties and property of Declarant.

Section 12.3 Deductibles. The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment.

(a) To the extent the Association settles a claim for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than any one (1) Lot and/or related Improvements and damage by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

(b) Any loss to any Lot or to any Association Property or other property that the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the repair and

maintenance of the property that is damaged or destroyed. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, his tenants, family members, guest, invitees or other Related User. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in question and the Association may collect the amount from said Owner in the same manner as an Assessment.

Section 12.4 Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Article 12 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Article 9 of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.

Section 12.5 Acceptable Insurance Companies. Each insurance policy purchased by the Association must be written by a hazard insurance carrier that is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where: (a) under the terms of the insurance company's charter, bylaws, or policy contributions or assessments may be made against the mortgagor or mortgagee's designee; (b) under the terms of the carrier's charter, bylaws, or policy loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members; or (c) the policy includes any limiting clauses (other than insurance conditions) which would prevent a Security Interest Holder or any Owner from collecting insurance proceeds.

Section 12.6 Other Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Lot, Functional Unit and any other Improvements thereon, including but not limited to flood insurance, and the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Lot and the Improvements thereon owned by each Owner shall be the responsibility of the Owner of such Lot. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance.

Section 12.7 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. In making the aforesaid determination, the Board of Directors or the managing agent of the

Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance.

Section 12.8 Owners' Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of any or all of the Association Property is caused by the willful or negligent act or omission of any Owner, or a Related User of such Owner, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction may be collected as a Site Assessment as provided in this Declaration or by the Association exercising any rights or remedies under the Association Documents or otherwise as permitted by law. A determination of the negligence or willful act or omission of any Owner's liability therefor shall be determined by the Board at a hearing after any notice required by the Bylaws to be given to the Owner, but any determination by the Board shall be subject to judicial review as appropriate.

### ARTICLE 13 EASEMENTS

Section 13.1 Association Easement. A non-exclusive easement is hereby granted to the Association, their respective officers, agents, employees and assigns upon, across, over, in and under the Association Property and any Lot as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or otherwise, including without limitation any maintenance required or permitted hereunder, any inspection, repair, replacement, construction or reconstruction of any facilities or utilities on or within the Association Property and the right to make such use of the Community Area as may be necessary or appropriate in carrying out such maintenance and other rights and obligations.

Section 13.2 Emergency Easement. A non-exclusive easement is hereby granted to all police, fire protection, ambulance and all similar persons to enter upon the Community Area in the performance of their duties.

Section 13.3 Easement for Encroachments. If any portion of an Improvement encroaches upon the Association Property, including any future encroachments arising or resulting from erosion or subsidence, or from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, the Board may grant a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, for so long as such encroachment exists, but subject to any conditions or restrictions imposed by the Board.

Section 13.4 Utilities. Declarant hereby creates and reserves to itself until Declarant has sold the last Lot in the Community Area to an Owner other than Declarant, and, thereafter, to the Association;

- (a) perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to other over, under, in and across each of the utility

easements of each Lot as shown on the Plat or the Development Plan for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for water lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes; and

(b) a blanket easement across, over and under the Association Properties for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, gas, telephone and electricity.

If any utility or quasi-utility company furnishing a service covered by the easements created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement. The Association shall succeed to such right and authority upon conveyance by Declarant of the last Lot in the Community Area to the first Owner thereof, other than Declarant. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Community Area.

Section 13.5 Easements Deemed Created. All conveyance of Lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Declaration, whether or not specific reference to such easements or to this Article appears in the instrument of such conveyance.

Section 13.6 Easements of Record. In addition to the easements created in this Article 13 and on the Plat and in Article 4, the Community Area is subject to those easements and other matters currently of record in El Paso County, Colorado.

Section 13.7 Community Mailboxes. The U.S. Postal Service will locate one or more multiple delivery pads and mailboxes, a/k/a "community mailbox" structures within the Community Area, in accordance with U.S. Postal Service and County regulations. The Declarant hereby creates and reserves to the Association and the U.S. Postal Service, perpetual, alienable, divisible and releasable easements over, under, in and across the Association Property, for use of portions of such areas for the "community mailbox" structure(s). The easement provided for in this section shall in no way affect, void, extinguish or modify any other easement in the Community Area.

Section 13.8 Common Access Road Easement. The Owners of Lots 7, 8 and 9 Filing No. 1 Forest Lakes Residential are serviced by a common access road and the Owners of Lots 16, 17, 18, 33 and 34 Filing No. 1 Forest Lakes Residential are serviced by a separate common access road (jointly, the "Common Access Road Easements"). The Common Access Road Easements are established pursuant to Easement Agreements respectively recorded at Reception No. 208020000 and Reception No. 208020001 of the County records (the "Access Road Easement Agreements"). The Access Road Easement Agreements grant FLMD, for its benefit and the benefit of each of the adjacent Lot Owners listed in the applicable Common Access Road Easement Agreements, an easement for a common access road and for access and maintenance for all utilities, including but not limited to water sewer, gas, electric, telephone and cable

service. FLMD will charge additional fees for services provided to the Common Access Road Easements.

Section 13.9 Wall Construction and Maintenance Easement. Various Lots within the Community Area are subject to a Wall Construction and Maintenance Easement as reflected on the applicable Plat of the impacted Lot. FLMD is responsible for maintaining the walls that are installed pursuant to the platted Wall Construction and Maintenance Easements.

Section 13.10 Plat Review/Easements. Each Owner is encouraged to review the Plat that includes his or her Lot to determine what, if any, easements are located within the Lot and how those easements may impact the use and/or construction within the Lot as well as third party rights to access and work within the Lot.

#### **ARTICLE 14 ENFORCEMENT; DISPUTE RESOLUTION**

The Association, Architectural Control Committee, Declarant, and all Owners agree to encourage the use of mediation or arbitration in the resolution of disputes pertaining to the Declaration and Association Document and the Community Area. Accordingly, each covenants and agrees to be bound by the provisions set forth in this Article.

Section 14.1 Collection of Assessments. Any action or proceeding by the Association to collect any Assessments, together with interest, late charges, and expenses of collection, shall proceed according to Article 11, and shall not be included within or impacted by this Article 14.

Section 14.2 Enforcement of Declaration, Community Standards, and Association Documents by the Architectural Control Committee, the Association, or Declarant. The Architectural Control Committee, the Association, or Declarant, including an assignee or delegate thereof, may give notice to the Owner of the Lot where a violation of this Declaration occurs or to the occupant when the Lot at issue is occupied by the persons causing or responsible for the violation, which notice shall state: the nature of the violation, the action required to cure the violation; a date not less than ten (10) days from the date of mailing of the notice by which such violation must be cured (a shorter time period may be stated in the event of emergency); and the intent of the Architectural Control Committee, the Association, or Declarant to invoke this Section. Further action shall be stayed if the violation is cured and terminated or appropriate measures to cure and terminate are begun and are thereafter continuously prosecuted with diligence. If the violation is not cured and terminated, or if appropriate measures to cure and terminate are begun and are not thereafter continuously prosecuted with diligence, as required by the notice, then at any time following an Owner's failure to cure the violation, the Architectural Control Committee, Association, or Declarant (whichever gives the notice, and in their reasonable discretion) may, but shall not be obligated to elect to: (i) cause the violation to be cured and terminated at the expense of the Owner or Owners so notified, pursuant to Section 14.3 below, (ii) proceed with an action to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief), together with such other ancillary relief as a court may deem necessary in order to enforce any of the provisions of this Declaration; or (iii) proceed with

the dispute resolution procedure set forth in Section 14.5(e) below. Any other disputes between any of the Architectural Control Committee, the Association, and the Declarant, whether in contract, tort or statutory, shall be resolved pursuant to the dispute resolution procedures set forth in Section 14.5(e) below.

Section 14.3 Entry Upon a Lot to Cure Violation/ Liens.

(a) License. Each Owner of a Lot hereby grants a license to the Declarant, the Association and the Architectural Control Committee for the purpose of entering onto a Lot to remedy violations or breaches of this Declaration pursuant to Section 14.2 above. The Architectural Control Committee, the Association, or Declarant may delegate their entry and removal rights hereunder to agents and independent contractors.

(b) No Liability. In the event that the Architectural Control Committee, the Association, or Declarant, whether acting for themselves or through their agents, officers, members, employees, and representatives, elect to exercise the right to enter upon a Lot to remedy a violation of this Declaration, they shall not be liable to the Owner of the Lot for any loss or damage occasioned by the entry on the Lot unless: damage is caused to the Lot or Improvements thereon that is unrelated to the remediation of the breach of the Declaration, and is caused by the willful and wanton acts of the Architectural Control Committee, the Association, or Declarant. In no event shall there be any liability for damage to an Improvement that is in violation of this Declaration.

(c) Lien. The costs incurred by the Architectural Control Committee, the Association, or Declarant pursuant to any enforcement pursuant to this Article 14 shall be paid by the Lot Owner and if not paid within thirty (30) days after such Owner has been sent notice of the amount due, such amount, plus interest at the rate of eighteen percent (18%) per annum and costs of enforcement and of collection (including reasonable attorneys' fees), shall be a lien on the ownership interest in the Lot (including Improvements thereon) and shall in all respects be the personal obligation of the Owner.

(d) Collection. The Architectural Control Committee, the Association, or Declarant may bring an action at law for recovery of the costs incurred by it pursuant to this Article 14, against the Owner and may bring an action to foreclose the lien against the Lot and Improvements subject to the lien, and the judgment or foreclosure in any such action shall include interest as above provided and the costs of collection, including reasonable attorneys' fees.

(e) Foreclosure of Lien. The Architectural Control Committee, the Association, or Declarant may enforce a lien pursuant to this Article 14 by suit or by filing and foreclosure of the lien as hereinafter provided. Such party may elect (but is not required to) to file a claim of lien against the Lot of the defaulting Owner by recording a notice ("Notice of Article 14 Lien") substantially setting forth: (i) the amount of the claimed delinquency, (ii) the interest and expenses of collection which has accrued thereon and which shall continue to accrue in accordance with the terms hereof, (iii) the legal description and street address of the Lot



against which the lien is claimed, and (iv) the name of the record Owner thereof. Such Notice of Article 14 Lien shall be signed and acknowledged by an officer of the entity. Each Owner, by acceptance of a deed to a Lot, whether or not it is expressed in such deed, is deemed to agree to pay all such amounts, and this covenant shall be a charge on the land and a continuing lien upon the Lot. The lien created by this Section shall exist from the date of entry upon the Lot until all sums are paid, whether or not a Notice of Article 14 Lien is filed in accordance herewith. The lien created by this Section shall be junior to all other liens or encumbrances of record with respect to the Lot on the date this lien is recorded but shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against the lien established in this Section. When all amounts claimed under the lien have been fully paid or satisfied, the filing entity shall execute and record a notice releasing the Notice of Article 14 Lien, if recorded, upon payment by the Owner of a reasonable fee fixed to cover the cost of preparing and recording the release. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including public trustee foreclosures of deeds of trust), or in any other manner permitted by law. The lien under this Section shall be subject to the provisions and restrictions of Section 15.6 hereof.

Section 14.4 Enforcement of Declaration, Community Standards, and Association Documents by an Owner. Any action by a Lot Owner against the Association, the Declarant, the Architectural Control Committee, or any of the officers, directors, partners, members, employees, agents or representatives of the foregoing, or any Owner of another Lot, whether in contract, tort or statutory, shall proceed pursuant to the dispute resolution procedure set forth in Section 14.5(e); provided that (i) all actions against the Declarant, or any of its officers, directors, partners, members, employees, agents or representatives, by an Owner related to warranty claims or any other claims related to alleged construction defects of any kind or nature shall be governed solely by the terms of the contract between the Owner (or **their predecessor in interest subsequent to Declarant's ownership**) and the Declarant or Dwelling Unit builder, and by the terms of the limited warranty which was provided to each initial Owner following Declarant as part of such initial Owner's purchase of a Dwelling Unit; and (ii) any suit between or among Owners that does not include Declarant or the Association as a party, and that asserts a claim independent of the Association Documents, is not governed by Section 14.5 unless mutually agreed by such Owners.

Section 14.5 Actions by Association on behalf of Owners. Pursuant to Colorado Common Interest Ownership ACT ("CCIOA") Section 38-33.3-302(1)(d), the Association may institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community (expressly including any Action as described in C.R.S. Section 13-20-802.5 which is commonly referred to as a construction defect proceeding), subject in all instances to each of the following provisions and conditions:

(a) Limited Warranty and Contracts Control. By an Owner's purchase of a Dwelling Unit and by the Association's receipt of title to any Association Property, all Owners

and the Association acknowledge that all actions related to warranty claims or any other claims related to alleged construction defects of any kind or nature are governed by the terms of the contract between the Owner (or their predecessor in interest subsequent to Declarant's ownership) and the Declarant or Dwelling Unit builder, and by the terms of the limited warranty which was provided to each initial Owner following Declarant as part of such initial Owner's purchase of a Dwelling Unit to the fullest extent permitted by law. All Owners, the Declarant (and any of its officers, directors, partners, members, employees, agents or representatives), and the Association acknowledge and agree that all matters governed by the terms of such contract(s) and the limited warranty are not matters affecting the common interest community; and are not included within the Association's authority pursuant to CCIOA Section 38-33.3-302(1)(d).

(b) Association's Rights Coextensive with Owner's Rights. The Association's rights and limitations in any such litigation or administrative proceedings shall be coextensive with and shall not exceed the respective Owner's rights; and the Association shall be bound by any mediation or arbitration procedures to the same extent as individual Owners;

(c) Approvals Required. Prior to the Association making any claim in an applicable action, the Board shall: obtain the approval of Owners holding not less than sixty-seven percent (67%) of all votes in the Association following the Association's delivery of a meeting notice and written ballot (if any), that contains a detailed statement regarding the nature of the claim, an estimate of the costs and fees reasonably anticipated to be incurred by the Association, a statement that such costs and fees may increase the amount of Assessments; and an estimate of the projected time frame for resolution of the claim.

(d) Construction Defect Approvals Required. For any Action provided for in C.R.S. Section 13-20-802.5 (construction defects), the Board shall comply with the following additional steps: (i) prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the executive board shall mail or deliver written notice of the commencement or anticipated commencement of such action to each unit owner at the last known address described in the Association's records, which notice shall state a description of the following: the nature of the action and the relief sought, and the expenses and fees that the Board or Association anticipates will be incurred in prosecuting the action. Nothing in this section shall be construed to: (i) require the disclosure in the notice or the disclosure to a unit owner of attorney-client communications or other privileged communications; (ii) permit the notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in the notice; or (iii) limit or impair the authority of the executive board to contract for legal services, or limit or impair the ability to enforce such a contract for legal services.

(e) Dispute Resolution Procedures.

(i) Notice; Negotiation. For any claim governed by this Section 14.5, whether in tort, contract, or statutory, or the election to proceed under this Section 14.5(e) as provided in Section 14.2 (the "Claim"), the claimant ("Claimant") shall give notice to the other Person against whom the claim is asserted ("Respondent"), setting forth: the nature of the claim;

the basis or reason for the claim; any other material information regarding the claim; the specific relief and/or proposed remedy sought; and the intent to invoke this Section (the "Notice of Claim"). A Claimant may not deliver such notice during any cure or enforcement period pursuant to Section 14.2. Following all applicable notice and approval requirements, including without limitation, those set forth in Section 14.5 (c), Claimant and Respondent shall use good faith efforts to resolve the Claim through negotiations following delivery of the Notice of Claim, pending mediation pursuant to Section 14.5(e)(ii) below.

(ii) Mediation. The Claim shall first be submitted to non-binding mediation before a mediator selected by the parties. The costs of the mediation shall be borne equally by all parties. Mediation shall be a condition precedent to arbitrating any dispute. The mediation shall occur within forty-five (45) days following delivery of the Notice of Claim ("Mediation Period"). In the event that mediation is unsuccessful, either party may demand arbitration pursuant to Section 14.5(e)(iii) within thirty (30) calendar days of the date of the mediation. If no party demands arbitration within the specified time, the parties, to the fullest extent permitted by law, irrevocably waive any and all right to proceed to arbitration and any and all claims they may have against the other party(ies).

(iii) Arbitration. The Declaration is a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act. Following the Mediation Period and a written demand for arbitration, the Claim shall be resolved by arbitration administered by the American Arbitration Association in accordance with the current Construction Industry Arbitration Rules with an Arbitrator appointed by Declarant. The costs of the arbitration shall be borne equally by the parties, subject to reallocation by the Arbitrator. Any arbitration award may be enforced through entry of judgment by any court having jurisdiction thereover. Exclusive venue for any arbitration proceeding shall be in El Paso County, Colorado.

(iv) Construction Defect Actions. In the event any Action provided for in C.R.S. Section 13-20-802.5 (construction defects), the provisions of this Section 14.5(e)(iv) shall also apply. If any of Claimant's claims relate, in any way, to any work completed by any of Respondent's subcontractors or any materials and/or equipment provided by any of Respondent's suppliers, Respondent, in its sole discretion, may join such subcontractors and/or suppliers to any arbitration proceeding with Claimant. The sole manner which may be used to establish breach of any of Respondent's obligations under this Declaration, any obligations which may exist by law or reason of any statute, any applicable industry standards, and/or Claimant's damages, including, but not limited to, appropriate repair costs, shall be through the testimony of a homebuilder currently licensed by Regional Building who has built and sold at least five (5) homes with a sales price exceeding \$500,000 in the two (2) calendar years immediately preceding the calendar year in which the claim is brought. The Arbitrator shall completely exclude the testimony of any tendered expert who does not meet the foregoing qualifications.

(f) Amendment. The terms and provisions of this Section 14.5 inure to the benefit of Declarant, are enforceable by Declarant and shall not ever be amended without the written consent of Declarant and without regard to whether Declarant owns any portion of the Community Area, any Lots and/or the status of the Period of Declarant Control. BY TAKING

TITLE TO A LOT, EACH OWNER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS SECTION 14.5 ARE A SIGNIFICANT INDUCEMENT TO DECLARANT'S WILLINGNESS TO DEVELOP AND SELL THE LOTS AND DWELLING UNIT AND THAT IN THE ABSENCE OF THE PROVISIONS CONTAINED IN THIS SECTION 14.5, DECLARANT WOULD HAVE BEEN UNABLE AND UNWILLING TO DEVELOP AND SELL THE LOTS AND DWELLING UNIT FOR THE PRICE PAID BY THE ORIGINAL PURCHASERS. THIS PROVISION IS IN ADDITION TO AND NOT CONTRARY TO THE TERMS OF ARTICLE 15 CONCERNING ALL OTHER AMENDMENTS TO THIS DECLARATION.

(g) Accrual of Claims. In the event of any amendment of any provision of this Article in violation of Section 14.5(e), or in the event Section 14.5(e) is deemed unenforceable, then and in such event any amendment or modification of the terms of this Article 14 shall only apply prospectively, to claims that accrue following the date of such amendment or modification.

Section 14.6 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 14.7 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Community Area, is hereby 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.

Section 14.8 Remedies Cumulative. Except as expressly stated herein, each remedy provided under the Association Documents is cumulative and not exclusive.

Section 14.9 Costs and Attorneys' Fees. In addition to any other rights provided herein and not by way of limitation thereof, any party which seeks to enforce the Association Documents and prevails shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and expert witness fees. For each claim or defense, including but not limited to counterclaims, cross-claims and third-party claims, and except as otherwise provided herein, in any legal proceeding to enforce or defend the provisions of CCIOA or the Association Documents, the prevailing party shall be awarded on such claim the prevailing party's reasonable collection costs and attorneys' fees and costs incurred in asserting or defending the claim. For any failure to comply with the provisions of CCIOA or any provision of the Association Documents other than the payment of Assessments or any money or other sums due to the Association, the Association, any Owner or any class of Owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorneys' fees and costs incurred as a result of such failure to comply without the necessity of commencing a legal proceeding.

To the fullest extent permitted by law, in connection with any claim in which an Owner is alleged to have violated a provision of CCIOA or a provision of the Association Documents and in which the Owner prevails because the Owner did not commit the alleged violation: (i) the Owner shall be awarded the Owner's reasonable attorneys' fees and costs incurred in asserting or defending the claim; (ii) the Association shall not be awarded court costs and attorneys' fees; and (iii) the Association shall be precluded from allocating to the Owner's account with the Association any of the Association's costs or attorneys' fees incurred in asserting or defending the claim. Nothing in the Association Documents shall be construed to mean that an Owner shall be deemed to have confessed judgment to attorney's fees or collection costs.

Section 14.10 Limitations. Notwithstanding any other provision of this Article, no claim or proceedings may be initiated after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitation or statute of repose.

Section 14.11 Liability for Failure of Association to Maintain an Action. No director or officer of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a claim if the following criteria are satisfied: (i) the director or officer was acting within the scope of his or her duties; (ii) the director or officer was acting in good faith; and (iii) the act or omission was not willful, wanton or grossly negligent.

Section 14.12 Severability. All provisions of this Article are severable. Invalidation of any of the provisions of this Article, by judgment, court order or otherwise, shall in no way affect or limit the effectiveness of any other provisions of this Article, all of which shall remain in full force and effect.

## ARTICLE 15 MISCELLANEOUS

Section 15.1 Term of Declaration. Unless amended as herein provided, all provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective for twenty (20) years after the date when this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of ten (10) years each unless terminated by agreement of the Owners with at least sixty-seven percent (67%) of the voting power of the Association.

Section 15.2 Amendment of Declaration by Declarant or the Association. Declarant is hereby granted the unilateral authority to amend this Declaration as follows:

- (a) Until the first Lot subject to this Declaration has been conveyed by Declarant to an Owner other than a successor Declarant, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.

(b) Declarant may amend the Declaration in accordance with Article 10 as necessary to exercise any of the development rights set forth in Article 10 or elsewhere in this Declaration.

Section 15.3 Amendment of Declaration by Members. Subject to the additional specific requirements contained in Section 14.5(e) or Section 15.4, each setting forth specific additional requirements and circumstances requiring Declarant consent, this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members with at least sixty-seven percent (67%) of the voting power of the Association. Every amendment to the Declaration must be recorded in the County, and is effective only upon recordation.

Section 15.4 Required Consent of Declarant to Amendment. Any proposed amendment or repeal of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant or any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate at such time as the last Lot in the Community Area has been conveyed by Declarant to the first Owner other than Declarant; provided, however, the term for Declarant consent in no way limits the terms of Section 14.5(e) which shall survive as provided therein.

Section 15.5 Special Rights of First Mortgagees. Any First Mortgagee, upon filing a written request therefor with the Association, shall be entitled to: (a) receive written notice from the Association of any default by the Owner indebted to such First Mortgagee in the performance of the Owner's obligations under the Association Documents, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) upon request, receive a copy of financial statement, within ninety (90) days following the end of any fiscal year of the Association; (d) receive written notice of all meeting of Members; (e) designate a representative to attend any meeting of Members; (f) receive written notice of abandonment or termination of the Association or of this Declaration; (g) receive notice of any amendment to this Declaration, the Articles of Incorporation or the Bylaws; (h) receive written notice of termination of any agreement for professional management of the Association of the Association Properties following a decision of the Association to assume self-management of the Association Properties; and (i) receive written notice of any damage to the Association Properties if the cost of reconstruction exceeds Fifty Thousand and 00/100 Dollars (\$50,000.00), and of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Association Properties.

For purposes of this Section, to obtain the approval or consent of any First Mortgagee, the Association shall send a dated, written notice and a copy of any proposed amendment by certified mail to each First Mortgagee at its most recent address shown on the recorded Mortgage or recorded assignment thereof. In addition, the Association shall cause the dated notice, together with information on how to obtain a copy of the proposed amendment, to be printed in full at least twice on separate occasions at least one week apart in a newspaper of general circulation in

the county in which the Community is located. A First Mortgagee that does not deliver to the Association a negative response within sixty (60) days after the date of the notice shall be deemed to have approved the proposed amendment.

Section 15.6 Priority of First Mortgage Over Assessments. Each First Mortgagee who recorded its First Mortgage before Assessments have become delinquent and who obtains title to the Lot encumbered by the First Mortgage, whether pursuant to the remedies provided in the mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure, shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot other than as otherwise provided under Colorado law. A First Mortgagee shall be deemed to have acquired title to a Lot on the date of receipt of a deed in lieu of foreclosure, on the date of receipt of a Certificate of Purchase from the Public Trustee, or on the date of sale pursuant to a judicial foreclosure and receipt of the Sheriff's Certificate of Purchase, as the case may be.

Section 15.7 First Mortgagee Right to Pay Taxes and Insurance Premiums. Any one or more First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may become or have become a charge against any of the Association Properties, and may pay any overdue premiums on hazard insurance policies for any Association Properties, or may secure new coverage if the insurance policy on and Association Properties lapses, and the First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 15.8 Evidence of Required Approvals. Whenever the validity of any amendment to or revocation of this Declaration is conditioned upon voting by a stated percentage of Members and approval by First Mortgagees or Agencies, or both, the recorded document implementing the amendment or revocation shall contain a certification by an officer or the Association that the approvals of the required percentages of Members, First Mortgagees and Agencies were obtained. The Association shall keep on file in its offices such proxies, letters, minutes of meetings or other documentation as may be required to evidence compliance with applicable approval requirements, but the officer's certificate on the recorded instrument shall be sufficient public notice of compliance.

Section 15.9 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Lot of such Person if no address has been given to the Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second (2nd) business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

Section 15.10 Persons Entitled to Enforce Declaration. The Association (acting by authority of the Board) or any Member (acting on his own behalf), shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Association Documents, unless otherwise expressly stated herein.

The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provision of the Association Documents, and all other rights and remedies provided in the Association Documents and at law or in equity.

Section 15.11 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 15.12 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Community Area, is hereby 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.

Section 15.13 Remedies Cumulative. Each remedy provided under the Association Documents is cumulative and not exclusive.

Section 15.14 Costs and Attorneys' Fees. In addition to any other rights provided herein and not by way of limitation thereof, the party which seeks to enforce the Association Documents and prevails shall be awarded its costs and expenses in connection therewith, including reasonable attorneys' fees and expert witness fees in any action or proceeding under the Association Documents.

Section 15.15 Limitation on Liability. The Association, the Board, the Architectural Control Committee, Declarant, and any member, agent or employee of any of the same 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, and shall be indemnified by the Association to the fullest extent permissible by Colorado law, including without limitation, circumstances in which indemnification is otherwise discretionary under Colorado law, in accordance with the subject to the terms and limitations contained in the Bylaws.

Section 15.16 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Community Area, or any Improvements thereon, as to its or their physical condition, zoning, compliance with applicable laws, or fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in a writing signed by Declarant.

Section 15.17 Liberal Interpretation. The provisions of the Association Documents shall be liberally construed as a whole to effectuate the purposes of the Association Documents. The use herein of the word "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting



language (such as "without limitation" or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

Section 15.18 Governing Law. The Association Documents shall be construed and governed under the laws of the State of Colorado.

Section 15.19 Severability. Each of the provisions of the Association Documents shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial enforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 15.20 Number and Gender. Unless the context requires a contrary construction, as used in the Association Documents, the singular shall include the plural and the plural, the singular and the use of any gender shall include all genders.

Section 15.21 Captions for Convenience. The titles, headings and captions used in the Association Documents are intended solely for convenience of reference and are not intended to affect the meaning of any provision of this Declaration.

Section 15.22 Mergers and Consolidation. The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community Area together with the covenants and restrictions established upon any other property, as one plan. Notwithstanding the foregoing, the Association shall have the right to merge into one association upon a vote of the respective boards of directors of such associations.

Section 15.23 Conflicts in Documents. In case of any conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

Section 15.24 Interpretive Authority Resolves Questions of Construction. If any doubt or questions shall arise concerning the true intent or meaning of any of this Declaration, the Declarant, during the Period of Declarant Control, and thereafter, the Association (the "Interpretive Authority"), shall determine the proper construction of the provisions in question and shall set forth in a written instrument duly acknowledged by the Interpretive Authority and filed for record with the Clerk and Recorder of El Paso County, the meaning, effect, and application of the provision. This determination will thereafter be binding on all parties so long as it is neither arbitrary nor capricious. Nothing contained herein will permit the Association to

interpret the provisions of Section 14.5 in any manner that limits Declarant's authority and/or rights.

## ARTICLE 16 DISCLOSURES

Section 16.1 Tri-Lakes Monument Fire Protection District. The Community Area is located within the boundaries of the Tri-Lakes Monument Fire District (the "Fire District") and is subject to property taxes payable to the Fire District for its services.

Section 16.2 Baptist Road Rural Transportation Authority. The Community Area is located within the boundaries of the Baptist Road Rural Transportation Authority (the "BRRTA") organized in accordance with the Rural Transportation Authority Law, and as recorded under Reception No. #97142147 of the records of El Paso County, Colorado. Notwithstanding being part of BRRTA, the BRRTA impact fee, as of the date this Declaration was recorded, has been suspended in lieu of payment to the County's General Road Impact Fees program and all fees related to that program. As part of BRRTA, the Lots are subject to the BRRTA's use tax fee, which has not been suspended. Payment of the County General Road Impact fees may be required as a condition to the issuance of Building Permits.

Section 16.3 Metropolitan Districts. The Community Area is benefited by and subject to the rules and regulations and taxing authority of FLMD and PFMD, as applicable.

Section 16.4 Endangered Species. All Owners shall comply with applicable federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, or applicable agencies including, but not limited to, the Colorado Department of Wildlife, Colorado Department of Transportation, U.S. Army Corp of Engineers, the U.S. Fish & Wildlife Service ("USFWS") and/or Colorado Department of Wildlife regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species. Each Owner acknowledges that USFWS has identified predation by free-ranging domestic cats as a known threat to the Preble's Meadow Jumping Mouse, and predation by dogs as a potential threat. Each Owner should familiarize itself with these items and obligation and their impact on the development and use of the Community Area.

Section 16.5 Corner Sight Restriction. A twenty-five foot (25') by twenty-five foot (25') sight triangle no-build area exists for all corner Lots. No obstructions greater than eighteen inches (18") in height are allowed in this area.

Section 16.6 Plat and Development Plan Easements and Restrictions. The Development Plan and Plat may each contain general notes, easements and restrictions with which each Owner should familiarize itself.

Section 16.7 Bristlecone and Pinon Lakes. Bristlecone Lake and Pinon Lake (jointly, the "Lakes") located in the vicinity of the Community Area are not owned by the Declarant or the Association. Each Owner acknowledges that (i) the water in each of the Lakes is subject to natural conditions and fluctuation in water levels, including without limitation drought

conditions; (ii) the Lakes and their respective water levels are subject all conditions and restrictions related to the rights of the respective owners of each Lake and all applicable water rights; (iii) FLMD has the right, and plans, to draw water from Bristlecone Lake to provide water to service the Forest Lakes development, including Forest Lakes Residential Lots; and (iv) FLMD has the right to use its property (some of which are located within the vicinity of the Lakes) as it elects, including to expand, improve and/or install new and different improvements, which may include, without limitation, a larger pump house and water surface treatment improvements. Each Owner further acknowledges that there is NO assurance that the Lakes will contain water in the future and any circumstance resulting in the loss of Lake water is not within the control or authority of Declarant and/or the Association. Each Owner is advised that FLMD has the right to install a dry hydrant at Bristlecone Lake for fire suppression purposes.

Section 16.8 Lake Risks. Owners are placed on notice that the Community Area may be impacted by natural conditions resulting from the Lakes, including without limitation, the attraction of insects and wild animals and all risks associated with the presence of a body of water, including without limitation risks to persons and pets of drowning and ice breakage.

Section 16.9 Statutory Disclosure. Each Lot in the Community Area is within the Metro Districts, and is subject to a mill levy to pay indebtedness of each such districts. C.R.S. Section 38-35.7-101 requires that the following disclosure be made to you:

**SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.**

Section 16.10 Exemption From Colorado Common Interest Ownership Act. Notwithstanding any other provision contained in this Declaration, the annual average common expense liability of each Lot, exclusive of optional user fees and insurance premiums paid by the Association, may not exceed the limitation provided for in C.R.S. Section 38-33.3-116(2) and (3). Therefore, the Community Area is only subject to the provisions of C.R.S. Sections 38-33.3-105, 38-33.3-106 and 38-33.3-107 and is exempt from all other provisions of CCIOA.

**ARTICLE 17**  
**DEVELOPMENT AND LANDSCAPE ASSURANCE DEPOSIT POLICY**

Section 17.1 Development and Landscape Assurance Deposit Policy. To ensure the quality and character of the Community Area, prior and during construction of Improvements, the Association has adopted and each Owner acknowledges and consents to comply with, a one-time Development and Landscape Assurance Deposit Policy. The initial Owner of a Lot following receipt of title from the Declarant will convey to the Association the applicable "Assurance" amount established from time to time by the Association as part of the Community Standards.

Section 17.2 Assurances. The "Assurance" consists of one of the following Deposits: (a) Development Assurances Deposit or (b) Landscape Assurance Deposit:

(a) Development Assurance Deposit (Lot/Architectural/Landscape). The Development Assurance Deposit is comprised of the following components and applies to the Custom lots (one acre or more) currently known as "The Estates at Forest Lakes" (Filing #1) and portions of Filing #3:

- Lot maintenance (if required due to Owner negligence) of vacant lot(s)
- Submittal, review and approval of the architectural and site plan for the home
- Submittal, review, and installation of approved landscape plans

(b) Landscape Assurance Deposit. The Landscape Assurance Deposit is comprised of the following components and currently applies to the "Bristlecone" and "Pinons" neighborhoods at Forest Lakes (filings # 2 and #3):

- Submittal, review, and installation of approved landscape plans only.

Section 17.3 Automatic Transfer of Assurance. Each Assurance will automatically transfer to the new Lot Owner with each Lot transfer, but will remain subject to the terms, conditions and deadlines set forth in this Landscape Assurance Program.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective on the day and year first above written.

DECLARANT:

**Forest Lakes Residential Development, LLC**  
a Colorado limited liability company

By: ELITE PROPERTIES OF AMERICA, INC.,  
a Colorado corporation  
Its: Manager

By:   
Douglas Stimple, CEO

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF EL PASO            )

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of November, 2015, by Douglas Stimple as CEO of ELITE PROPERTIES OF AMERICA, INC., a Colorado corporation, as Manager of **FOREST LAKES RESIDENTIAL DEVELOPMENT, LLC**, a Colorado limited liability company.

Witness my hand and official seal.

My Commission Expires: 12-02-2017

**SEAL** CHRISTINE L WISE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID # 19974021715  
MY COMMISSION EXPIRES DECEMBER 02, 2017

Christine R. Wise  
Notary Public

**EXHIBIT A  
TO  
DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR FOREST LAKES RESIDENTIAL**

**LEGAL DESCRIPTION OF THE COMMUNITY AREA  
THE ESTATE LOTS AT FOREST LAKES**

**PARCEL A:**

LOTS 2 THROUGH 34 INCLUSIVE, FOREST LAKES FILING NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 2006 UNDER RECEPTION NO. 206712407, COUNTY OF EL PASO, STATE OF COLORADO.

**PARCEL B:**

LOTS 1 THROUGH 79 INCLUSIVE, FOREST LAKES FILING NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 6, 2008 UNDER RECEPTION NO. 208712747, COUNTY OF EL PASO, STATE OF COLORADO.

**PARCEL C:**

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 26, AND THE SOUTHEAST QUARTER OF SECTION 27 ALL IN TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO AS DEPICTED ON A LAND SURVEY PLAT PREPARED BY W.K. CLARK & ASSOCIATES, INC. DEPOSITED UNDER RECEPTION NO. 94901132, OF THE RECORDS OF EL PASO COUNTY, COLORADO, MONUMENTED AT THE EAST END BY A 1-1/4 INCH OUTSIDE DIAMETER IRON PIPE AT THE SOUTHEAST CORNER OF SAID SECTION 27 AND AT THE WEST END BY A MARKED STONE AT THE SOUTH QUARTER CORNER OF SAID SECTION 27, BEING ASSUMED TO BEAR S89°06'01"W, A DISTANCE OF 2627.04 FEET

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO;

THENCE N01°53'03"W, ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 264.04 FEET TO THE POINT OF BEGINNING;

THENCE S89°06'01"W, A DISTANCE OF 346.55 FEET;  
THENCE N01°53'03"W, A DISTANCE OF 10.29 FEET TO A POINT ON THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 204044409 IN THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE ON THE BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 204044409 THE FOLLOWING TWENTY SIX (26) COURSES;

1. N59°29'17"E, A DISTANCE OF 51.68 FEET;
2. N06°07'30"W, A DISTANCE OF 110.74 FEET;
3. N46°28'55"W, A DISTANCE OF 104.05 FEET;
4. N16°07'05"E, A DISTANCE OF 40.14 FEET;
5. N05°05'06"W, A DISTANCE OF 62.66 FEET;
6. N50°02'04"W, A DISTANCE OF 43.81 FEET;
7. N23°12'31"W, A DISTANCE OF 187.95 FEET;
8. N36°52'39"W, A DISTANCE OF 120.40 FEET;
9. N53°08'54"W, A DISTANCE OF 451.70 FEET;
10. N62°50'04"W, A DISTANCE OF 227.51 FEET;
11. N38°22'21"W, A DISTANCE OF 177.20 FEET;
12. S81°24'30"W, A DISTANCE OF 119.63 FEET;
13. S17°50'57"W, A DISTANCE OF 164.79 FEET;
14. S35°43'43"E, A DISTANCE OF 148.27 FEET;
15. S01°33'29"E, A DISTANCE OF 94.11 FEET;
16. S28°53'19"E, A DISTANCE OF 239.77 FEET;
17. S62°22'47"E, A DISTANCE OF 132.59 FEET;
18. S51°12'34"E, A DISTANCE OF 99.15 FEET;
19. S02°39'30"W, A DISTANCE OF 58.53 FEET;
20. S54°42'08"W, A DISTANCE OF 388.61 FEET;
21. N82°44'50"W, A DISTANCE OF 100.00 FEET TO A POINT ON CURVE;
22. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N82°44'51"W, HAVING A DELTA OF 55°09'05", A RADIUS OF 250.00 FEET AND A DISTANCE OF 240.64 FEET TO A POINT ON CURVE;
23. N49°41'38"W, A DISTANCE OF 353.05 FEET TO A POINT ON CURVE;
24. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N85°42'12"E, HAVING A DELTA OF 87°16'48", A RADIUS OF 200.00 FEET AND A DISTANCE OF 304.66 FEET TO A POINT ON CURVE;
25. N20°35'43"W, A DISTANCE OF 533.66 FEET;
26. N20°16'16"W, A DISTANCE OF 293.60 FEET;

THENCE S86°14'05"E, A DISTANCE OF 50.54 FEET TO A POINT ON CURVE;

THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S86°14'05"E, HAVING A DELTA OF 15°08'43", A RADIUS OF 330.00 FEET AND A DISTANCE OF 87.23 FEET TO A POINT OF REVERSE CURVE;  
THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 38°41'14", A RADIUS OF 570.00 FEET AND A DISTANCE OF 384.88 FEET TO A POINT OF COMPOUND CURVE;  
THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 14°18'06", A RADIUS OF 288.00 FEET AND A DISTANCE OF 71.89 FEET TO A POINT OF TANGENT;  
THENCE N34°04'43"W, A DISTANCE OF 59.54 FEET TO A POINT OF CURVE;  
THENCE ON THE ARC OF CURVE TO THE RIGHT HAVING A DELTA OF 09°47'29", A RADIUS OF 330.00 FEET AND A DISTANCE OF 56.39 FEET TO A POINT ON CURVE SAID POINT BEING ON THE BOUNDARY OF FOREST LAKES FILING NO. 1 RECORDED UNDER RECEPTION NO. 206712407;

THENCE ON THE BOUNDARY OF SAID FOREST LAKES FILING NO. 1 THE FOLLOWING TWELVE (12) COURSES;

1. N65°42'45"E, A DISTANCE OF 100.00 FEET;
2. N24°17'15"W, A DISTANCE OF 54.88 FEET;
3. N65°01'27"E, A DISTANCE OF 31.38 FEET TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 03°27'06", A RADIUS OF 255.00 FEET AND A DISTANCE OF 15.36 FEET TO A POINT OF TANGENT;
5. N68°28'33"E, A DISTANCE OF 55.21 FEET TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 51°58'03", A RADIUS OF 140.00 FEET AND A DISTANCE OF 126.98 FEET TO A POINT OF TANGENT;
7. S59°33'25"E, A DISTANCE OF 2055.62 FEET TO A POINT OF CURVE;
8. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 41°06'27", A RADIUS OF 870.00 FEET AND A DISTANCE OF 624.19 FEET TO A POINT ON CURVE;
9. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N21°41'05"W, HAVING A DELTA OF 23°59'29", A RADIUS OF 346.00 FEET AND A DISTANCE OF 144.88 FEET TO A POINT OF REVERSE CURVE;
10. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 01°56'09", RADIUS OF 470.00 FEET AND A DISTANCE OF 15.88 FEET TO A POINT ON CURVE;
11. N89°39'46"W, A DISTANCE OF 69.06 FEET TO A POINT ON CURVE;
12. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S17°21'22"W, HAVING A DELTA OF 17°12'55", A RADIUS OF 270.00 FEET AND A DISTANCE OF 81.13 FEET TO A POINT OF TANGENT;

THENCE N89°51'33"W, A DISTANCE OF 176.82 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 27;



THENCE S01°53'03"E, ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 374.85 FEET TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 48.191 ACRES

**LEGAL DESCRIPTION STATEMENT:**

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

**NO FIELD SURVEY WAS COMPLETED TO PREPARE THIS DESCRIPTION.**

**EXHIBIT B  
TO  
DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR FOREST LAKES RESIDENTIAL**

LEGAL DESCRIPTION OF THE EXPANSION PROPERTY  
BALANCE OF FOREST LAKES

**LEGAL DESCRIPTION:**

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN EL PASO COUNTY, COLORADO LYING SOUTHERLY AND WESTERLY OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 204044409 RECORDS OF EL PASO COUNTY, COLORADO.

**TOGETHER WITH**

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO EXCEPT ANY PORTION LYING WITHIN A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 204044409 RECORDS OF EL PASO COUNTY, COLORADO.

**TOGETHER WITH**

THE SOUTH HALF OF SECTION 28, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO EXCEPT ANY PORTION LYING WITHIN FOREST LAKES FILING NO. 1, RECORDED SEPTEMBER 1, 2006 UNDER RECEPTION NO. 206712407, AND FOREST LAKES FILING NO. 3, RECORDED FEBRUARY 6, 2008 UNDER RECEPTION NO. 208712747 AND ANY PORTION LYING WITHIN A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED MARCH 19, 2004 UNDER RECEPTION NO. 204044409 RECORDS OF EL PASO COUNTY, COLORADO.

**TOGETHER WITH**

THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO.

**TOGETHER WITH**

THAT PARCEL OF LAND DESCRIBED AND DEPICTED IN A DOCUMENT RECORDED MARCH 28, 2003 UNDER RECEPTION NO. 203062773 RECORDS OF EL PASO COUNTY, COLORADO, ENTITLED BOUNDARY ESTABLISHED BY JUDICIAL DECREE IN CIVIL ACTION NO. 02CV2368, EL PASO COUNTY DISTRICT COURT.

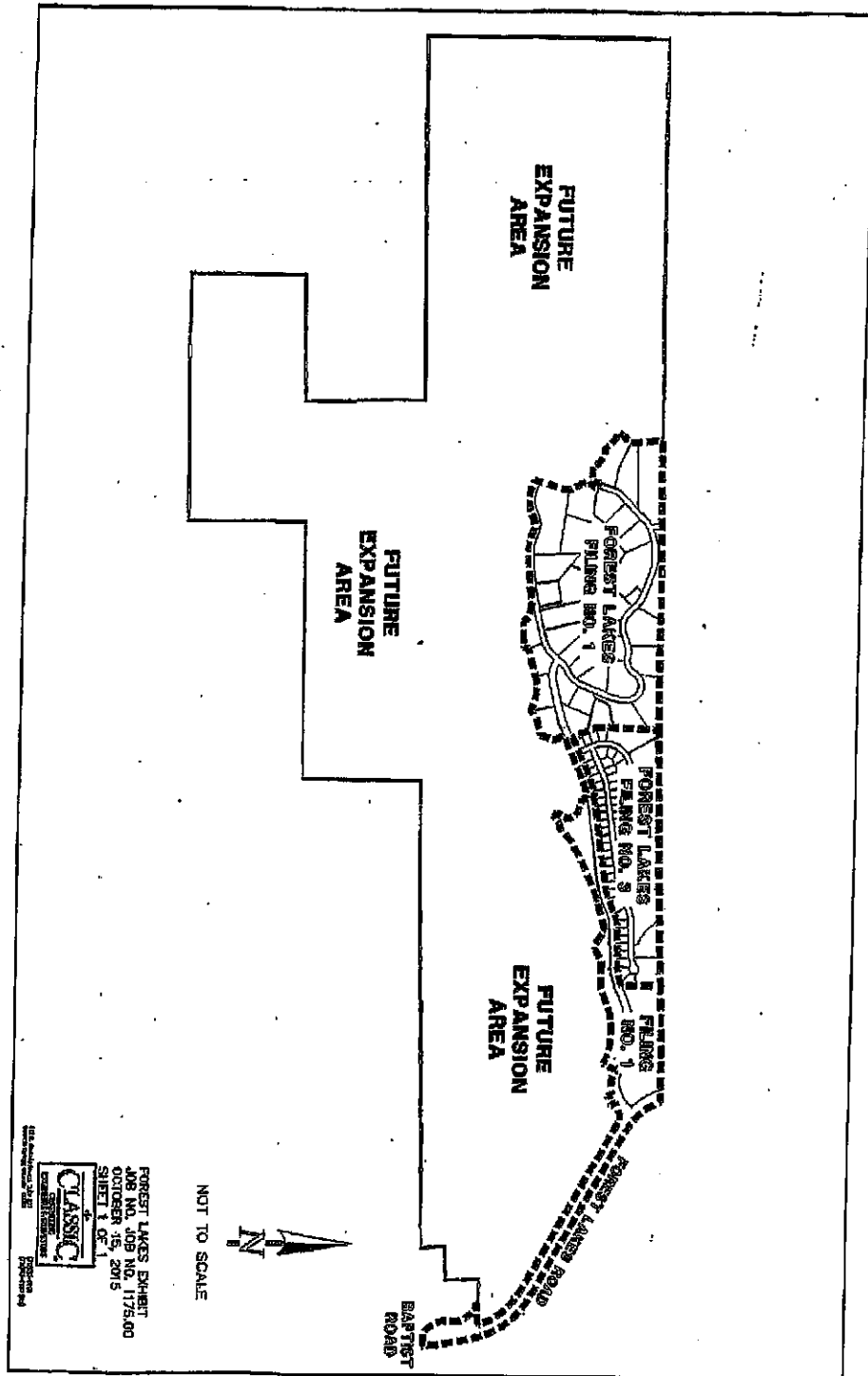
**TOGETHER WITH**

LOT 1, FOREST LAKES FILING NO. 1, EL PASO COUNTY, COLORADO

**LEGAL DESCRIPTION STATEMENT:**

I, DOUGLAS P. REINELT, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.

**NO FIELD SURVEY WAS COMPLETED TO PREPARE THIS DESCRIPTION.**



FOREST LAKES EXHIBIT  
 JOB NO. JOB NO. 1175.00  
 OCTOBER 15, 2015  
 SHEET 1 OF 1  
**CLASSIC**  
 CONSULTING ENGINEERS  
 1000 W. 10th St. Suite 200  
 Fort Collins, CO 80502  
 970.221.1175