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OF DUBLIN NORTH**

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DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DUBLIN NORTH

THIS DECLARATION is made and entered into this \_\_\_\_ day of January, 2008, by DN I Development Corporation, a Colorado corporation company ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property situated in the County of El Paso, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant desires to subject and place upon the real property described on the attached Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein for the purpose of protecting the value and desirability of said real property and for the purpose of furthering a plan for the improvement, sale and ownership of said real property, to the end that a harmonious and attractive development of said real property may be accomplished and the health, comfort, safety, convenience and general welfare of owners in said real property, or any portion thereof, may be promoted and safeguarded by means of this Declaration and the homeowners association described herein; and

WHEREAS, the homeowners association is a limited expense planned community pursuant to the Colorado Common Interest Ownership Act and so is exempt from that statute as provided by C.R.S., 38-33.3-116,

NOW, THEREFORE, Declarant hereby declares that all of the real property described on the attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with, the above-described real property and be binding on all parties having any right, title, or interest in the above-described real property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

1.1 "Act" means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 to -319, as amended.

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

1.3 "Allocated Interests" means the Common Expense Liability and votes in the Association allocated to each Unit. The Allocated Interest for each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time. The Allocated Interest for each Lot is subject to decrease with the annexation of Possible Expansion Property to this Community as provided in Section 12.13 hereof.

1.4 "Architectural Review Committee" or "Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

1.5 "Association" means Dublin North Homeowners Association, Inc., a homeowners association organized under the Colorado Revised Nonprofit Corporation Act, its successors, and assigns.

1.6 "Association Documents" means this Declaration, the Articles of Incorporation, Bylaws, Rules, Design Guidelines, and any amendments or supplements thereto.

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

1.8 "Builder" means any Person (a) who acquires from Declarant one or more Lots for the purpose of construction thereon a residential dwelling and selling such dwelling unit, together with the Lot upon which it is situated, to any member of the general public, and (b) is designated in writing by the Declarant to be a Builder.

1.9 "Common Areas" means any real property (which may include, without limitation, platted Lots as described below and platted tracts) owned or leased by the Association or the Metropolitan District. The Common Areas at the time of recordation of this Declaration are described on **Exhibit B** attached hereto and incorporated herein by this reference: Tracts A, B and E, Dublin North Filing No. 1, City of Colorado Springs, El Paso County, Colorado, are, or must become, Common Areas.

1.10 "Common Expense Liability" means the liability for Common Expenses allocated to each Lot. The Common Expense Liability for each Lot shall be equal to the Allocated Interests of such Lot.

1.11 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.12 "Community" means the real property described on Exhibit A hereto and otherwise in this Declaration, as supplemented and amended from time to time, together with any and all Residences and Improvements thereon. The Community is a limited expense planned community under the Act.

1.13 "Declarant" means DN I Development Corporation, a Colorado corporation, and any other Person(s) acting in concert, to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds).

1.14 "Declaration" means this Declaration of Covenants, Conditions and Restrictions of Dublin North and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, plats and maps.

1.15 "Declarant Rights" means any right or combination of rights reserved by a Declarant in this Declaration, including without limitation, any rights set forth in Section 12.15 or otherwise herein. All of the Declarant Rights may be exercised by the Declarant with respect to any portion of the real property now or hereafter within the Community. Declarant may exercise any or all of these Declarant Rights at any time and from time to time; partial or non-exercise at any time shall not constitute a waiver or estoppel. Such rights shall terminate automatically on the earlier of the following events: (a) expiration of the Period of Declarant Rights, or (b) if the Declarant voluntarily surrenders in writing any right prior to the expiration of the Period of Declarant Rights, but in that event, the Declarant may require, for the duration of the Period of Declarant Rights, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

1.16 "Design Guidelines" shall mean the architectural, construction, structural and/or aesthetic criteria, rules or standards, if any, established by the Board from time to time that will apply to Residences or other Improvements within all or specific portions of the Community. Separate Design Guidelines may be established for different types of Residences, such as single family or multi-family.

1.17 "First Mortgage" means 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 El Paso County, Colorado, encumbering any Lot having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens).

1.18 "Improvements" means all improvements as the term is defined in the laws and statutes of Colorado, including without limitation all walkways, sprinkler systems, private roads, driveways, fences, screening walls, retaining walls, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball hoops and signs.

1.19 "Lot" means each platted Lot shown upon the recorded subdivision plat of the real property described on the attached Exhibit A, as the same may be amended from time to time, as well as each platted Lot shown upon any recorded subdivision map of any other real property as may hereafter be brought within the jurisdiction of the Association, including without limitation any portion of the Possible Expansion Property, with the exception of the Common Areas and any publicly dedicated real property. Without limiting the generality of the foregoing, if any platted Lot is designated as a Common Area in any Plat or this Declaration, or in any Annexation of Additional Land, or any amendment thereto, or any other written, recorded designation by the Declarant, then such Lot shall constitute a Common Area (as defined above) rather than a Lot (as defined herein).

1.20 "Member" means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

1.21 "Metropolitan District" means Dublin North Metropolitan District Nos. 1, 2 and 3 or any metropolitan or special district formed now or hereafter by the Declarant which includes any portion of the Community or the Possible Expansion Property. Any successor to the Metropolitan District by consolidation or merger shall automatically be deemed a successor or assign of the Metropolitan District under this Declaration.

1.22 "Mortgage" means any recorded mortgage, deed of trust, or other security instrument by which a Lot or any part thereof is encumbered.

1.23 "Mortgagee" means a beneficiary under a Mortgage.

1.24 "Owner" means the Declarant, Builder or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

1.25 "Period of Declarant Rights" means a length of time commencing herewith and expiring twenty (20) years after initial recording of this Declaration in El Paso County, Colorado, provided however, the Declarant may voluntarily transfer or terminate any or all Declarant Rights at any time, but only by means of a written, notarized document recorded in the real property records of El Paso County, Colorado.

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



1.27 "Plat" means all of the subdivision plats for any portion of the Community which may be recorded in the Office of the Clerk and Recorder of the County in which the Community is located, as the same may be amended or supplemented from time to time. Each Plat constitutes a "map" or "plat".

1.28 "Possible Expansion Property" means the real property described on Exhibit D attached hereto and incorporated herein by this reference. The maximum number of Lots that may be subject to this Declaration, including those Lots, which may be included if all of the real property described on Exhibit D is annexed, shall be two thousand (2,000). However, the aforesaid maximum number of Lots that may be included is not a representation or a guarantee as to the actual number of Lots that will ultimately be included in the Community.

1.29 "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 Lot on a Lot; and (d) any family member, guest, employee, agent, representative, licensee, contractor, invitee or cohabitant of any of the foregoing Persons.

1.30 "Rules" shall mean and refer to any rules, regulations, standards, guidelines, resolutions of the Board or similar decisions of the Board, whether or not designated as rules and regulations. Separate Rules may be adopted for various parts of the Community and/or various housing types, such as single family or multi-family housing.

## ARTICLE II ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

2.1 Association. The Association has been or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration, and in its Articles of Incorporation and Bylaws. The Association shall have a Board of Directors to manage the affairs of the Association, as more fully provided in this Declaration, and in the Association's Articles of Incorporation and Bylaws.

2.2 Membership. The membership of the Association at all times shall consist exclusively of all Owners, their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2.3 Classes of Membership. The Association shall have two classes of membership as follows:

Class A shall be the Declarant, who shall have sole voting and membership rights during the Period of Declarant Rights.

Class B shall be the other members, who shall not exercise any voting or other rights until the expiration or termination of the Period of Declarant Rights.

Each Owner shall be entitled to one (1) vote for each Lot owned in accordance with the Allocated Interest attributable to each Lot. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Lots then existing within the Association. Except as otherwise provided in Article III of this Declaration, during the Period of Declarant Rights, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender in writing the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Rights; but, in that event, the Declarant may require, for the duration of the Period of Declarant Rights, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

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

2.5 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Common Areas and the use of any other property within the Community, including Lots, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any such rules and regulations. Any such rules and regulations shall be reasonable and uniformly applied. Such rules and regulations shall be effective only upon adoption by resolution of the Board of Directors. Copies of the currently effective rules and regulations shall be made available to each Owner upon request and payment of the reasonable expense of copying the same. Each Owner shall comply with such rules and regulations and shall see that Persons claiming through such Owner comply with such rules and regulations. Such 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 a conflict between the rules and regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

ARTICLE III  
BOARD OF DIRECTORS, MEMBERS AND OFFICERS

3.1 Authority of Board of Directors. Except as provided in this Declaration or the Association Bylaws, the Board of Directors may act in all instances on behalf of the Association. Subject to the provisions of this Declaration and additional powers set forth in the Association Documents, the Board shall have the following powers:

- (a) Adopt and amend Bylaws and Rules;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Owners;
- (c) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners affecting the Community;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of Common Areas;
- (g) Cause additional improvements to be made as a part of the Common Areas;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, subject to the exceptions and requirements of the Declaration;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Areas;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Areas;
- (k) Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Association Documents;
- (l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;
- (m) Provide for the indemnification of its officers and executive Board and maintain directors' and officers' liability insurance;
- (n) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the Declaration expressly so provides;
- (o) Exercise any other powers conferred by the Association Documents;
- (p) Exercise all other powers that may be exercised in this State by legal entities of the same type as the Association; and
- (q) Exercise any other powers necessary and proper for the governance and operation of the Association.

3.2 Authority of Declarant During Period of Declarant Rights. Except as otherwise provided in this Article, during the Period of Declarant Rights, the Declarant or Persons

appointed by the Declarant may appoint all officers and directors and may remove all officers and directors of the Board of Directors appointed by it.

3.3 Termination of Period of Declarant Rights. After the termination of the Period of Declarant Rights, the Owners shall elect a Board of Directors (with the exact number of members of the Board of Directors to be set forth in the Bylaws of the Association), at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the Officers. Such Board of Directors members and officers shall take office upon election.

3.4 Delivery of Documents by Declarant. After the Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant may deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, and be thereby relieved of any and all liability or responsibility therefor.

3.5 Cooperation with Other Associations. The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with other community association(s) and/or any district(s), to share the costs and/or responsibility for any maintenance, repair, replacement or other matters, to perform maintenance, repair or replacement for any person(s) in consideration of payment or reimbursement therefore, to utilize the same contractors, subcontractors, managers or others who may perform services for the Association, any other community association(s) and/or any district(s), or to otherwise cooperate with any other community association(s) and/or any district(s) in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or any other community associations and/or any districts, as the Boards of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other Community, associations and/or any districts to collect assessments, other charges or other amounts which may be due to such entity and to permit any such entity to collect assessments, other charges or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity of any amounts collected by the Association or to the Association of any amounts collected by such entity.

3.6 Notice. Whenever the provisions of the Association Documents require that an action be taken only after "due notice", and at any other time the Board determines, the Owners have the right to receive notice of the proposed action. Notice may be given to each Owner in writing delivered personally or by mail to all Owners at such address as appears in the records of the Association, or notice may be published in a newsletter or similar publication which is routinely circulated to all Owners or notice may be given electronically, by facsimile, or e-mail to Owners who have provided the Association with such addresses. The notice shall be given not less than three (3) days before proposed action is to be taken.

ARTICLE IV  
COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner, including Declarant, except as otherwise provided herein, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments and other charges, fees and fines, together with interest, late charges, cost, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot during their ownership of such Lot. Each assessment, charge, fee, and all other amounts under this Declaration, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used to pay the Common Expenses and for maintenance, repair and replacement of the Common Areas, as provided in this Declaration, to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law, including without limitation maintenance, operation, repair and replacement of drainage facilities, if any, provided, however, that such assessments levied during the Period of Declarant Rights may not be used for the purpose of construction capital improvements.

4.3 Limitation Upon Annual Assessment. The Board may set the actual annual assessment at any amount not in excess of the maximum described below. The maximum annual assessment shall not exceed the maximum amount set forth in C.R.S., 38-33.3-116 for exemption from the Act, which may increase as provided by C.R.S., 38-33.3-116, per Lot for the fiscal year ending December, 2008; after that year, the maximum annual assessment shall automatically increase at a rate not to exceed the cost of living as set forth in C.R.S. 38-33.3-116, which may be cumulated as set forth in said Act. Notwithstanding any contrary provision of this

Declaration, the annual assessment for any Lot, exclusive of any optional user's fees and any insurance premiums paid by the Association, shall never exceed the maximum allowed for exemption from the Act pursuant to C.R.S. 38-33.3-116.

4.4 Rate of Annual and Special Assessments. Annual and special assessments for common expenses shall be fixed at a uniform rate for all Lots based upon Allocated Interests sufficient to meet the expected needs of the Association. The annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis (including without limitation any drainage facilities owned or maintained by the Association), and for the payment of insurance deductibles. All annual and special assessments shall be assessed against all the Lots in accordance with the Allocated Interests set forth in this Declaration, except as specifically elsewhere provided in this Declaration. If the Common Expense Liability is reallocated, annual assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability. Notwithstanding the foregoing, the amount of annual assessment against Lots on which a certificate of occupancy has not been issued for the Residence hereafter to be located on such Lot may be set at a lower rate equal to ten percent (10%) of the rate of annual assessment against those Lots on which a certificate of occupancy had been issued, because such Lots do not receive certain benefits, including the same services as other Lots.

4.5 Date of Commencement of Assessments. The annual assessment shall be divided into twelve (12) equal monthly installments per year, which shall be due and payable by the Owners in advance on the first day of each month, provided however, notwithstanding any contrary provision of this Declaration, the Articles of Incorporation, or the Bylaws, the annual and special assessments hereunder shall not commence upon any Lot, whether owned by the Declarant or any other Owner, unless and until a Residence has been fully completed on that Lot, which shall require a final inspection by the Regional Building Department or comparable governmental entity and the installation of carpeting in the Residence, but upon full completion of the Residence, the Lot and its Owner shall be liable to pay full assessments as provided in this Declaration. Subsequent annual assessments shall commence on January 1 of each subsequent year. The monthly installments of the annual assessment for all Lots, if any, located in any subsequently annexed phase within the Possible Expansion Property shall commence upon the recording of documents required in this Declaration, but subject to the requirement of completion of construction as described above. At least twenty (20) days in advance of the annual assessment year, the Board shall establish the amount of the annual assessment against each Owner and his Lot for the following year, and written notice of any change of the annual assessment should be sent to each Owner.

4.6 Special Assessments. In addition to the annual assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of the Declarant during the Period of Declarant Rights, and thereafter with the approval of two-thirds (2/3) of the votes of a quorum (as provided below) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or

replacement of a capital Improvement upon the Common Areas or any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any emergency or special expense or operating deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the *Allocated Interests set forth in this Declaration*. A meeting of the Members called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 4.7 of this Article IV. Notwithstanding the foregoing, special assessments levied during the Period of Declarant Rights may not be used for the purpose of constructing capital Improvements.

4.7 Notice and Quorum for Any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.6 of this Article shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

4.8 Charges for Services to Less than All of the Lots. The Association may, at any time from time to time, provide services to less than all of the Lots, and the Owners of such Lots shall pay the Association for such services as, when and in such manner as may be determined by the Board of Directors in its discretion from time to time, which amounts shall be in addition to the annual and special assessments, and which amounts shall include overhead expenses of the Association. Any such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service is to be provided, with such agreement to include a statement of the costs, fees and expenses reasonably expected to initially be incurred by the Association in providing such service(s). Services which may be provided by the Association pursuant to this Section include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to such area(s) or Lot(s), such as the maintenance of the exteriors of Residences or Improvement(s) located on Lots to the extent they are not maintained by the Association hereunder; (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; and (e) the procurement of insurance for Owners. The Association may, at its election, at any time from time to time, collect the aforesaid costs, fees, expenses and other charges from Owners to whom such services are provided, in advance or arrears, in monthly or other installments, or in addition to and on the same date for payment of, the assessments.

4.9 Lien for Assessments.

(a) The Association has a statutory lien on a Lot for any assessment levied against that Lot or fines imposed against its Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of assessments becomes due.

(d) Unless this Declaration provides otherwise, if two (2) or more associations have liens for assessments created at any time on the same property, those liens shall have equal priority.

4.10 Priority of Association Lien.

(a) A lien under this Article IV 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 First Mortgage on the Lot, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; except to the extent of assessment accruing or imposed during the six (6) months immediately preceding institution by either the Association or any First Mortgagee, which holds a lien senior to any part of the Association Lien, of an action or a nonjudicial foreclosure either to enforce or to extinguish the First Mortgage; and

(iii) Liens for real estate taxes and other governmental assessments or charges against the Lot.



(b) This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of part 2 of Article 41 of Title 38, C.R.S. 1973, as amended, or to the provisions of Section 15-11-201, C.R.S. 1973, as amended.

4.11 Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's assessments.

4.12 Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a Mortgage Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association as to the recipient for the matters set forth therein, but excluding all other matters or matters of which the recipient knew or should reasonably have know. Delivery or failure to deliver the statement shall not affect the Association's rights against the Owner. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

4.13 Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such other lawful rate as may be set from time to time by the Board of Directors, and the Board of Directors may charge a late charge in an amount the Board determines from time to time to be sufficient to cover the extra costs and expenses involved in handling such delinquent payment. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of assessments by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Lot against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

4.14 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as reserves and need not be paid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future assessments.

4.15 Administrative Fee. The Association or Declarant shall require each Owner (other than Declarant) of any Lot who purchases that Lot to pay an administrative fee in an amount of \$100.00 to enroll the new Owner in the Association's records. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot and shall, until used, be maintained in a segregated account for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase equipment, property or services. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due.

4.16 Assessment for Misconduct. If any Common Expense is caused by the wrongful or negligent acts or omissions of any Owner, the Association may assess that Common Expense exclusively against such Owner and his Lot.

4.17 Other Charges. The Association may levy and assess charges, costs and fees for the following matters, among others, in such reasonable amount(s) as the Board of Directors may determine in its discretion at any time from time to time, including charges to the Association by its managing agent or other Person: copying of Association or other documents; return check charges; charges for telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Lot; charges for notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.

4.18 Metropolitan District. The Community is included within the Metropolitan District, which imposes taxes under Title 32 of the Colorado Revised Statutes to construct certain improvements that benefit the Property and that may be included within the Common Areas maintained by the Association. Such taxes are in addition to the Association's Assessments. The Association shall repair, replace, and maintain certain of those improvements as provided herein. The Owners will pay for the improvements constructed by the Metropolitan District in the property taxes on their Lots. 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. Owners 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.

4.19 Common Area Fee. By separate covenant, all or any portion of the Possible Expansion Property may be required to pay a "Common Area Fee" to the Association for the repair, maintenance, restoration, administration, and improvement of the Common Areas. Such fee shall be based upon a comparison of the acreage with that portion of the Possible Expansion Property as compared to the entire Community and Possible Expansion Property and shall be

subject to adjustment in the event future phases are added. Such fee may constitute an assessment under this Declaration and may be collected as provided herein, even though the portion of the Possible Expansion Property is not annexed under this Declaration.

ARTICLE V  
ARCHITECTURAL REVIEW COMMITTEE

5.1 Composition of Committee. The Architectural Review Committee shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until all of the Lots that may be included have been conveyed to the first Owner thereof (other than Declarant), Declarant may appoint the Architectural Review Committee. The power to "appoint", as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor.

5.2 Review by Committee; Requirement for Approval by Governmental Entities.

(a) No Residences and/or Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless plans and specifications therefore (said plans and specifications to show exterior design, height, materials, color, and location of the structures and items, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Architectural Review Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant shall be exempt from seeking or obtaining Architectural Review Committee approval during Declarant's development of, construction on, or sales of any Lot or Residences on any Lot. The Architectural Review committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, Residences, landscaping and structures. The Architectural Review Committee may require that the applicant(s) of each submission pay a fee(s) to the Association for the review and approval process, with such fee(s) to be in such amount(s) as may be set by the Committee in its discretion from time to time; provided that such fee(s) shall be uniform for submissions of a similar nature or cost. Such amounts, if any, shall be levied in addition to the assessments against the Lot for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

(b) In addition to the required approvals by the Architectural Review Committee, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Residences and/or Improvements on any Lot shall also require the applicant to obtain the

approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of required building permits by the governmental entity with jurisdiction shall be a precondition to commencement of any construction or alteration of any structures on each Lot.

5.3 Procedures. The Architectural Review Committee shall seek to approve or disapprove all requests for approval within forty-five (45) days after the complete submission of the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission to the Committee of the plans, specifications, materials and other information with respect thereto, the submission shall be deemed to be disapproved and the applicant shall not proceed with the requested Residence, Improvement, or item.

5.4 Vote and Appeal. A majority vote of the Architectural Review Committee is required to approve a request for approval, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Committee approves or denies a request for architectural approval, any Owner shall have the right to an appeal of such decision to the full Committee, upon a request therefore submitted to the Committee within thirty (30) days after such approval or denial by the Committee's representative. If the Architectural Review Committee approves or denies a request for architectural approval (whether by original decision or an appeal) then any Owner shall have the right to an appeal of such decision to the Board of Directors, upon a written request therefore submitted to the Board of Directors within thirty (30) days after such decision by the Architectural Review Committee.

5.5 Design Guidelines. The Board of Directors, with the advice of the Architectural Review Committee, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce Design Guidelines which include landscaping and architectural standards for the Community, to interpret and implement the provisions of this Article and the Declaration, including, without limitation, those relating to procedures, materials to be submitted, specifications of items, types or kinds of Improvements, and other matters. Any standards so adopted by the Board should be consistent, and not in conflict, with this Article and the Declaration.

5.6 Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

5.7 Non-Liability. The Board of Directors, the Architectural Review Committee, the Declarant, any members thereof, nor any representative of the Committee appointed to act on its behalf, shall not be liable in damages or otherwise to any Person, or to any Owner, by reason of

any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

5.8 Variance. The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration or the Design Guidelines, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

5.9 Waivers: No Precedent. The approval or consent of the Architectural Review Committee or any representative thereof, or of the Board of Directors, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee or any representative thereof, or by the Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

#### ARTICLE VI INSURANCE ON COMMON AREAS

6.1 Insurance. The Association shall maintain the following types of insurance on the Common Areas, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as Common Expenses. 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. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Mortgages.

(a) Property insurance for broad form covered causes of loss; except that the total amount of insurance must not be less than the full insurable replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundations, excavations 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 Common Areas, insuring the Association in an amount not less than One Million 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. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner 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 the ownership, existence, use or management of the Common Areas. 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 disburses funds 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 Lots, 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 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 Common Areas 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 cost 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 a 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 from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

6.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Mortgage Holder's clause in favor of each Mortgage Holder and a provision that it cannot be cancelled 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 each Mortgage Holder, insurer or guarantor of a Mortgage. 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 Mortgage 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 acts or neglect of an Owner where such Owner is not under the control of the Association.

6.3 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 is damaged 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 Common Areas which 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 which 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, guests or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in questions and the Association may collect the amount from said Owner in the same manner as any assessment.

6.4 Payment of Insurance Proceeds. Any loss covered by an insurance policy described in Section 6.1 of this Article must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Mortgage Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Mortgage Holders as their interests may appear. Subject to the provisions of Section 7.1 of Article VII of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Mortgage 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.

6.5 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any

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

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

6.7 Insurance to be Maintained by Owners. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Lot and the 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, shall be the responsibility of the Owner of such Lot.

6.8 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 intended to be 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. Any Mortgage Holder shall be furnished with a copy of such appraisal upon request.

6.9 Notice of Cancellation. If the insurance described in Section 6.1 of this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners. If the insurance described in Section 6.1 of this Article is not reasonably available, or if the Board ascertains that the insurance maintained by any other homeowners association or entity adequately covers some or all other risks contemplated thereby, the Association may carry any other insurance it considers appropriate, including but not limited to insurance as a co-insured or as an additional insured under such other policies of insurance.



ARTICLE VII  
DAMAGE OR DESTRUCTION

7.1 Damage or Destruction of Common Areas.

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

(i) The Community is terminated;

(ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

(iii) Sixty-seven percent (67%) of the Owners, including every owner of a Lot that will not be rebuilt, vote not to rebuild; or

(iv) Prior to the conveyance of any Lot to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Common Area rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is a Common Expense. If the entire Common Area is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Common Area and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Common Expense Liability of all the Lots.

7.2 Lots. Any damage to or destruction of any structure located on a Lot shall, except as hereafter provided, be promptly repaired and reconstructed by the Owner thereof using insurance proceeds and personal funds of such Owner. "Repaired and reconstructed", as used in this Section 7.2, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. However, if a Residence located on a Lot shall be destroyed or so damaged that the Residence is no longer habitable, then the Owner of such Lot shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction of the Residence or demolish the same. Demolition of a Residence shall include, to the extent practicable, removal of any foundation slab, basement walls and floors, restoration and repair of damage to adjacent structures, regrading of the Lot to a level condition, and the installation of such landscaping as may be required by the Architectural Review Committee pursuant to a plan submitted to said Committee by the Owner of said Lot. If the Owner of a Lot does not either commence repair, reconstruction or demolition activities within a reasonable time, as provided above, and diligently pursue the same in conformance with

the plans approved by the Architectural Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Article VIII, Section 8.3 hereof, enter upon the Lot for the purpose of demolishing the Residence and then landscape the Lot in conformance with approved plans. The cost related to such demolition and landscaping shall be the personal obligation of the Owner of the Lot on which such work is performed and shall be subject to all the terms and provisions applicable to assessments as provided in Article IV hereof, including without limitation, interest, late charges and lien rights.

ARTICLE VIII  
MAINTENANCE OBLIGATIONS

8.1 Common Area Maintenance.

(a) Maintenance, repair and replacement of all Common Areas, Improvements located thereon and of any drainage structure or facilities (including without limitation underdrain systems), or other public Improvements or publicly dedicated property required by the local governmental entity as a condition of development of the Community or any part thereof, shall be the responsibility of the Association unless such Improvements or property have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair and replacement or unless such maintenance, repair and replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Further, the Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation publicly dedicated property and the Improvements located thereon. The costs, expenses, fees and other amounts to be expended for the maintenance and repair provided for in this subsection (a) shall, subject to Section 8.5 of this Article, be collected by the Association as assessments pursuant to Article IV hereof.

(b) The maintenance, repair and replacement of each Lot, including but not limited to the interior and exterior of the Residence and other Improvements constructed thereon, shall be the responsibility of the Owner of such Lot. The Association and each Owner, and their agents and contractors, are hereby granted an easement for the purpose of maintenance and repair of the Owner's Lot on, over, across, under and through any adjacent Lot upon reasonable notice to the Owner thereof. Any damage occurring to such adjacent Lot or the Improvements thereon in performing such repairs or maintenance shall be the responsibility of the party performing or authorizing such repairs or maintenance.

8.2 Maintenance, Repair and Replacement Obligations of Owners. If any Residence or Improvement which must be approved by the Architectural Review Committee has been added, changed, altered or modified by or for the Owner or occupant of the Lot on which such Residence or Improvement is located, then such Improvement shall be maintained, repaired and replaced by such Owner to the extent of the addition, change, alteration or modification. If such Residence or Improvement is newly constructed, erected, placed, planted, applied or installed upon the Lot by the Owner or occupant thereof, then the entirety of such Residence or

Improvement shall be maintained, repaired and replaced by the Owner of the Lot on which such Residence or Improvement is located. However, the Board of Directors may at any time, by resolution, elect to have the Association provide such maintenance, repair or replacement, provided that any such resolution shall be subject to being repealed, revoked, modified, changed or altered, at any time, from time to time, by the Board.

8.3 Association's Right to Repair, Maintain, Restore and Demolish. In the event any Owner shall fail to perform his maintenance, repair, reconstruction and/or demolition obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or restoration or, pursuant to Article VII, Section 7.2 hereof, to demolish a Residence. The cost of such maintenance, repair, reconstruction and/or demolition shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article IV hereof including, without limitation, interest, late charges and lien rights.

8.4 Access Easement. Each Owner shall afford to the Association and the other Owners, and to their agents or employees, access through such Owner's Lot reasonably necessary for maintenance, repair and replacement of any Common Areas and any other property or Improvements maintained, repaired or replaced by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Areas, any other property, or any Lot, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that no such notice shall be required in connection with any exterior, non-intrusive maintenance, and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants of each affected Lot shall be warned of impending emergency entry as early as is reasonably possible. The interior of any Residence located on a Lot shall not be subject to such easements as provided for in this Section 8.4.

8.5 Owner's Liability for Wrongful Acts or Omissions.

(a) Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of or within any property for which the Association has an obligation to maintain, repair or reconstruct, any Lot, or any Improvements located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or

reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefore, shall be determined by the Board at a hearing after notice to the Owner.

(b) In addition to the above provision, in the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or Related User, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's Rules, and the same is not totally paid for by insurance, the cost thereof, including without limitation the Association's attorney fees, shall be an assessment against that Owner and his Lot and if unpaid shall be both a personal obligation of such Owner and a lien upon the Owner's Lot as herein provided. Additionally, the Board may impose assessments against particular Owners and Lots pursuant to the Association's Rules regarding fines and/or may impose assessments upon Owners and Units receiving particular, individual services as set forth in the Association's Rules.

#### ARTICLE IX RESTRICTIONS

9.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots, all in order to enhance the value, desirability, and attractiveness of the Lots and subserve and promote the sale thereof.

9.2 Restrictions Imposed. This Community is subject to the recorded easements, licenses and other matters listed on Exhibit C attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board of Directors and/or the Architectural Review Committee if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in the Rules and/or Design Guidelines.

9.3 Residential Use. Subject to Section 9.4 of this Article, Lots shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an owner may use his Lot for professional or "home occupation(s)" so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Lots is created thereby.

9.4 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant and/or a Builder, and its

employees, agents and contractors, to perform such reasonable activities, and to maintain upon portions of the Lots such facilities as they deem reasonably necessary or incidental to the development, construction and sale of Lots, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers of such sizes, and at such locations as they determine in their reasonable discretion from time to time. Further, nothing contained in the Declaration shall limit the right of the Declarant or require Declarant or a Builder to obtain approvals: (a) to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements; (b) to use any structure on any property owned by Declarant as a construction, management, model Residence or sales or leasing office in connection with the development, construction or sale of any property; and/or (c) to require Declarant to seek or obtain the approval of the Architectural Review Committee or of the Association for any such activity or Improvement by Declarant on any property owned by Declarant or a Builder. Notwithstanding the foregoing, the Declarant and Builders shall not perform any activity or maintain any facility on any portion of the Lots in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members, guests or invitees, of and to his Lot and to a public right-of-way. Any real estate used as a sales office, management office, construction office or a model shall be a Lot.

9.5 Household Pets. No animals shall be maintained in or on any Lot within the Community, except that common household pets may be allowed by the Rules, as defined and adopted by the Board, in its sole discretion. The Board shall have, and is hereby given, the right and authority to determine, in its sole discretion that household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section and/or the Rules, and to take such action(s) as it may deem appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article IV hereof.

9.6 Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by a person doing such work, and provided further that storage sheds may be permitted with the prior written approval of the Architectural Review Committee, if such storage shed is screened from view of adjacent Lots and Common Areas. The work of constructing, altering or remodeling any structure of other Improvements shall be prosecuted diligently from the commencement thereof until completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a street or from any other Lot.

9.7. Signs. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot or the Common Area except for such advertising or signs as are permitted by the Rules adopted by the Board in its sole discretion. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Lots, or otherwise in connection with development of the Community or construction on the Lots, shall be permissible.

9.8 Miscellaneous Improvements.

(a) No clotheslines, chain-linked (or other) dog runs, drying yards, service yards, wood piles or storage areas shall be so located on any Lot as to be visible from a street or from the ground level of any other Lot.

(b) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof, or shall be mounted in an exterior front window, and no such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Architectural Review Committee.

(c) Except as may otherwise be permitted by the Architectural Review Committee, no exterior radio antenna or towers, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a Residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction in the Community. Notwithstanding the foregoing, neither the restrictions nor the requirements of this Section shall apply to those antenna (which may include some satellite dishes and other devices) that are specifically covered by the Telecommunications Act of 1996, as amended from time to time. As to antenna which are specifically covered by the Telecommunications Act of 1996, as amended, the Association shall be empowered to adopt rules and regulations governing the types of antenna that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

(d) No fences shall be permitted except with the prior written approval of the Architectural Review Committee. Without limiting the generality of the foregoing, the Committee may at any time, from time to time, promulgate and publish the Design Guidelines regarding the permitted types, locations, materials, and other matters having to do with fences or other Improvements.

(e) No wind generators of any kind shall be constructed, installed, erected or maintained on the Lots.

9.9 Nuisances. No nuisance shall be permitted in the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or

possession and proper use of the Community or any portion thereof. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Community; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, or with any Owner's ingress and egress to or from his Lot and a public way. Further, no unlawful use shall be permitted or made of the Community or any portion thereof.

9.10 No Hazardous Activities; No Hazardous Materials or Chemicals. No activities shall be conducted on any Lot or within Improvements constructed on any Lot which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue Lot while attended and in use for cooking purposes or within an interior or exterior fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products or commercial products normally kept at Residences for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

9.11 Light, Sounds or Odors.

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

(b) Any exterior lighting installed or maintained on the Lots shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby property.

(c) Owners shall be responsible for the maintenance, repair, and replacement of the photocell porch light so that it operates between dusk and dawn.

9.12 Restrictions on Trash and Materials: Trash Collection.

(a) No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the Residence on any Lot nor shall any such items be deposited on a street, unless placed in a suitable, tightly-covered container that is suitably located solely for the purpose of garbage, trash or recycling pickup or in an area designated by the Association for trash collection. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

(b) The Board of Directors shall have the right to regulate trash collection within the Community. Unless the Association provides trash service or the Board of Directors determines

that the cost of trash collection shall be paid by the Association as part of the Common Expenses, the cost of trash collection shall be paid by each Owner directly to the trash collection company and the Association shall not have any duty to pay the costs of trash collection or to assess the costs thereof to the Owners as assessments.

9.13 Minor Violations of Setback Restrictions. If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation", for the purpose of this Section, is a violation of not more than one (1) foot beyond the required setback lines or Lot lines or such other distance as set forth in the Rules. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

9.14 Lots to be Maintained. Each Lot shall at all times be kept in a clean and sightly condition. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Section 9.4 of this Article. All yards shall be fully landscaped within six (6) months following purchase by a Lot Owner.

9.15 Leases. The term "lease", as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Lot for a term of at least thirty days, but all leases shall be in writing and all leases shall provide that the terms of the lease and leasee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules of the Association. Both the tenant and the Owner may be fined or held liable by the Association for violation of the Rules.

9.16 Maintenance of Grade and Drainage. Each Owner shall maintain the grading upon his Lot, and the Association shall maintain the grading upon the Common Areas, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Lot or Common Areas which an Owner or the Association has a duty to maintain, then the party responsible for the maintenance of such real property shall submit a plan to the Architectural Review Committee for its review and approval, in accordance with the provisions of Article V of this Declaration. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot is completed.



9.17 Lot Line Adjustments. The Declarant hereby reserves, as a Declarant Right in order to build and complete Improvements in the Community, the right to move any Lot line(s) with the consent of the Owner(s) of each Lot whose Lot line is being moved. Such Lot line adjustments may be done by the Declarant, if at all, for the purpose of accommodating Improvements which are constructed or are to be constructed, and may change the number of Lots in the Community after the time such Lot line adjustment is approved by the applicable governmental entity. This Declarant Right shall terminate automatically as provided in Section 12.15 of this Declaration.

9.18 Use of Common Areas. An easement is hereby granted to the Declarant through the Common Areas as may be reasonably necessary for the purpose of discharging any of Declarant's or Builder's obligations or exercising any Declarant Rights. Subject to the immediately preceding sentence:

(a) No use shall be made of the Common Areas which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Common Areas.

(b) No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Areas to all Members, nor shall any Owner place any structure whatsoever upon the Common Areas.

(c) The use of the Common Areas shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors.

(d) No use shall ever be made of the Common Areas which will deny ingress and egress to those Owners having access to their Lots only over Common Areas, and the right of ingress and egress to said Lots is hereby expressly granted.

9.19. Vehicular Parking, Storage and Repairs.

(a) No automobile, motor vehicle, house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck, self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored so as to be visible in the Community, whether within a Lot or a public street, except as permitted by the Rules adopted by the Board in its sole discretion. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of any portion of the Community or any Improvements located thereon.

(b) No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined in the Rules adopted by the Board in its sole discretion.

(c) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done in compliance with the Rules which may be adopted by the Board in its sole discretion.

9.20 Parking Restrictions: Use of Garage. Except as provided in the Rules, garages shall be used for parking automobiles and other motor vehicles only and shall not be converted for living or recreational activities or for storage which prevents the parking of an automobile therein.

#### ARTICLE X EASEMENTS

10.1 Easement for Encroachments. To the extent that any Lot or Common Area encroaches on any other Lot or Common Area, a valid easement for the encroachment exists; to the extent any utility service extension line providing service to an individual Lot encroaches on any other Lot or Common Area, a valid easement for the encroachment exists.

10.2 Easements for Drainage and Utilities. Easements for the installation and maintenance of utilities, drainage facilities, public or private improvements and access thereto are reserved as shown on the recorded plats affecting the Lots and any amendments to such plats or as established by any other instrument of record. Declarant creates and reserves to itself, until the expiration of the period of Declarant Rights, and to the Association, a blanket non-exclusive easement upon, over and across the Common Areas for the construction, operation, maintenance, repair and replacement of utilities and drainage facilities and other appurtenances thereto.

10.3 Easements on Subdivision Plat. The Community and the Lots therein are subject to the easements and rights-of-way shown on the Plat.

10.4 Easements for Unannexed Property. The Declarant hereby reserves, for the use and benefit of the Possible Expansion Property described on Exhibit D a non-exclusive, perpetual easement and right of way for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Areas, now or hereafter constructed, erected, installed or located in or on the Community; and on, over, across and under the Common Areas for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the annexable land or any portion thereof described on Exhibit D (herein collectively the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and

vehicular access and for utilities services to those portion(s) of the annexable land which have not been included, from time to time, in the Community pursuant to Section 12.13 of Article XII hereof. Hence, the Annexable Area Easement shall be in effect for each portion of the annexable land, from and after recording of this Declaration, but shall cease to be effective as to each portion of the annexable land at such time as both of the following have occurred with respect to such portion of the annexable land: annexation of such portion of the annexable land to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's Right during the Period of Declarant rights to withdraw such portion of the annexable land from this Declaration.

ARTICLE XI  
PROPERTY RIGHTS IN THE COMMON AREAS

11.1 Owner's Easements. Subject to Sections 11.2 and 11.3 of this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Lots and for use for all other purposes, in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot.

11.2 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations contained in this Declaration; and
- (b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portions of the Common Areas to a Mortgage unless such is approved by Members casting at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Lots not owned by the Declarant; and
- (c) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure; and
- (d) The right of the Association to promulgate, amend, repeal, re-enact and publish Rules with which each Member shall strictly comply, including, but not limited to, the right of the Association to regulate and/or restrict use by Members, Related Parties, and other Persons; and
- (e) The right of the Association to suspend the rights of a Member for any period during which any assessment against his Lot or any other amount due from such Member to the Association remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Bylaws or Rules of the Association; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless first approved by the Members entitled to cast at least sixty-seven percent (67%) of the votes in the Association, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection (f); and

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

(h) The right of the Association to close or limit the use of the Common Areas while maintaining, repairing and making replacements in the Common Areas.

11.3 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas to the members of his family, his tenants, or contract purchasers who reside on his Lot.

11.4 Conveyance or Encumbrance of Common Areas.

(a) Portions of the Common Areas may be conveyed or subjected to a Mortgage by the Association only if Persons entitled to cast at least sixty-seven percent (67%) of the votes in the Association agree to that action.

(b) An agreement to convey Common Areas or subject them to a Mortgage must be evidenced by the execution of an agreement, or ratification thereof, in the same manner as a deed, by the requisite number of Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the Community is situated and is effective only upon recordation.

(c) The Association, on behalf of all Owners, may contract to convey an interest in the Common Area pursuant to subsection (a) of this section, but the contract is not enforceable against the Association until approved, executed and ratified. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Unless in compliance with this section, any purported conveyance, encumbrance, judicial sale or other transfer of Common Areas is void.

(e) A conveyance or encumbrance of Common Areas pursuant to this section shall not deprive any Lot of its rights of ingress or egress to the Lot and support of the Lot.

(f) A conveyance or encumbrance of Common Areas pursuant to this section does not affect the priority or validity of preexisting encumbrances thereon.

11.5 Payment of Taxes or Insurance by First Mortgagees. First Mortgagees shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Areas, and any Mortgage Holders making any such payments shall be owed immediate reimbursement therefore from the Association.

11.6 Dedication of Common Areas. Declarant in recording this Declaration of Covenants, Conditions and Restrictions has designated certain areas of land as Common Areas intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Declaration. The Common Areas owned by the Association are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Owners and others as more fully provided in this Declaration.

## ARTICLE XII GENERAL PROVISIONS

### 12.1 Enforcement and Arbitration.

(a) Except as otherwise provided in this Declaration, enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or Rules of the Association, as supplemented and amended, may be by any proceeding at law or in equity against any Person(s) (including, without limitation, the Association) violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of any of the aforesaid documents. In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

(b) Notwithstanding any provision hereof, the Association shall not institute litigation or administrative proceedings for declaratory relief, injunctive relief or for claims for monetary damages in excess of Twenty Five Thousand Dollars (\$25,000.00) in its own name, on behalf of itself or two (2) or more owners against any Person, including Declarant, alleging a defect in the design, construction or physical condition or other alleged defect of the Common Areas, Lots or Improvements related thereto without first obtaining the affirmative vote of a majority of the Lot Owners present at a meeting called for that purpose at which a quorum is present and the written consent of a majority of First Mortgagees. The amount of \$25,000.00 shall be increased annually for each subsequent fiscal year of the Association beginning in the year 2008, in an amount equal to the United States Department of Labor Bureau of Labor Statistics final consumer price index for the Denver-Boulder metropolitan statistical area for the preceding calendar year. The amount shall not be decreased if the final consumer price index for the preceding year decreases.

12.2 Severability. All provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

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

12.4 Conflict with the Act. In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act, the terms of provisions of this Declaration shall control and govern. In case of any such conflict or inconsistency, the applicable terms and provisions contained in the Act shall not affect, void, or render unenforceable any other term or provision of this Declaration (which shall be in full force and effect in accordance with their terms). Except as provided herein, this Declaration and the provisions hereof shall be governed by and construed in accordance with the statutes and laws of the State of Colorado.

12.5 Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each, subject to the amendment and other provisions of this Declaration.

(b) This Declaration shall not be terminated, revoked, amended or modified unless the Owners having at least sixty-seven percent (67%) of the Allocated Interests and the First Mortgagees of at least sixty-seven percent (67%) of the Lots have voted or agreed to such amendment, provided however, notwithstanding the foregoing, (a) that any section in this

Declaration which requires a particular percentage of Owners and/or Mortgagees may be amended only by written consent of that percentage of those parties; (b) that this Section and any other section or provision, whether in this Declaration, the Association's Articles of Incorporation and/or Bylaws, requiring Declarant's consent or providing particular rights to Declarant, including without limitation this Section, may only be amended with the prior written consent of the Declarant; and (c) that the Declarant hereby reserves the right, until the expiration of the Period of Declarant Rights, without the vote of the Owners or the Mortgagees, to make such amendments to this Declaration, the Plat, the Articles of Incorporation, the Bylaws, and/or the Rules, as may be necessary or desirable to exercise any right of Declarant under this Declaration or as may be necessary to correct clerical, typographical or technical errors in said documents or to comply with the requirements, standards or guidelines of recognized secondary mortgage markets or as may be approved in writing by the Agencies so as to induce any of such organizations to make, purchase, sell, insure or guarantee First Mortgages covering any portion of the Property and/or Expansion Property, or as required by any Builder as defined in this Declaration; and each Owner and Mortgagee by accepting a deed or other instrument to this Condominium Unit appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's and Mortgagee's name and recording any such amendments to this Declaration, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and record any such amendments.

(c) No action to challenge the validity of an amendment adopted pursuant to this Declaration may be brought more than one (1) year after the amendment is recorded.

(d) Every amendment to the Declaration must be recorded in every county in which any portion of the Community is located, and is effective only upon recordation.

(d) Amendments to the Declaration that are required by this Declaration to be recorded by the Association may be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

(e) Notwithstanding any provision of this Declaration, any matter requiring Mortgagee approval (except and excluding matters involving the Declarant's rights) will be assumed when that Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. Any First Mortgagee shall be given notice of any proposed action requiring its consent, as long as the First Mortgagor has sent a written request to the Association, stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guarantees) the Mortgage.

12.6 Registration of Mailing Address. Each Owner and each Mortgage Holder, insurer or guarantor of a Mortgage, shall register his mailing address with the Association, and except

for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Mortgage Holder, insurer or guarantor of a Mortgage, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the Period of Declarant Rights shall be sent by registered or certified mail, postage prepaid, c/o DN I Development Corporation, 25 N. Tejon Street, #300, Colorado Springs, Colorado 80903, unless such address is changed by the Association during the Period of Declarant Rights; subsequent to the termination of the Period of Declarant Rights, the Association shall notify the Owners of a different address for notices.

12.7 Declarant Amendments – Agencies or Builders. In addition to Section 12.15, the following shall apply to the Declarant's Rights to amend:

(a) Notwithstanding the provisions hereof, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Agency requires to be amended or repealed as a condition to making, purchasing, insuring or guaranteeing Mortgages, may be amended or repealed solely by Declarant and no approval, consent or vote of any other person or entity shall be required. Any such amendment or repeal shall be effective upon the recordation of a certificate, executed by Declarant, setting forth the amendment or repeal in full.

(b) Notwithstanding the provisions hereof, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Builder requires to be amended or repealed as a condition to making, purchasing, insuring or guaranteeing Mortgages, may be amended or repealed solely by Declarant and no approval, consent or vote of any other person or entity shall be required. Any such amendment or repeal shall be effective upon the recordation of a certificate, executed by Declarant, setting forth the amendment or repeal in full.

12.8 Termination of Community. The Community may be terminated only in accordance with the provisions of this Declaration.

12.9 Eminent Domain. The taking by eminent domain of a Lot(s) or a Common Area, or any portion thereof, shall be done in accordance with applicable law.

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



12.11 Limitation on Liability. The Association, the Board of Directors, the Architectural Review Committee, the 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 unless the action or failure to act was not in good faith and was done or withheld with malice.

12.12 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, or any Improvement, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

12.13 Annexation of Possible Expansion Property.

(a) Right to Expand. For a period continuing until twenty (20) years from the date of the recording of this Declaration, the Declarant reserves the right to expand this Community, without the approval of the Owners or First Mortgagees, except as provided herein, to include additional land and one or more additional buildings located upon all or any part of the Possible Expansion Property; provided, however, that the total number of units in the Community, as expanded, shall not exceed two thousand (2,000) units. By accepting a deed to a Lot, each Owner hereby grants to the Declarant a right to expand the Community and to modify the Owner's Allocated Interest and right, title and interest in the Common Area accordingly, as set forth in this Article, and to exercise any and all Declarant Rights and other rights described herein. Any such expansion shall be subject only to this Declaration but shall not make or constitute any amendment or modification in this Declaration except as provided in this Article.

(b) Procedure for Expansion. Such expansion may be accomplished by the filing for record by the Declarant with the Clerk and Recorder of the county in which the Community is located, no later than twenty (20) years from the date of the recording of this Declaration, an amendment or amendments to this Declaration containing a legal description of the land area to be added to the Community, together with any supplemental plats which may be required hereby and by C.R.S. 38-33.3-209, whether by new plat or certification. Any such amendment or amendments to this Declaration shall also contain a listing of the number of Lots to be contained in the expanded portion of the Community and shall assign an identifying number to each new Lot thereby created, shall reallocate each Owner's Allocated Interest, and shall describe any Common Areas. The expansion may be accomplished in "phases" by successive amendments.

(c) Effect of Expansion.

(i) In the event of such expansion, the definitions used in this Declaration shall automatically be expanded to encompass and refer to the Community as so expanded; e.g., "Community" shall mean the real property described on Exhibit "A" hereto plus any additional real property added by any amendment to this Declaration; similarly, "Common

Area" and "Lots" shall include those areas located within the real property described on Exhibits "A" hereto, as well as those so designated on any amendment or supplemental plat relating to any real property which is annexed pursuant to this Article. References to this Declaration shall mean this Declaration as so amended. Every Owner of a Lot in the area shall, by virtue of such ownership and upon recordation of the amendment, be a member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Association member. The recording with the Clerk and Recorder of the county in which the Community is located of an amendment to this Declaration incident to any expansion shall operate automatically to grant, transfer and convey to all of the Owners of the Lots, located within the Community and the part of the Possible Expansion Property added thereby, their respective, appurtenant, undivided rights, titles, interests, privileges, duties and obligations in and to both the existing Common Area and the new Common Area, if any, added to the Community as a result of such expansion; provided, however, assessments for Lots within the annexed area shall commence as set forth in Article IV hereof, but no part of the Possible Expansion Property shall be subject to assessments or any provision of this Declaration until the annexation of that part is completed in accordance with this Article.

(ii) Upon recording of the amendment or amendments to Declaration and any supplemental plat with the Clerk and Recorder of the county in which the Community is located, the additional Lots and Common Area shall be subject to the provisions of this Declaration.

(iii) At such time, prior to twenty (20) years from the date of the recording of this Declaration, that the Declarant determines that the Community is completed, it shall record with the Clerk and Recorder of the county in which the Community is located a Certificate of Completion. Said Certificate shall contain a statement of the total number of Lots.

(iv) Until the expansion is accomplished as provided above, the Possible Expansion Property and any improvements constructed thereon shall not be subject to this 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 this Declaration or otherwise shall restrict, impair, hinder, encumber or burden, in any way whatsoever, the Declarant's, or its successors' or assigns sole and complete right, title and interest to the Possible Expansion Property and any improvements constructed thereon. The Declarant's right to annex, and other Declarant Rights, may be exercised at different times and as to different portions of the Property or Possible 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. If the Declarant exercises any right to annex additional portions, the Declarant is not required to exercise any Declarant Rights to any and all portions of the remaining Community or Possible Expansion Property. Any development right of the Declarant may be exercised with respect to different portions of real estate at different times, and no assurances are made in regard to the boundaries of those portions or regulating the order in which those portions may be subjected to the exercise of any development right. If any development right is exercised in any portion of the real estate subject to that right, that development right is not required to be

exercised in all or any portion of the remainder of that real estate. Any portion of the Community or Possible Expansion Property may be designated as a Common Area as shown by the Plat or written document which has been or will be recorded regarding that portion.

(d) Supplemental Covenants. In connection with the expansion described in this Section, or even if such expansion does not occur, the Declarant reserves the right to impose supplemental covenants upon all or any portion of the Possible Expansion Property; such supplemental covenants may or may not be then enforced by the Association and may or may not include provisions regarding assessments, use restrictions, and other matters, including without limitation, the imposition of a duty to pay Common Area Fees as well as architectural control provisions.

12.14 Restrictions Upon Association and Owners. Except as otherwise provided in this Declaration, or the Association Documents, unless at least sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) and the Owners (other than the Declarant) by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Proportionate Interests) in the Association are attached, have given their prior written approval, neither the Association nor the Owners shall be empowered or entitled to do any of the following:

(a) by act or omission, seek to abandon or terminate this Declaration or any scheme or architectural control, or enforcement thereof, as set forth in this Declaration, regarding the architectural design, exterior appearance, or exterior maintenance of the Lots, Improvements thereon, or the Common Area, or the maintenance of the common property, party walls or common fences, or the upkeep of lawns and plantings in the Community; or

(b) by act or omission, seek to abandon, partition, subdivide, mortgage, encumber, sell or transfer any of the Common Area, except for the granting of easements or otherwise provided herein; any conveyance or encumbrance of the Common Area shall also comply with the requirements of C.R.S. 38-33.3-312; or

(c) fail to maintain full current replacement cost fire and extended insurance coverage on the Common Area, and such other insurance as is required under this Declaration; or

(d) use hazard insurance proceeds for loss to the Association's Improvements for other than repair, replacement or reconstruction of such Improvements as herein provided; or

(e) change the method of determining the obligations, proportionate allocation of assessments, dues or other charges which may be levied against an Owner; or

(f) a material change in any of the following provisions of this Declaration: voting rights; assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Areas; responsibility for maintenance and repairs; reallocation of interests in the Common Areas, or rights to their use; redefinition of any Lot boundaries;

convertibility of Lots into Common Areas or vice versa; expansion or contraction of the Community, or the addition, annexation, or withdrawal of property to or from the Community; insurance or fidelity bond; leasing of Lots; imposition of any restrictions on an Owner's right to sell or transfer his or her Lot; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Common Areas (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Community after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors.

12.15 Declarant Rights. In addition and supplement of all rights reserved by the Declarant under this Declaration, the Declarant reserves the following rights for the Period of Declarant Rights on behalf of itself, its successors and any Person to whom it expressly assigns in writing any right hereunder:

(a) To build and complete Residences and/or Improvements in the Community; to maintain sales offices, construction offices, management offices, and signs advertising the Community and sale of Lots; to use easements through the Common Areas for the purpose of making Improvements within the Community or within real property which may be added to the Community; to grant or create easements for access, utilities, drainage, water and other purposes incidental to development and sale of the Community located in or across Lots owned by Declarant or Common Areas, provided that such easements do not create a permanent, unreasonable interference with the rights of any Owners at the time such easement is created; to make the Community subject to a master association; to merge or consolidate with any entity of similar form of ownership; to appoint or remove any officer of the Association or any Board of Directors member during any Period of Declarant Rights; to allocate any of the Common Areas or portions thereof as limited Common Areas and to allocate such limited Common Areas among particular Lots; to convert any Lot or other portion of the property in the Community which is owned by Declarant into Common Areas, or to perform any other Declarant Right set forth in this Declaration.

(b) The right to complete or make Improvements indicated on any Plat or maps or otherwise necessary or desirable to complete construction of the Community;

(c) The right to maintain sales offices, management offices and models on Lots or on the Common Area;

(d) The right to install, assign or maintain signs on the Community and to advertise the Community;

(e) The right to use and permit others to use easements through the Community as may be reasonably necessary for the purpose of making Improvements within the Community or performing other rights under the Declaration;

(f) The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including, but not limited to, streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Community;

(g) The right to enter into, establish, execute, amend, and otherwise deal with contracts, assignments, and agreements for the use, lease, repair, maintenance or regulation of the Community including without limitation parking and/or recreational facilities, which may or may not be a part of the Community for the benefit of the Owners and/or the Association;

(h) The right to increase the number and terms and to appoint or remove any officer of the Association and to create any associations and covenants within the Possible Expansion Property, including to merge or consolidate the Association or any other association with any other association within the Possible Expansion Property;

(i) The right to appoint or remove any member of the Architectural Review Committee;

(j) The right to terminate, substitute and/or amend the Association Documents and/or the Plat in connection with the exercise of any right set forth herein and to require that any termination, substitution and/or amendment of said documents be approved in writing by the Declarant prior to adoption;

(k) The right to amend any Plat or other document required by any governmental entity in connection with the exercise of any right set forth herein and to replat or rezone all or any portion of the Community;

(l) The right to subdivide and/or to modify, delete, or create Lots and/or Common Areas, including without limitation (a) converting or creating additional Lots and/or Common Areas upon the recording in the office of the Clerk and Recorder of a certificate executed by the Declarant that identifies the Lot and/or Common Area by reference to any Plat, (b) constructing replacement or substitute Common Areas and any related Improvements, construction, and/or relocating utilities, access, parking, landscaping and signage within the Community, and (c) the right of the Declarant to undertake any action related to the Lots, the Common Area, the Possible Expansion Property, and the Property. Such rights include, without limitation, the right to any Common Area into a future Building(s) and/or Lot(s). In the event the Declarant exercises the right to add, withdraw, subdivide, combine and/or convert Lots and/or Common Areas, as set forth herein, the Allocated Interests of the Lots after such addition, withdrawal, subdivision, combination and/or conversion may be adjusted according to the formula set forth in Section 3.1 above, and the Declarant may record an amendment to this Declaration and the Plat and any other document to reflect the exercise of such rights and the necessary adjustments; and

(m) The right to transfer, assign or delegate any right reserved or granted by this Declaration or any law or statute to any Person to the fullest extent permitted under this Declaration or any law or statute;

(n) Any and all other rights of the Declarant as set forth in this Declaration or by law or statute; in the event of any conflict, the broadest right reserved by the Declarant shall prevail;

(o) The consent of Owners or First Mortgagees shall not be required for the exercise or transfer of any reserved rights, and the Declarant, its successors or any Person to whom it assigns any right expressly in writing, may proceed without limitation at its sole option. The Declarant, its successors or assigns may exercise any rights under this Declaration on all or any portion of the Community, in whatever order determined. The Declarant, its successors or any Person to whom it assigns any right expressly in writing shall not be obligated to exercise any such rights, except as it determines in its sole discretion.

12.16 RELEASES, DISCLAIMERS AND INDEMNITIES. THIS SECTION IMPOSES AN ABSOLUTE BAR TO AND WAIVER OF THE RIGHT OF ANY OWNER AND/OR THE HOMEOWNER'S ASSOCIATION TO PROCEED AGAINST THE DECLARANT FOR ANY DEFECT OR DEFICIENCY WHATEVER IN THE DESIGN OR CONSTRUCTION OF ANY RESIDENCE OR THE COMMON AREAS.

A. THE PROVISIONS OF THIS SECTION 12.16 SHALL APPLY TO ANY "PROTECTED PARTY," WHICH IS DEFINED AS ANY PERSON OR PARTY, INCLUDING, WITHOUT LIMITATION, THE DECLARANT, ITS AGENTS, EMPLOYEES, SHAREHOLDERS, CONTRACTORS, BROKERS, SUCCESSORS, ASSIGNS OR ANY PERSON OR PARTY RELATED TO THEM OR ANY PRIOR OWNER OF THE PROPERTY, AGAINST WHOM IS ASSERTED ANY CLAIM, DEMAND, LIABILITY, OBLIGATION OR MATTER WHATSOEVER REGARDING THE CONSTRUCTION, PHYSICAL CONDITION, VALUE, ASSESSMENTS, RESERVES, ASSOCIATION, AND ANY OTHER MATTERS RELATED THERETO IN CONNECTION WITH THE COMMUNITY. "COMMON AREAS" REFER TO THE COMMON AREA AND ANY COMMON UTILITIES, STREETS, AND SERVICES. AS USED IN THIS DECLARATION, "RESIDENCE" SHALL MEAN A DWELLING STRUCTURE LOCATED ON A Lot, TOGETHER WITH RELATED IMPROVEMENTS THERETO, THAT IS INTENDED OR USED FOR RESIDENTIAL OCCUPANCY, AND MAY INCLUDE ANY SINGLE FAMILY DWELLING, CONDOMINIUM OR TOWNHOME AND OTHER HIGHER DENSITY PROJECTS.

B. OWNERS ACKNOWLEDGE AND UNDERSTAND THAT CERTAIN PHYSICAL AND/OR ENVIRONMENTAL CONDITIONS MAY AFFECT THIS COMMUNITY, INCLUDING, BUT NOT LIMITED TO, MOLD, LEAD, ASBESTOS, RADON GAS, OR ANY OTHER HAZARDOUS OR TOXIC SUBSTANCES, AND THAT ANY PROTECTED PARTY DOES NOT WARRANT AND DISCLAIMS ANY LIABILITY FOR ANY EXISTING OR FUTURE SOIL, ECOLOGICAL OR ENVIRONMENTAL

CONDITIONS AFFECTING THE COMMUNITY. OWNERS ACKNOWLEDGE THAT NO ENVIRONMENTAL REPORTS WERE GIVEN TO THEM BY THE DECLARANT, BUT THAT THEY HAD BEEN ADVISED AND GIVEN A FULL OPPORTUNITY TO INSPECT ANY DOCUMENTS OR REPORTS ON FILE WITH THE CITY OF COLORADO SPRINGS OR COUNTY OF EL PASO OR REGIONAL BUILDING DEPARTMENT OR STATE OF COLORADO, AND TO OBTAIN ANY PROFESSIONAL INSPECTION IF THEY SO DESIRED. BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER ACCEPTS THE PHYSICAL AND/OR ENVIRONMENTAL CONDITION OF THE PROPERTY AND ACKNOWLEDGES A FULL, ADEQUATE OPPORTUNITY TO CONDUCT ANY INSPECTIONS THEREOF AND RELEASES AND INDEMNIFIES THE PROTECTED PARTIES FROM ANY FAILURE TO UNDERTAKE SUCH INSPECTIONS. IN ADDITION, OWNERS UNDERSTAND THAT THE SOIL IN THE COLORADO AREA CONTAINS CLAY AND OTHER SUBSTANCES WHICH MAY CAUSE IT TO SWELL WHEN WET AND SO CAN CAUSE EARTH MOVEMENT AROUND A BUILDING'S FOUNDATION. OWNERS, FOR THEMSELVES, THEIR HEIRS, SUCCESSORS, ASSIGNS AND THEIR ASSOCIATION, WAIVE AND RELEASE THE PROTECTED PARTIES FROM ALL CLAIMS, LIABILITIES, LAWSUITS AND OTHER MATTERS ARISING FROM OR RELATED TO ANY PHYSICAL AND/OR ENVIRONMENTAL CONDITION AFFECTING THE COMMUNITY.

C. THE OWNERS OR ASSOCIATION SHALL MAINTAIN THE LANDSCAPING, DRAINAGE, AND SPRINKLER SYSTEMS WITHIN THE COMMUNITY IN SUCH A FASHION THAT THE SOIL SURROUNDING THE FOUNDATIONS OF THE BUILDINGS AND OTHER IMPROVEMENTS SHALL NOT BECOME SO IMPREGNATED WITH WATER THAT THEY CAUSE EXPANSION OF OR SHIFTING OF THE SOILS SUPPORTING THE IMPROVEMENTS OR OTHER DAMAGE TO THE IMPROVEMENTS AND DO NOT IMPEDE THE PROPER FUNCTIONING OF THE DRAINAGE, LANDSCAPING, OR SPRINKLER SYSTEMS AS ORIGINALLY INSTALLED. SUCH MAINTENANCE SHALL INCLUDE, WHERE NECESSARY, THE REMOVAL OR REPLACEMENT OF IMPROPERLY FUNCTIONING LANDSCAPING, DRAINAGE, OR SPRINKLER SYSTEM ELEMENTS AND SHALL ALSO INCLUDE REGRADING AND RESURFACING WHERE NECESSARY TO PROVIDE FOR ADEQUATE DRAINAGE AND TO PREVENT ANY PONDING; NO CHANGES IN LANDSCAPING SHALL BE MADE IN SUCH A WAY AS TO ENDANGER THE STRUCTURAL INTEGRITY OR THE STABILITY OF ANY OF THE BUILDINGS, RESIDENCES, COMMON AREAS, OR THE OTHER IMPROVEMENTS WITHIN THE COMMUNITY. THE OWNERS AND/OR ASSOCIATION SHALL INDEMNIFY ANY PROTECTED PARTY FROM ANY LIABILITY, CLAIMS AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, RESULTING FROM ANY BREACH OF THIS SECTION.

D. THE U.S. ENVIRONMENTAL PROTECTION AGENCY ("EPA") STATES THAT EXPOSURE TO ELEVATED LEVELS OF RADON GAS CAN BE INJURIOUS. ANY TEST TO MEASURE THE LEVEL OF RADON GAS CAN ONLY SHOW THE LEVEL AT A PARTICULAR TIME UNDER THE CIRCUMSTANCES OCCURRING AT THE TIME OF

TESTING. NO PROTECTED PARTY IS QUALIFIED TO MEASURE RADON GAS OR TO EVALUATE ALL ASPECTS OF THIS COMPLEX AREA OF CONCERN. PRIOR OR SUBSEQUENT TO CLOSING OF THE OWNER'S PURCHASE OF THE RESIDENCE, THE OWNER MAY WISH TO TEST FOR THE PRESENCE OF RADON GAS AND TO PURCHASE OR INSTALL DEVICES THAT MAY BE RECOMMENDED BY A QUALIFIED INSPECTOR. ALL PROTECTED PARTIES EXPRESSLY DISCLAIM AND THE OWNER AND THE ASSOCIATION AGREE TO WAIVE AND RELEASE ANY AND ALL PROTECTED PARTIES FROM ANY CLAIMS OF LIABILITY OR RESPONSIBILITY WITH RESPECT TO RADON GAS AND RELATED MATTERS AND TO HOLD HARMLESS ANY PROTECTED PARTY FROM ANY CLAIMS OR LIABILITY WITH RESPECT TO RADON GAS AND RELATED MATTERS.

E. FIBERGLASS INSULATION (ALSO KNOWN AS GLASS WOOL) IS COMMONLY USED FOR INSULATION OF RESIDENCES. FIBERGLASS IN VARIOUS THICKNESSES AND VALUES IS USED IN THE AREAS OF WALLS, FLOOR TO CEILING ASSEMBLIES, AND CEILING TO ROOF ASSEMBLIES OF RESIDENCES TO PREVENT MOVEMENT OF HEAT AND TO REDUCE NOISE. THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PRODUCED A REPORT THAT LISTS GLASS WOOL AS A SUBSTANCE "WHICH MAY BE REASONABLY ANTICIPATED TO BE A CARCINOGEN", BUT THAT REPORT MERELY IDENTITIES SUBSTANCES SELECTED FOR FURTHER STUDY BECAUSE OF POTENTIAL RISK. THE LISTING OF A SUBSTANCE IN THE REPORT IS NOT AN ASSESSMENT THAT THERE IS CASUAL CONNECTION BETWEEN GLASS WOOL AND ILLNESS. THE OWNERS AND THE ASSOCIATION ACKNOWLEDGE THAT FIBERGLASS IS USED IN THE WALLS, FLOOR TO CEILING ASSEMBLIES AND/OR CEILING TO ROOF ASSEMBLIES, AND WAIVE ANY CLAIMS AGAINST ANY PROTECTED PARTY ARISING AS A RESULT OF THE USE OF FIBERGLASS INSULATION. THE OWNERS AND ASSOCIATION SHALL HOLD ANY PROTECTED PARTY HARMLESS FROM ANY CLAIM OR LIABILITY RESULTING FROM THE EXISTENCE OF FIBERGLASS INSULATION IN THE RESIDENCE OR THE COMMUNITY .

F. EACH OWNER FURTHER COVENANTS AND AGREES THAT NO REPRESENTATION, PROMISE OR WARRANTY HAS BEEN MADE BY ANY OF THE PROTECTED PARTIES REGARDING THE DEVELOPMENT OF ADJACENT PROPERTY, THE INVESTMENT POTENTIAL OF THE RESIDENCE, ANY ECONOMIC BENEFITS TO THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, TO BE DERIVED FROM THE MANAGERIAL OR OTHER EFFORTS OF THE RELEASED PARTIES, OR ANY OTHER THIRD PARTY DESIGNATED OR ARRANGED BY ANY PROTECTED PARTY, RELATED TO THE OWNERSHIP OR RENTAL OF THE RESIDENCE, OR REGARDING THE CONTINUED EXISTENCE OF ANY VIEW FROM THE RESIDENCE. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, UNDERSTAND THAT THE PROTECTED PARTIES ARE UNDER NO OBLIGATION WITH RESPECT TO FUTURE PLANS, ZONING OR DEVELOPMENT OF POSSIBLE EXPANSION PROPERTY IN THE AREA. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, UNDERSTAND THAT THE



SQUARE FOOTAGES, SIZES AND TYPES OF RESIDENCES HAVE BEEN SET FORTH AT THE SOLE DISCRETION OF THE DECLARANT, AND THAT THE SALES PRICES MAY DECREASE OR INCREASE AT THE SOLE DISCRETION OF THE DECLARANT.

G. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS COVENANT AND AGREE THAT THE PROTECTED PARTIES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY NATURE REGARDING THE COMMUNITY (ALL OF WHICH ARE HEREBY DISCLAIMED BY THE PROTECTED PARTIES), INCLUDING, WITHOUT LIMITATION, ANY AS TO THE FITNESS, WORKMANLIKE CONSTRUCTION, SAFETY, MERCHANTABILITY, DESIGN, CONDITION, QUALITY, OR HABITABILITY OF THE RESIDENCE, THE COMMUNITY, OR THE COMMON AREA OR IMPROVEMENTS RELATED THERETO OR ANY ELECTRICAL, PLUMBING, HEATING, GAS, WATER, SEWER, STRUCTURAL COMPONENTS, OR OTHER MECHANICAL OR UTILITY SYSTEMS OR COMPONENTS OR APPLIANCES OR FIXTURES RELATED THERETO. THE OWNERS AND THE ASSOCIATION ACCEPT THE FOREGOING DISCLAIMER OF WARRANTIES AND WAIVE, RELEASE AND INDEMNIFY THE PROTECTED PARTIES FROM ALL CLAIMS RELATED THERETO, AND ANY EXPENSES AND ATTORNEYS FEES INCURRED BY ANY PROTECTED PARTY, TOGETHER WITH ANY CLAIMS FOR BODILY INJURY, PROPERTY DAMAGE AND INCIDENTAL OR CONSEQUENTIAL DAMAGES MADE BY ANY PERSON OR PARTY.

H. NO PROTECTED PARTY SHALL BE LIABLE FOR CLAIMS FOR CONSEQUENTIAL AND/OR PUNITIVE DAMAGES OR FOR CLAIMS RELATING TO THE RESIDENCE, THE LOT, OR TO THE COMMON AREA OR ANY IMPROVEMENTS ARISING OR RELATING TO ANY DEFECT IN WORKMANSHIP OR IN ANY MATERIAL USED IN CONSTRUCTION, AND THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS, AND THE ASSOCIATION, EXPRESSLY WAIVE AND RELEASE ALL RIGHTS TO SUE FOR A DEFECT IN CONSTRUCTION OF THE RESIDENCE OR THE LOT OR COMMON AREA OR IMPROVEMENTS OR BOTH AND SHALL RELY SOLELY ON THE OWNER'S OWN INSPECTION AND EXAMINATION OF THE PROPERTY AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY PROTECTED PARTY. EACH OWNER BY PURCHASING A LOT AND RESIDENCE HEREBY TAKES TITLE TO THE LOT AND RESIDENCE ON THE CONDITION THAT THE OWNER WAIVES THE RIGHT TO COMMENCE ARBITRATION OR ASSERT ANY CLAIM AGAINST THE DECLARANT OR ANY OTHER PROTECTED PARTY FOR CLAIMS BASED UPON OR ARISING FROM DEFECTS OR DESTRUCTIVE TESTING OR INSPECTION OF ANY RESIDENCE WHICH IS OWNED BY ANY OTHER OWNER. THE OWNERS, THEIR HEIRS, SUCCESSORS AND ASSIGNS COVENANT AND AGREE THAT THIS DECLARATION WAIVES AND/OR LIMITS RIGHTS AND REMEDIES AND THAT THE SALES PRICES OF THE RESIDENCES ARE BASED IN PART UPON THE RELEASES, WAIVERS AND INDEMNITY CONTAINED IN THIS SECTION AND THE OTHER PROVISIONS OF THE DECLARATION.

I. THE DECLARANT, ITS SUCCESSORS OR ASSIGNS, MAY SUBMIT ANY DISPUTE OR MATTER ARISING OUT OF OR RELATED TO THIS SECTION TO ARBITRATION AS PURSUANT TO THIS SECTION.

J. THE RELEASES, DISCLAIMERS AND PROVISIONS OF THIS SECTION 12.16 MAY BE MODIFIED OR CHANGED ONLY TO THE EXTENT THAT THE DECLARANT EXECUTES AND DELIVERS A WRITTEN AMENDMENT, MODIFICATION OR CHANGE TO ANY OWNER, AND NO OTHER AMENDMENT, MODIFICATION, OR CHANGE OF THIS SECTION AND/OR THE DECLARANT'S RIGHTS UNDER THIS DECLARATION SHALL BE VALID OR ENFORCED WITHOUT THE DECLARANT'S PRIOR WRITTEN CONSENT.

K. DISCLAIMER REGARDING SAFETY. DECLARANT AND THE ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT AND THE ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

L. ARBITRATION. ANY DISPUTE OR CLAIM RELATED TO OR ARISING FROM THIS DECLARATION, AS DETERMINED BY THE DECLARANT HAS NOT BEEN RESOLVED, THE DECLARANT IN ITS SOLE DISCRETION, MAY SUBMIT IT TO ARBITRATION BY WRITTEN NOTICE TO THE OWNER OR OTHER CLAIMANT UNDER THE FOLLOWING PROCEDURE, AND THE PARTIES SHALL THEN PROCEED TO BINDING ARBITRATION AS FOLLOWS:

(i) ARBITRATION SHALL PROCEED UNDER TITLE 9 OF THE U.S. CODE, THE COLORADO UNIFORM ARBITRATION ACT, COLO. REV. STAT. 13-22-201, ET. SEQ., AND THE CONSTRUCTION INDUSTRY ARBITRATION RULES OF THE AAA AS THEN IN EFFECT. IN THE EVENT ANY INCONSISTENCY BETWEEN SUCH RULES AND THESE ARBITRATION PROVISIONS, THESE PROVISIONS SHALL SUPERSEDE SUCH RULES. ALL STATUTES OF LIMITATIONS THAT WOULD OTHERWISE BE APPLICABLE SHALL APPLY TO ANY ARBITRATION PROCEEDING UNDER THIS SECTION. SHOULD AN ACTION, DISPUTE, CLAIM OR CONTROVERSY BE BROUGHT AGAINST THE DECLARANT AND/OR BUILDER BY A THIRD PARTY WHO IS NOT BOUND BY A BINDING ARBITRATION PROVISION SIMILAR TO THE ARBITRATION PROVISION CONTAINED HEREIN, THE TERMS OF THIS SECTION SHALL APPLY TO SUCH ACTION, DISPUTE, CLAIM OR CONTROVERSY. LITIGATION, EXCEPT TO ENFORCE THE PROVISIONS HEREOF, SHALL NOT BE COMMENCED OR CONTINUED IF ARBITRATION HAS BEEN REQUESTED.

(ii) THE DECLARANT SHALL SELECT THE ARBITRATOR FROM A LIST SUBMITTED BY THE AMERICAN ARBITRATION ASSOCIATION IN DENVER, COLORADO, OR ANY SUCCESSOR OR COMPARABLE ENTITY. THE ARBITRATOR SHALL BE KNOWLEDGEABLE IN THE SUBJECT MATTER OF THE DISPUTE AND HAVE NO SELF-INTEREST, BIAS OR RELATIONSHIP WITH THE DISPUTE OR THE PARTIES.

(iii) THE PARTIES SHALL SHARE EQUALLY IN THE ARBITRATOR'S FEES AND EXPENSES. EACH PARTY TO THE ARBITRATION SHALL BEAR ALL OF ITS OWN COSTS INCURRED PRIOR TO AND DURING THE PROCEEDINGS. THIS SHALL INCLUDE THE FEES OF ITS ATTORNEY OR CONSULTANTS AND THE COSTS OF THE ARBITRATION PROCEEDING, INCLUDING ALL ANCILLARY COSTS, SUCH AS STENOGRAPHIC REPORTERS.

(iv) THE PARTIES SHALL BE ENTITLED TO CONDUCT DISCOVERY AS IF THE DISPUTE WERE PENDING IN A DISTRICT COURT IN THE STATE OF COLORADO. IN ANY ARBITRATION PROCEEDING SUBJECT TO THESE PROVISIONS, THE ARBITRATOR IS SPECIFICALLY EMPOWERED TO DECIDE PRE-HEARING MOTIONS THAT ARE SUBSTANTIALLY SIMILAR TO PRE-HEARING MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY ADJUDICATION. A STENOGRAPHIC RECORD OF THE ARBITRATION SHALL BE MADE, PROVIDED THAT THE RECORD SHALL REMAIN CONFIDENTIAL EXCEPT AS MAY BE NECESSARY FOR POST-HEARING MOTIONS AND APPEALS. THE ARBITRATOR'S DECISION SHALL CONTAIN FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE EXTENT APPLICABLE AND THE ARBITRATOR SHALL HAVE THE AUTHORITY TO RULE ON ALL POST-HEARING MOTIONS IN THE SAME MANNER AS A TRIAL JUDGE. THE STATEMENT OF DECISION OF THE ARBITRATOR UPON ALL OF THE ISSUES CONSIDERED BY THE ARBITRATOR IS CONCLUSIVE, FINAL AND BINDING UPON THE PARTIES, AND UPON FILING OF THE STATEMENT OF DECISION, WITH THE CLERK OF THE COURT, OR WITH THE JUDGE WHERE THERE IS NO CLERK, JUDGMENT MAY BE ENTERED THEREON. JUDGMENT UPON ANY AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED BY ANY STATE OR FEDERAL COURT, AS APPROPRIATE. THE DECISION OF THE ARBITRATOR SHALL BE FINAL, AND NOT APPEALABLE, EXCEPT AS PROVIDED UNDER C.R.S., §13-22-201, ET. SEQ.

12.17 EXEMPTION FROM THE ACT. This Community is a limited expense planned community and so is exempt from the provisions of the Act. Declarant hereby claims that this Declaration and the Community are exempt from the provisions of the Act, pursuant to the provisions of C.R.S., 38-33.3-116 which exempt planned communities from the provisions of the Act if the annual average common expense liability of each Lot restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed Four Hundred Dollars (\$400), as adjusted pursuant to C.R.S., 38-33.3-116(3). Declarant has incorporated that limitation on annual average common expenses in Section 4.3 of this

Declaration. If the amount of the permissible average annual common expense liability is amended in the Act to increase the annual maximum, then Section 4.3 hereof shall be automatically amended accordingly to such higher amount. Notwithstanding this exemption, this Declaration and the Community are subject to the provisions of C.R.S., 38-33.3-105, 38-33.3-106, and 38-33.3-107 of the Act, but are not subject to any other provisions of the Act.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 23rd day of January, 2008.

DECLARANT:

DN I DEVELOPMENT CORPORATION,  
a Colorado corporation

By [Signature]  
Its \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this 23rd day of January, 2008, by Raymond J. O'Sullivan as President of DN I Development Corporation, a Colorado corporation.

Witness my hand and official seal.

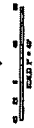
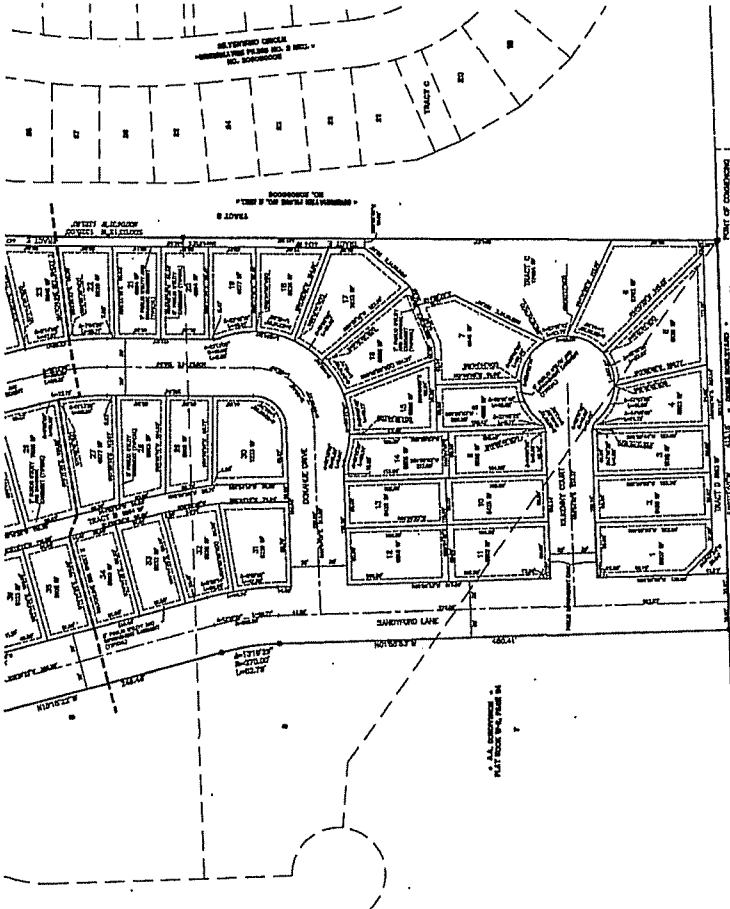


[Signature]  
Notary Public  
My Commission expires: 1/31/2010

EXHIBIT A  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DUBLIN NORTH  
Property

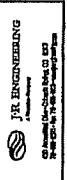


**FINAL PLAT  
DUBLIN NORTH FILING NO. 1**



- LEGEND:**
- EXISTING IMPROVEMENTS
  - PROPOSED IMPROVEMENTS
  - EXISTING CURB
  - PROPOSED CURB
  - EXISTING SIDEWALK
  - PROPOSED SIDEWALK
  - EXISTING DRIVEWAY
  - PROPOSED DRIVEWAY
  - EXISTING LOT
  - PROPOSED LOT
  - EXISTING EASEMENT
  - PROPOSED EASEMENT
  - EXISTING RIGHT-OF-WAY
  - PROPOSED RIGHT-OF-WAY
  - EXISTING UTILITY
  - PROPOSED UTILITY
  - EXISTING FENCE
  - PROPOSED FENCE
  - EXISTING SIGN
  - PROPOSED SIGN
  - EXISTING TRAILER
  - PROPOSED TRAILER
  - EXISTING POLE
  - PROPOSED POLE
  - EXISTING SIGNPOST
  - PROPOSED SIGNPOST
  - EXISTING SIGNPOST BASE
  - PROPOSED SIGNPOST BASE
  - EXISTING SIGNPOST ARM
  - PROPOSED SIGNPOST ARM
  - EXISTING SIGNPOST ARM END
  - PROPOSED SIGNPOST ARM END
  - EXISTING SIGNPOST ARM MIDDLE
  - PROPOSED SIGNPOST ARM MIDDLE
  - EXISTING SIGNPOST ARM BASE
  - PROPOSED SIGNPOST ARM BASE
  - EXISTING SIGNPOST ARM TOP
  - PROPOSED SIGNPOST ARM TOP
  - EXISTING SIGNPOST ARM END TOP
  - PROPOSED SIGNPOST ARM END TOP
  - EXISTING SIGNPOST ARM MIDDLE TOP
  - PROPOSED SIGNPOST ARM MIDDLE TOP
  - EXISTING SIGNPOST ARM BASE TOP
  - PROPOSED SIGNPOST ARM BASE TOP
  - EXISTING SIGNPOST ARM TOP MIDDLE
  - PROPOSED SIGNPOST ARM TOP MIDDLE
  - EXISTING SIGNPOST ARM TOP END
  - PROPOSED SIGNPOST ARM TOP END

FINAL PLAT  
DUBLIN NORTH FILING NO. 1  
JULY 18, 2007 REVISED SEPTEMBER 24, 2007  
SHEET 2 OF 3



**J.W. ENGINEERING, INC.**  
10100 W. 15th St., Suite 100  
Overland Park, KS 66204  
913-661-1234  
www.jw-engineering.com

AS RE-PLATED





EXHIBIT B  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DUBLIN NORTH

Common Area

Tracts A, B and E, Dublin North Filing No. 1, City of Colorado Springs, El Paso County,  
Colorado, are, or must become, Common Areas.

EXHIBIT C  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DUBLIN NORTH  
Title Exceptions

## TITLE EXCEPTIONS

1. ANY TAX, LIEN, FEE OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE METEX METROPOLITAN DISTRICT, AS EVIDENCED BY INSTRUMENTS RECORDED JANUARY 08, 1986, IN BOOK 5112 AT PAGE 285, AUGUST 12, 1986 IN BOOK 5217 AT PAGE 77 AND JANUARY 5, 2006 UNDER RECEPTION NO. 206001415.
2. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE RECORDED PLAT.
3. TERMS, CONDITIONS AND PROVISIONS OF DUBLIN NORTH ANNEXATION AGREEMENT RECORDED FEBRUARY 09, 2006 AT RECEPTION NO. 206021393. ANNEXATION ORDINANCE RECORDED FEBRUARY 9, 2006 UNDER RECEPTION NO. 206021392. ANNEXATION PLAT RECORDED FEBRUARY 9, 2006 UNDER RECEPTION NO. 206712241.
4. THE EFFECT OF RESOLUTION NO. 07-119, REGARDING AIRPORT OVERLAY REZONING, RECORDED JULY 18, 2007, UNDER RECEPTION NO. 207095753.
5. TERMS, CONDITIONS AND PROVISIONS OF PERMANENT EASEMENT AGREEMENT RECORDED SEPTEMBER 12, 2007 AT RECEPTION NO. 207118353.
6. DEED OF TRUST DATED NOVEMBER 07, 2007 FROM DN I DEVELOPMENT CORPORATION, A COLORADO CORPORATION TO THE PUBLIC TRUSTEE OF EL PASO COUNTY FOR THE USE OF COLORADO NATIONAL BANK TO SECURE THE SUM OF \$4,300,000.00 AND ANY OTHER AMOUNTS PAYABLE UNDER THE TERMS THEREOF, RECORDED NOVEMBER 15, 2007, UNDER RECEPTION NO. 207147291.  
  
DISBURSER'S NOTICE IN CONNECTION WITH SAID DEED OF TRUST WAS RECORDED NOVEMBER 15, 2007, UNDER RECEPTION NO. 207147292.
7. DEED OF TRUST DATED NOVEMBER 05, 2007 FROM DN I DEVELOPMENT CORPORATION, A COLORADO CORPORATION TO THE PUBLIC TRUSTEE OF EL PASO COUNTY FOR THE USE OF BROWN FINANCIAL, LLC TO SECURE THE SUM OF \$1,625,000.00, AND ANY OTHER AMOUNTS PAYABLE UNDER THE TERMS THEREOF, RECORDED NOVEMBER 15, 2007, UNDER RECEPTION NO. 207147293.  
  
SAID DEED OF TRUST WAS ASSIGNED TO CANON NATIONAL BANK IN ASSIGNMENT RECORDED JANUARY 08, 2008, UNDER RECEPTION NO. 208002700.
8. AVIGATION EASEMENT RECORDED DECEMBER 11, 2007 UNDER RECEPTION NO. 207157409.
9. TERMS, CONDITIONS AND PROVISIONS OF PERMANENT EASEMENT AGREEMENT RECORDED DECEMBER 19, 2007 AT RECEPTION NO. 207161020.

EXHIBIT D  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DUBLIN NORTH

Possible Expansion Property



THENCE ON THE BOUNDARY LINE OF SAID GREENBRIAR ANNEXATION NO.2, THE FOLLOWING FOUR (4) COURSES:

1. N00°03'46"W, A DISTANCE OF 1090.75 FEET;
2. N89°11'02"E, A DISTANCE OF 1222.94 FEET;
3. N89°26'17"E, A DISTANCE OF 401.14 FEET, TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SAID TEMPLETON GAP ROAD;
4. S56°52'01"E, A DISTANCE OF 80.00 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF TEMPLETON GAP ROAD, SAID POINT BEING A POINT ON CURVE;

THENCE ON THE SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING TWO (2) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS S56°52'01"E, HAVING A DELTA OF 0°50'02", A RADIUS OF 3459.94 FEET, A DISTANCE OF 50.36 FEET TO A POINT OF TANGENT;
2. N33°58'01"E, A DISTANCE OF 191.84 FEET;

THENCE N87°46'09"E, A DISTANCE OF 696.61 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF THE PLAT OF HORSESHOE RANCHEROS, RECORDED IN PLAT BOOK E-2, AT PAGE 66;  
THENCE S00°05'41"E ON THE WESTERLY BOUNDARY LINE OF SAID HORSESHOE RANCHEROS, A DISTANCE OF 1337.26 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 7;

THENCE S87°48'13"W ON SAID SOUTH LINE, A DISTANCE OF 652.58 FEET;  
THENCE S00°09'17"E ON THE WESTERLY BOUNDARIES OF THOSE PARCELS DESCRIBED IN THE WARRANTY DEEDS RECORDED UNDER RECEPTION NO. 207074434, 207111493 AND 207137396, A DISTANCE OF 1337.21 FEET TO A POINT ON THE NORTHERLY BOUNDARY LINE OF SAID A.A. SUBDIVISION;

THENCE N88°01'26"E, ON THE NORTHERLY BOUNDARY LINE OF SAID A.A. SUBDIVISION, A DISTANCE OF 650.19 FEET TO A POINT ON THE WESTERLY BOUNDARY LINE OF GREENHAVEN FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 205090005;

THENCE S00°03'12"W, ON SAID WESTERLY BOUNDARY LINE, A DISTANCE OF 1325.05 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION LYING WITHIN THE PLAT OF DUBLIN NORTH FILING NO. 1.

CONTAINING A CALCULATED AREA OF 284.1713 ACRES.

**LEGAL DESCRIPTION STATEMENT:**

I, CORY L. SHARP, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF TO BE CORRECT.

CORY L. SHARP, PROFESSIONAL LAND SURVEYOR  
COLORADO PROFESSIONAL LAND SURVEYOR NO. 32820  
FOR AND ON BEHALF OF CRYSTAL ENGINEERING, LLC

January 17, 2008  
DATE