

Recording Requested By, And
When Recorded Mail To:

Shea Canyons, LLC
9380 Station Street, Suite 600
Lone Tree, Colorado 80124
Attn: Legal Department

(Space Above For Recorder's Use)

**DECLARATION
OF
ARCHITECTURAL, USE AND MAINTENANCE RESTRICTIONS
FOR
THE CANYONS**

1100 11401

Recording Requested by:
FNTG-NCS Colorado

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**DECLARATION
OF
ARCHITECTURAL, USE AND MAINTENANCE RESTRICTIONS
FOR
THE CANYONS**

THIS DECLARATION OF ARCHITECTURAL, USE AND MAINTENANCE RESTRICTIONS FOR THE CANYONS (these “Restrictions”) are made as of the 5th day of December, 2018, by SHEA CANYONS, LLC, a Colorado limited liability company (“Shea Canyons”).

**ARTICLE 1
RECITALS**

1.1 Property. Declarant is the owner in fee simple of the Property.

1.2 General Purpose. Declarant desires to Record these Restrictions to subject the Property to the Covenants and other provisions set forth in these Restrictions in order to establish certain architectural and design standards and approval rights governing the Development of the Property, and to impose certain Covenants and other provisions governing the use, operation, occupancy and maintenance of the Property, and to provide a means to enforce such standards, approval rights, Covenants and other provisions.

1.3 CCIOA Exemption. Pursuant to the limitations contained in Section 6.2(b), the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq., as amended (“CCIOA”), does not and will not apply to these Restrictions or the ACC. Under no circumstances shall Declarant, the Appointing Authority, the ACC or the District, or any other entity, have the power pursuant to these Restrictions to levy any assessments against any Owner or other occupant of any portion of the Property for the purpose of paying for real estate taxes, insurance premiums, maintenance or improvement on a portion of the Property not owned by such Owner; provided, however, that the foregoing shall not affect the right of such parties to send demand letters and notices, to charge interest and/or late charges, to levy and collect fines, to impose liens, to negotiate, settle and/or take any other actions, with respect to any violation, or alleged violation, of any portion of these Restrictions in accordance with the Covenants and other provisions set forth in these Restrictions.

**ARTICLE 2
DECLARATION**

Declarant hereby declares that from and after the date of these Restrictions, the Property will be owned, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to these Restrictions. These Restrictions: (a) run with the Property at law; (b) are binding upon all Persons having or acquiring any interest in the Property or any part thereof; (c) inure to the benefit of and are binding upon every part of the Property and every interest therein; (d) inure to the benefit of, and are binding upon, Declarant, the Appointing Authority, the District and the Owners, subject to any limitations set forth in these Restrictions; and (e) are enforceable by the District, the Appointing Authority, the ACC, Declarant and Owners (except as limited by

Section 9.3), in accordance with the Covenants and other provisions set forth, and in the circumstances described, in these Restrictions. Notwithstanding the fact that, as of the date of these Restrictions, Declarant is the sole owner of all of the Property, Declarant does not intend for such ownership to result in, and such ownership shall not result in, the merger and/or termination of any of the Covenants or other interests created by these Restrictions.

ARTICLE 3
DEFINITIONS

3.1 Defined Terms. The following terms have the meanings given below:

ACC: Defined in Section 4.1.

ACC Member: Defined in Section 4.1.

Additional Land: The real property described on Exhibit B attached hereto and incorporated by reference herein. The Additional Land is a part of The Canyons.

Ancillary Unit: A one-bedroom dwelling unit not greater than 1,000 square feet in size located on a Lot containing a single-family detached Residence, but such Ancillary Unit must be detached from the Residence located on such Lot. In addition to a Residence, a Lot may contain an Ancillary Unit but only with the prior written approval of the ACC, and subject to the maximum number of Ancillary Units permitted under the PD Plan.

Application: Defined in Section 6.2(a).

Appointing Authority: The entity determined in accordance with Section 4.3.

Builder: Any individual, firm, corporation, partnership, limited liability company or partnership, or other legal entity, or any combination thereof who, in the ordinary course of its business, (a) purchases a portion of the Property for the purpose of constructing Improvements for later sale, development and/or resale, or (b) purchases a portion of the Property for the purpose of further subdivision pursuant to an HOA Declaration, and constructing Improvements on such subdivided portion of the Property for later sale, development and/or resale.

Building: Any permanent structure, or portion of a structure, built for the shelter or enclosure of human beings or property of any kind, including, without limitation, a Residence, but excluding advertising signboards, fences, walls or other exterior Improvements.

CCIOA: Defined in Section 1.3.

Chair: Defined in Section 4.1.

City: The City of Castle Pines, Colorado.

Covenants: Covenants, conditions, restrictions, easements, limitations, reservations, exceptions and equitable servitudes affecting real property.

Declarant: Shea Canyons or any successor of all or a portion of the Declarant Rights under these Restrictions who is designated as a successor Declarant pursuant to Section 10.5 of these Restrictions. As provided in said Section 10.5, Declarant shall have the right from time to time to assign the Declarant Rights, in whole or in part, or as to the entirety of the Property and the Additional Land, or a designated portion thereof, to any one or more Persons, but no such Person shall be deemed to be the Declarant under these Restrictions generally unless said Person is designated as a successor to Declarant generally under these Restrictions as provided in said Section 10.5.

Declarant Affiliate: either (a) any entity directly owned or controlled by John Shea or Peter Shea, or the children or grandchildren of John Shea, Peter Shea or the late Edmund Shea, the members of their respective families, or trusts for any of their benefit, or (b) any entity controlling, controlled by or under common control with any of J.F. Shea Co., Inc., Shea Homes Limited Partnership or Shea Canyons, LLC.

Declarant's Rights: All of the Covenants, rights, powers and other interests created or reserved to or for the benefit of the Declarant set forth in these Restrictions, including, without limitation, those set forth in Sections 4.3, 4.4, 6.9(a), 9.6, 9.7, 9.8, 9.9, 9.10, 9.12, 10.1, 10.2, 10.3 and 10.5, and the Declarant's right to exercise any and all such Covenants, rights, powers and other interests.

Delegation Agreement: Defined in Section 4.4.

Design Criteria: Defined in Section 6.3(a).

Development: Any site preparation; landscaping Improvements; earthmoving; excavation; construction; sign or signboard erection or alteration; exterior change, modification, alteration, substitution or enlargement of any Building; paving; fencing; wall construction; or otherwise the making, alteration, addition, demolition or removal of any Improvements of any kind or nature to any portion of the Property or the Buildings or other Improvements located on the Property, including, without limitation, any change of exterior appearance, finish material, color or texture. Notwithstanding the foregoing, however, the term "Development" shall, without limitation, expressly exclude any Improvement that is completely contained within the interior of any Building, structure or other Improvement that is not visible from the outside of such building, structure or other Improvement.

District: As of any particular time, the metropolitan district that, consistent with the provisions of C.R.S. §32-1-1004(8), at such time has, in accordance with these Restrictions, been designated as the District hereunder to have the powers of the District set forth in these Restrictions. Declarant hereby designates The Canyons Metropolitan District No. 7, which is a metropolitan district organized and authorized pursuant to Title 32, C.R.S., as amended, for the purpose of providing services to the Property, or any portion thereof, including, without limitation, financing, constructing and maintaining the public improvements that serve the Property, as the initial metropolitan district which shall constitute the District under these Restrictions. The metropolitan district which, at a particular time, constitutes the District under these Restrictions shall have the right to assign and transfer its rights and interests as the District hereunder to any other metropolitan district within whose district boundaries the Property and

the Additional Land may be located, or any other governmental entity that, pursuant to the provisions of Law, shall be authorized to exercise the rights and powers, and to perform the duties and obligations, of the District under these Restrictions, pursuant to a Recorded written instrument executed by such entities, and, if such assignment and transfer occurs at such time as Declarant owns an Interest in the Property and the Additional Land, containing the written consent of Declarant to such assignment and transfer. No such assignment or delegation shall affect any revocation, change or addition to these Restrictions, other than to change the entity which constitutes the District hereunder. Furthermore, the District shall have the right from time to time to contract with a manager for the management and administration of all of the rights, powers, duties and obligations of the District as contemplated by these Restrictions.

District Property: All real property, easements, possessory interests in property and Improvements within the Property, if any, and the Additional Land owned or to be owned and maintained by the District, including any real property conveyed to the District pursuant to Section 6.3(d). District Property may, but shall not be required to, be annexed to and made a part of the Property under these Restrictions.

HOA Declaration: A Recorded declaration of covenants, conditions and restrictions that is a "declaration" pursuant to CCIOA, and which provides a general scheme for the development of a specific portion of the Property, including, without limitation, condominium units, townhomes and exterior maintenance-free patio homes.

Homeowners Association: Any property owners association created pursuant to an HOA Declaration to govern any portion of the Property.

Homeowners Association Landscaped Area: Defined in Section 8.4(a).

Improvements: All structures, improvements and appurtenances on or to real property of every type and kind including, without limitation, Buildings, Residences, Ancillary Units, fixtures, utilities, patios, patio covers, awnings, garages, carports, facilities associated with regular or cable or satellite television, painting or other finish material of any exterior surfaces of any visible Building, structure or other improvement, recreational facilities, swimming pools, fireplaces, firepits, roads, driveways, sidewalks, pedestrian, bicycle and/or equestrian trails, parking areas, fences, screening walls, retaining walls, stairs, decks, play structures, shade structures, gazebos, arbors, trellises, landscaping, grading, drainage facilities, plantings, planted trees, shrubs and hedges, poles, signs (including without limitation entry monument signs), exterior air conditioning units, exterior pipes, exterior lines, exterior meters and other exterior facilities used in connection with water, sewer, gas, electricity, telephone or other utilities, as well as those construction activities necessary to build such items.

Interest in the Property and the Additional Land: Ownership by Declarant of or in any real property or, except as hereinafter provided, interest in real property that is part of the Property or Additional Land, including, without limitation, (a) a tract of land in which Declarant owns fee title; (b) a tract of land in which Declarant owns any interest as a co-tenant; (c) a leasehold interest owned by Declarant; (d) a right of first refusal, a right of repurchase or an option to purchase owned by Declarant in or with respect to any land not owned by Declarant; and (e) any such real property interests owned by an entity or entities other than Declarant but in

which Declarant has an economic interest, such as a partnership or joint venture in which Declarant or a Declarant Affiliate is a partner or joint venturer; provided, however, that the term "Interest in the Property and the Additional Land" shall expressly exclude any of the following interests in any real property that is part of the Property or Additional Land: (i) an easement or right-of-way owned by Declarant; and (ii) air, subterranean, mineral or water rights owned by Declarant above, below or appurtenant to land not owned by Declarant.

Law: All laws, statutes, ordinances, resolutions, orders, codes, rules, regulations, judgments, decrees and other requirements (including, without limitation, requirements under permits, licenses, consents and approvals) of any federal, state, county, city, town or other governmental authority having jurisdiction.

Local Common Area: Any portion of the Property and any personal property that is subject to an HOA Declaration that is for the common use, enjoyment and benefit of the Owners of Lots subject to such HOA Declaration. Such Local Common Area may be (i) owned or leased by a Homeowners Association pursuant to an HOA Declaration in which all such Owners subject to such HOA Declaration shall be entitled to membership; (ii) owned in undivided interests by such Owners; or (iii) owned separately by individual Owners over which a Homeowners Association may have an easement for maintenance purposes. Local Common Area is subject to the Covenants and other provisions set forth in these Restrictions; provided, however, in no event shall Local Common Area be considered a Lot.

Lot: A physical portion of the Property, whether developed or undeveloped, that is a separate, legally established lot, parcel or unit of real property that may be legally transferred or conveyed without further subdivision or other similar approval from the City and on which one Residence (or more than one Residence in the case of a Lot on which units in a common interest community may be created pursuant to an HOA Declaration) may be constructed pursuant to the Plats or other applicable zoning or governmental approvals. Upon the subdivision of any existing Lots into two or more Lots, the Lot so subdivided will no longer be recognized as one Lot for any purpose hereunder. Any condominium unit established pursuant to CCIOA will constitute a separate Lot under these Restrictions.

Owner: Every Person, Homeowners Association or other legal entity, or any combination thereof, whether one or more, holding fee simple title of Record to any portion of the Property from time to time. The term "Owner" does not include (a) any individual, corporation, partnership, trust, company, Homeowners Association or other legal entity which takes, owns or receives any mortgage, deed of trust or other document pledging any portion of the Property as security for payment of a debt or obligation, unless and until such individual or entity becomes the holder of fee simple title of Record to such portion of the Property, or (b) the contract purchaser or vendee under any installment sale contract, or the contract purchaser under any other executory contracts for purchase and sale of a portion of the Property.

Park Property: Any District Property within the Property or the Additional Land which either has been designated by Declarant or the District as a park for use by the public or residents within the service area of the District or which is in fact used as such a park.

PD Plan: The Canyons Planned Development, Recorded in the Records on December 29, 2009 at Reception No. 2009100333, as amended or supplemented from time to time.

Permittee: A Person, other than an Owner, who is a tenant or occupant of a Residence, or a Person who is an agent, employee, customer, contractor, licensee, guest or invitee of an Owner or of an Owner's tenant or occupant.

Person: A natural person, corporation, partnership, limited liability company, trustee or other legal entity.

Plats: The Recorded Final Plat of The Canyons Filing No. 1, Recorded in the Records on November 29, 2018 at Reception No. 2018071777, the Recorded Final Plat of The Canyons Filing No. 1, 1st Amendment, Recorded in the Records on December 4, 2018 at Reception No. 2018072842, all as amended or supplemented from time to time. The term "Plats" shall also include any and all Recorded subdivision plats of all or any portion of the Additional Land or other property which has been annexed into the Property and made subject to these Restrictions.

Private Landscaped Area: Defined in Section 8.4(a).

Property: The real property legally described on Exhibit A attached hereto and incorporated by reference herein, which includes the Lots, and may include certain portions of the District Property, and any other plots, tracts, lots, planning areas within such real property that have not yet been designated as Lots or District Property pursuant to the Plats, the appurtenances thereto, and all Improvements now in place or hereafter constructed thereon; plus any other property that hereafter has been annexed into the Property from time to time in accordance with Section 10.1 or Section 10.2, the appurtenances thereto, and all Improvements that are in place thereon as of such annexation or are thereafter constructed thereon, provided that, unless and until any such other property has been annexed into the Property in accordance with Section 10.1 or Section 10.2, such other property shall not be subject to the Covenants and other provisions applicable to the Property as set forth in these Restrictions. The real property described in Exhibit A attached hereto is a part of The Canyons.

Records: The official real property records of the County of Douglas, State of Colorado; "to Record" and "Recording" mean, respectively, to file or filing for recording in the Records; and "of Record" and "Recorded" mean having been recorded in the Records.

Required Approval Notice: Defined in Section 6.9(a).

Residence: A residential dwelling located on a Lot, whether attached to other residential dwellings or detached, and any fixtures attached and other Improvements appurtenant thereto, comprised of one or more connected rooms constituting a separate, independent housekeeping unit for permanent residential occupancy by a familial group and containing at least one kitchen facility.

Restrictions: This document, together with the attached exhibits, as amended from time to time.

Rules: Any rules or regulations governing the use of the Property which may be adopted from time to time by the District. The Rules shall be binding upon all Owners and their Permittees.

Site Deed: Defined in Section 6.9(a).

Site Plan: Complete plans and specifications for Development proposed on any portion of the Property showing the location of all existing and proposed Buildings and other Improvements and such other items or matters as may be required by the ACC pursuant to these Restrictions and the Design Criteria.

Sound Easement: Defined in Section 9.10(b).

The Canyons: All real property subject to the PD Plan from time to time, including, without limitation, the Property and the Additional Land.

ARTICLE 4 ESTABLISHMENT OF THE ACC

4.1 Establishment of the ACC. Declarant hereby establishes an Architectural Control Committee (the “ACC”) for the purposes of regulating and approving Development within the Property. The ACC will consist of a chairperson (the “Chair”) and members (the “ACC Members”) the number and appointment of which are as set forth below.

4.2 Appointment and Removal of the Chair, ACC Members and Staff. The Appointing Authority will be vested with the right and power to (a) appoint the Chair; (b) appoint all of the ACC Members; (c) increase or decrease the number of ACC Members from time to time, subject to the conditions of Section 5.1(a); (d) remove any and all ACC Members from time to time pursuant to Section 5.1(c); (e) appoint any ACC Member as acting Chair to perform the duties of the Chair in the absence of the Chair; and (f) appoint staff to the ACC to perform any and all administrative and managerial tasks requested by the ACC to assist the ACC in carrying out its functions.

4.3 Determination of the Appointing Authority. Subject to Section 4.4 below, the Appointing Authority is initially Declarant. Declarant shall remain the Appointing Authority hereunder until the earlier of (a) the date upon which Declarant and the District shall execute and record a Delegation Agreement as provided in Section 4.4, at which time the District will become the Appointing Authority as provided in Section 4.4; or (b) the date upon which Declarant ceases to own an Interest in the Property and the Additional Land, whereupon the District will automatically replace Declarant as the Appointing Authority.

4.4 Delegation of Powers of Declarant as Appointing Authority. At any time Declarant is the Appointing Authority, to the fullest extent permitted by the Laws of the State of Colorado, Declarant has the right to delegate all of its powers and functions as Appointing Authority under these Restrictions (subject to this Section 4.4) to the District pursuant to a written agreement (a “Delegation Agreement”) between Declarant, as the Appointing Authority, and the District. Following such a delegation, the District will be the Appointing Authority, notwithstanding anything contained in Section 4.3 to the contrary. The Delegation Agreement

must be Recorded. Notwithstanding a delegation of the functions and powers of the Appointing Authority pursuant to this Section 4.4, so long as Declarant continues to own an Interest in the Property or the Additional Land, Declarant may remove any ACC Member, including, without limitation, the Chair, without the consent of the District or the Appointing Authority, but the Appointing Authority, and not the Declarant, shall have the right to appoint an ACC Member to replace such removed ACC Member.

ARTICLE 5
ADMINISTRATION OF THE ACC

5.1 ACC Members.

(a) Number of and Qualifications for ACC Members. The ACC will initially have three ACC Members, including the Chair. The Appointing Authority may increase or decrease the number of ACC Members in its discretion from time to time; provided, however, that the ACC will have no less than three and no more than nine members and will always be comprised of an odd number of ACC Members. Each ACC Member must be a natural person who is eighteen years of age or older. An ACC Member need not be an Owner or a representative of an Owner.

(b) Term. Each ACC Member will hold office from the date of his or her appointment until such time as he or she has resigned or has been removed or a successor has been appointed as provided herein, whichever occurs first.

(c) Removal of ACC Members. Any ACC Member may be removed, with or without cause, from the ACC at any time by the Appointing Authority or, so long as Declarant continues to own an Interest in the Property or the Additional Land, Declarant. In no event may the Owners remove an ACC Member.

5.2 Chair.

(a) Number of and Qualifications of the Chair. There will only be one Chair.

(b) Term. The Appointing Authority will designate the Chair. The person appointed Chair will serve in that capacity from the date of his or her appointment until the next January 31 or until such time as he or she has resigned as Chair or has been removed or a successor has been appointed as provided herein, whichever occurs sooner. As of January 31 of each year the Appointing Authority will determine whether to reappoint as Chair the person then serving in that capacity or to appoint another representative to serve as Chair. Notwithstanding the foregoing, if for any reason the Appointing Authority does not reappoint the existing Chair or appoint new Chair as of January 31 of any particular year, the person who had been serving as Chair prior to that January 31 will continue to serve as Chair after that January 31 until he or she has resigned or has been removed or a successor appointed, and any action taken by that person as Chair in accordance with the Covenants and other provisions set forth in these Restrictions after that January 31 until such resignation, removal, or appointment of a successor or until his or her own reappointment as Chair will constitute a valid action of said Chair notwithstanding the failure of the Appointing Authority to take action as of that January 31.

(c) Authority. The Chair will have the sole authority to: (i) call meetings of the ACC; (ii) determine if a quorum is present at a meeting of the ACC; (iii) set the agenda for meetings of the ACC; (iv) adjourn meetings of the ACC; and (v) postpone and continue meetings of the ACC.

5.3 Quorum; Voting. At least a majority of the ACC Members must be present in person at any meeting of the ACC to constitute a quorum. The affirmative vote of a majority of the ACC Members present at a meeting will constitute the action of the ACC on any matter. Any meeting of the ACC Members, and any vote of the ACC members to be taken at such a meeting, may be conducted either in person or by telephone, email or other appropriate form of electronic communication which allows each ACC Member attending such meeting to communicate with each other ACC Member attending such meeting.

5.4 Authorized Representative. The powers and duties of the ACC may be delegated in writing, in whole or in part, to one or more authorized representatives, who shall have the powers and duties so delegated, including, without limitation, to review and approve or disapprove proposed Improvements, including all Improvements or only certain designated types of Improvements and with respect to the entirety of the Property or only with respect to certain designated portions thereof, as may be provided in such delegation, and to grant variances and exemptions from the requirements of these Restrictions. Notwithstanding the foregoing, no authorized representative(s) of the ACC shall have the authority to change the Design Criteria or any other policies or guidelines of the ACC. The ACC may, from time to time, by resolution in writing adopted by a majority of the ACC Members, designate, and so delegate to, such an authorized representative or representatives (who may, but need not, be ACC Members). The action of such authorized representative taken consistent with the authority so delegated by the ACC to such authorized representative shall constitute the action of the ACC.

5.5 Additional ACC Powers. Subject to the rights, powers and authority reserved by and conferred upon Declarant, the Appointing Authority and the District pursuant to these Restrictions, the ACC will have the powers and duties set forth in these Restrictions and further may, but will not be obligated to:

- (a) Incorporate or otherwise form a legal entity;
- (b) Obtain and maintain liability insurance coverage; and
- (c) Exercise any other powers necessary or appropriate for the exercise of the ACC's power under these Restrictions.

5.6 Compensation and Out-Of-Pocket Expenses. Every ACC Member will be entitled to reimbursement for customary and reasonable out-of-pocket expenses incurred in connection with such ACC Member's performance of his or her duties in his capacity as ACC Member. In addition, each ACC Member who serves on the ACC in a professional capacity (e.g., a licensed architect, practicing landscape architect, professional engineer or contractor) will be entitled to receive compensation at reasonable rates for his or her services. Such expenses and compensation will be reimbursed and paid by the ACC from the fees collected pursuant to Section 6.2(b).

ARTICLE 6
DESIGN CONTROL

6.1 Approval Required. Subject to Section 6.9, no application may be submitted to the City for a building permit for any Development (to the extent that a building permit is required by the City for such Development) on any portion of the Property, nor may any Development on any portion of the Property (whether or not a building permit is required by the City for such Development) be commenced, until such Development has been approved in writing by the ACC pursuant to these Restrictions.

6.2 Application Submission; Application Fees. In order to obtain approval of any proposed Development on a portion of the Property, an Owner will submit an Application in accordance with Section 6.2(a) below and pay any fees or other charges in accordance with Section 6.2(b) to the ACC.

(a) Application. An Owner will submit architectural renderings, landscape plans, sample materials, a Site Plan and all other plans and specifications for any proposed Development as required by and in a form satisfactory to the ACC together with evidence of all required permits, licenses and, if applicable, easements related to the Owner's use of adjacent properties and rights-of-way during any construction (collectively, an "**Application**"). Notwithstanding any submittal of an Application by an Owner, including any such required permits, licenses and easements submitted by an Owner as a part of an Application, the ACC shall not have any liability or responsibility with respect to the same as and to the extent as provided in Section 6.10.

(b) Schedule of Fees and Deposits. From time to time, the ACC will establish and provide to Owners a current schedule of such fees and other charges as shall be payable in connection with the submittal of an Application and the review and processing thereof by the ACC; provided, however, the failure to provide any Owner with such schedule will not limit or waive the obligation of such Owner to pay any fees and other charges imposed by the ACC in connection with the review and processing of such Owner's Application; provided, further, such fees shall be consistent with the fees charged by other architectural control committees in developments similar to the Property. As a condition precedent to the review and processing of any Application, the ACC may require the Owner: (i) to pay an advance deposit to be applied toward the fees and other charges reasonably estimated by the ACC to be incurred for the review and processing of such Application, including, without limitation, the reimbursement and compensation of ACC Members pursuant to Section 5.6; (ii) to pay a reasonable security deposit to secure performance by the Owner of the Covenants and other provisions set forth in this Article 6; and (iii) to procure the services of an outside consultant approved by the ACC, at such Owner's sole cost and expense, if the ACC determines, in its reasonable discretion, that such services are required for the ACC's review of an Application. Notwithstanding the foregoing, the ACC may, in its discretion, waive any of its fees for any Application hereunder. In addition, notwithstanding the foregoing, under no circumstances will Declarant, the ACC or any Appointing Authority have the power pursuant to these Restrictions to levy any assessments against any Owner or other occupant of any portion of the Property for the purpose of paying for real estate taxes, insurance premiums, maintenance, or improvement on any part of the Property, except as may be permitted for the District pursuant to Title 32, C.R.S., as amended.

Accordingly, these Restrictions do not establish a “common interest community” as defined in CCIOA and are not subject to the terms of CCIOA. Notwithstanding the foregoing, portions of the Property may be made subject to one or more HOA Declarations that may be subject to and governed by CCIOA, but the fact that any such HOA Declaration may be subject to and governed by CCIOA shall not render CCIOA applicable to these Restrictions and the Property generally.

6.3 Review of Application. The ACC will evaluate each Application based on the Covenants and other provisions set forth in this Section 6.3.

(a) Design Criteria. The Appointing Authority may adopt and promulgate design principles and procedures for all Development on any portion of the Property (the “**Design Criteria**”) to provide guidance to Owners and the ACC Members regarding matters of particular concern to the ACC in considering Applications. The Design Criteria may include different requirements that apply depending upon the type of Development proposed.

(i) Establishment of Design Criteria. The Design Criteria may include, but will not be limited to: (1) Site Plan standards for proposed Development; (2) architectural design themes, styles, standards, philosophies, requirements and regulations; (3) landscape design themes, styles, standards, philosophies, requirements and regulations; (4) lighting and signage themes and standards; (5) sign design criteria, size, height, number, illumination, quality and maintenance; (6) construction activity mitigation requirements as provided in Section 6.4; (7) temporary conditions relative to phased Development; (8) design review processes, procedures and submittal requirements for Applications; (9) requirements that all Improvements be designed by and built in accordance with the plans and specifications of a licensed architect; and (10) such other criteria as the Appointing Authority may determine are beneficial for the Property and the Additional Land from time to time. The Design Criteria may comprise multiple documents that collectively constitute the Design Criteria (e.g., the procedures for review of applications may be contained in a separate document) and different Design Criteria may be adopted for different portions of the Property.

(ii) Compliance Design Criteria. Compliance with the Design Criteria does not guarantee approval of any Application, and the ACC may make decisions based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as ACC members change over time. In addition, compliance with the Design Criteria does not constitute, and should not be relied upon as constituting, compliance with applicable Law relating to the Property, or restrictions or requirements imposed pursuant to a Site Deed or other Recorded document.

(iii) Amendments of Design Criteria. The Design Criteria may be amended or supplemented from time to time by the Appointing Authority so long as they remain consistent with these Restrictions; provided, however, that the Design Criteria in effect at the time of submission of an Application will be the Design Criteria used by the ACC to evaluate such Application. Any amendments to the Design Criteria will be prospective only and may not apply to require modifications to plans or removal or alteration of structures or other Improvements previously approved by the ACC, to the extent that any such structures or Improvements which were previously constructed were constructed in accordance with the plans

therefor approved by the ACC. There is no limitation on the scope of amendments to the Design Criteria; the Appointing Authority is expressly authorized to amend the Design Criteria to remove requirements previously imposed and otherwise make the Design Criteria more or less restrictive. The most current version of the Design Criteria as adopted by the Appointing Authority at a particular time, will be the official, then applicable Design Criteria.

(b) Review Process. As part of the Design Criteria, the Appointing Authority may establish processes and procedures for the ACC's review and approval of all Applications, including, if applicable and to the extent desired by the Appointing Authority, how the ACC's approval procedures relate to any required City approval procedures for a Development, subject, however, to Section 6.10. If the Appointing Authority fails to so establish processes and procedures for the review and approval of Applications as part of the Design Criteria, the ACC will establish such process and procedures at the time an Application is submitted to the ACC. Notwithstanding anything contained in these Restrictions to the contrary, in the event that the ACC fails to act on any Application within 45 days after all submission requirements for such Application are met, the Application will be deemed rejected.

(c) Scope of Review. All design aspects of the proposed Development will be within the scope of review of the ACC, including but not limited to those relating to: (i) size, bulk and height of all Buildings and other structures; (ii) the exterior of all Buildings and other structures, including, without limitation, the color, quality, type and texture of exterior construction materials; (iii) location, orientation and configuration of any Buildings and other structures on any portion of the Property; (iv) the type, style, size, configuration and power of exterior lighting fixtures; (v) means of ingress and egress and vehicular access to and between different portions of the Property and driveways within a portion of the Property; (vi) curb cuts; (vii) traffic patterns; (viii) compatibility and harmony with the topographical features of the surrounding land and the architectural features of surrounding Buildings; (ix) consistency with the general design theme, if any, of the applicable area of the Property; (x) consistency with other Development on the Property; (xi) site development and site preparation; (xii) location of parking; (xiii) landscaping, including, without limitation, selection and location of plant materials; (xiv) use of active or passive solar design; (xv) provisions for storm water drainage and retention and the prevention of erosion, including, without limitation, the design of the drainage around the perimeters of Residences, Buildings and other structures; and (xvi) irrigation systems. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

(d) Conveyance of District Property. In connection with granting any approval of an Application, the ACC may require that any Builder convey to the District or dedicate to the District, by fee or easement grant, any recreational amenities, landscaping tracts or similar areas located on areas within the Property that are not Lots, subject to acceptance of the same by the District.

6.4 Construction Activity Mitigation. In addition to any other conditions or limitations the ACC may impose as a condition to its approval of an Application, the ACC may require that during any construction period all construction activity will comply with the ACC's

reasonable requirements (which may be contained in the Design Criteria and/or imposed on a site-specific basis to address special circumstances) as to: (a) dust and erosion control; (b) screening of construction activity and storage areas, including temporary waste disposal areas; (c) construction traffic patterns; (d) keeping adjacent drive lanes, roadways and property free of dirt and other construction debris; (e) maintaining access to and from adjoining portions of the Property; (f) maintenance; (g) noise; (h) any hazardous materials transportation, handling or disposal; (i) permissible times and days for construction activity; and (j) placement and maintenance of temporary construction trailers; provided, however, that nothing herein may deny to any Owner the right to use such Owner's portion of the Property for the temporary storage of construction equipment and materials during the continuance of construction activity, subject to the reasonable requirements established by the ACC pursuant to this Section 6.4. The ACC will provide the District with a copy of any written requirements imposed pursuant to this Section 6.4.

6.5 Completion of Work. Unless otherwise specified in writing by the ACC, any approval granted under these Restrictions shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any Application has been obtained. In the event that any Owner fails to commence the work for any Development on a Lot approved by the ACC within one year after the date upon which the ACC has given such approval, or to complete all work for such Development within one year after such Owner shall have commenced work for such Development, or in either case such longer periods of time to which the ACC may give its consent in writing, such approval by the ACC shall be deemed to have lapsed and to be of no further effect and such Lot and the Owner thereof shall be deemed in violation of these Restrictions, in which case the ACC, in addition to its other remedies under Section 9.1, shall be authorized to enter upon the Lot and remove or complete any incomplete work and to charge all costs incurred to the Lot and the Owner thereof.

6.6 Estoppel Certificates. The ACC will, upon the reasonable request of any interested party and after confirming any necessary facts and receipt of any reasonable fee imposed by the ACC, furnish a certificate with respect to the approval or disapproval of any Application for Development on any portion of the Property or the status thereof or regarding whether any particular Improvement was made in compliance with these Restrictions. Such certificate will address whether a given Application was approved, approved with conditions or denied or is still pending. Any Person, without actual notice to the contrary, will be entitled to rely on said certificate with respect to all matters set forth therein.

6.7 Monitoring. The ACC or its designated representative may monitor and conduct on-site inspections of any Development on the Property to determine that the Development thereon complies with these Restrictions, the Design Criteria and any applicable approvals, conditions or construction procedures issued, imposed or prescribed by the ACC. The ACC or its designated representatives may enter upon any portion of the Property at any reasonable time for the purpose of observing the progress, status or completion of any Development.

6.8 Certificate of Compliance; Ongoing Upkeep and Maintenance. Promptly upon completion of any Development on the Property, the applicable Owner must provide the ACC with a certification, in a form satisfactory to the ACC, that such Development was completed in

accordance with the ACC's approval of the Application; provided, however, that, for a period of 60 days after the ACC's receipt of such certification, the ACC or its duly authorized representative may inspect the property of such Owner to determine if in fact such Development was completed in accordance with the ACC's approval of the Development. If the ACC discovers that such Development was not completed in accordance with such approval by the ACC, the ACC may, within the period as may be permitted pursuant to applicable Law, give a written notice to such Owner setting forth the particulars of how such Development fails to comply with such approval, and the ACC shall thereafter have the applicable remedies set forth in Article 9 with respect to such noncompliance. After completion of any such Development, the Owner will maintain its portion of the Property in good condition and repair, free of trash or other debris, and otherwise in a clean, safe, attractive and orderly manner consistent with the ACC approval of the Application. Any subsequent modifications to such portion of the Property will require ACC approval as provided for above.

6.9 Exemptions; Exclusions; Variances.

(a) Exemptions of Declarant. Notwithstanding any Covenants or other provisions to the contrary contained in these Restrictions, these Restrictions shall not apply to any activities of or Development by Declarant. Furthermore, in the event that Declarant has granted written approval, pursuant to the provisions of a deed by which Declarant has conveyed a portion of the Property (a "Site Deed") to an Owner, or otherwise, of any specified Development at the request of and for the benefit of any Owner at any time while the Declarant constitutes the Appointing Authority hereunder, the ACC shall be bound by that approval as if the ACC had given such approval in the first instance pursuant to the Covenants and other provisions set forth in these Restrictions. Conversely, in the event that the ACC has granted written approval pursuant to these Restrictions of any specified Development at the request of and for the benefit of any Owner at any time while the Declarant constitutes the Appointing Authority hereunder and Declarant has not theretofore Recorded a Required Approval Notice as hereinafter provided, Declarant shall be bound by that approval as if Declarant had given such approval in the first instance pursuant to the Covenants set forth in the applicable Site Deed or other instrument pursuant to which Declarant has the right to approve such Development. Declarant shall have the right, at any time while the Declarant constitutes the Appointing Authority hereunder, to Record a written notice declaring that thereafter any Development within the Property shall require the approval by the ACC pursuant to these Restrictions and, if and to the extent that Declarant has a right to approve a particular Development on a portion of the Property pursuant to an applicable Site Deed or other applicable instrument, also the approval by Declarant of such Development pursuant to such Site Deed or other instrument (a "Required Approval Notice").

(b) Exemptions of District. Notwithstanding any Covenants or other provisions to the contrary contained in these Restrictions, any Development by the District on any District Property that has been annexed to the Property in accordance with Section 10.1 or Section 10.2 shall be exempt from the requirement in Section 6.1 that the approval of such Development by the ACC shall be required to be obtained; provided, however, that such exemption shall not limit or modify any rights Declarant may have to review and approve any such Development on any District Property as may be provided in a Site Deed from Declarant to the District for such District Property.

(c) Exclusions. Any Owner may remodel, paint or redecorate the interior of structures on a Lot without approval of the ACC pursuant to this Article 6. However, modifications to the interior of screened porches, patios, balconies and similar portions of structures on any portion of the Property visible from outside such structures shall be subject to such approval. No ACC approval shall be required to repair, restore or rebuild the exterior of any structures or other Improvements on any portion of the Property substantially in accordance with the originally approved color scheme and/or the plans and specifications approved by the ACC pursuant to the original Application for such Improvements, nor to replace dead or diseased landscaping approved by the ACC in the original Application with the same plants, shrubs or trees as previously approved and installed. Nothing in these Restrictions shall be construed to allow uses or Improvements inconsistent with applicable zoning and/or governmental approvals.

(d) Variances. The ACC, in its sole discretion, may permit variances from the substantive or procedural provisions of the Design Criteria with respect to any Application, and may in writing or in written guidelines or rules promulgated by the ACC exempt certain Improvements or Developments from the requirement for approval by the ACC because approval in such case is not reasonably required to carry out the purposes of these Restrictions.

6.10 Liability. Review of and approval of any Application is made on the basis of aesthetic considerations only and in connection therewith, Declarant, the District, any Appointing Authority, the ACC, and their respective officers, directors, members, partners, employees, agents and consultants do not owe a duty to any Owner and shall not bear any responsibility for (a) ensuring the safety, structural integrity or soundness of approved construction or modifications; (b) ensuring compliance with building codes and other governmental requirements; (c) defects in any approved plans or specifications submitted, including revisions to the same; (d) defects in construction pursuant to approved plans and specifications; (e) ensuring that the proposed Improvements do not interfere or encroach upon property boundaries, easements or setbacks; (f) determining the conditions that may exist at the respective property and whether the approved plans and specifications for such property adequately moderate the effects of any such conditions, including, without limitation, any expansive soil at such property, any naturally occurring radioactive materials at such property or any water that may exist beneath the surface of such property, including, without limitation, groundwater; (g) general site work; (h) changes in drainage on either the Owner's portion of the Property or any adjacent property; (i) ensuring compliance of such Improvements with any specific requirements of these Restrictions; (j) any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not arising out of the manner or quality or other circumstances of approved construction on or modifications to any portion of the Property; or (k) ensuring that all Residences are of comparable quality, value or size, or similar design, or aesthetically pleasing or otherwise acceptable to any other Owner. Approval of plans and specifications under these Restrictions will not constitute any representation by Declarant, the District, any Appointing Authority or the ACC, their respective officers, directors, members, partners, employees or consultants that such plans or specifications are in compliance with applicable governmental regulations and other codes and any restrictions or requirements imposed pursuant to a deed or other Recorded document and will not relieve any Owner of its obligation to comply with applicable Law. In addition, Declarant, the District, the Appointing Authority, the ACC, the members thereof, and each of their respective officers, directors, members, partners,

employees, agents and consultants, successors or assigns, will not be liable in damages to anyone applying for Development approval, or to any Owner affected by these Restrictions, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval, approval with conditions, or failure to approve any plans or specifications for such Development.

6.11 Indemnification of ACC Members. To the extent permitted by Law, the Appointing Authority will indemnify each individual who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Appointing Authority), by reason of the fact that such individual is or was an ACC Member or an officer, agent or employee of or consultant to the Appointing Authority and/or the ACC, against costs, claims, liabilities, expenses (including expert witness and attorneys' fees), judgments, fines and amounts paid in settlement which are or have been actually and reasonably incurred by such individual in connection with such threatened, pending or completed action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interest of the ACC or Appointing Authority, as applicable, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful; provided, however, that the foregoing indemnity will not apply if such person is found to be liable for active or deliberate dishonesty, misconduct or gross negligence in performance of such person's duty to the ACC or the Appointing Authority, as applicable, or if such person received an improper personal benefit in money or property at the expense of the ACC or the Appointing Authority, as applicable. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith and in a manner which such individual reasonably believed to be in the best interest of the ACC, or Appointing Authority, as applicable, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. To the extent permitted by Law, the Appointing Authority may provide such other and additional protection and indemnification to the extent set forth in a resolution of the Appointing Authority.

6.12 Required Approval under any HOA Declaration. In addition to approval of a Development by the ACC pursuant to this Article 6, approval of such Development shall also be required by the architectural committee, if any, created under the HOA Declaration, if any, governing the Lot on which such Development shall occur if and to the extent set forth in such HOA Declaration.

ARTICLE 7 USE RESTRICTIONS

7.1 Limitations and Restrictions. All of the Property, including, without limitation, Lots and Local Common Area within the Property, shall be held, used and enjoyed subject to the following Covenants and other provisions contained in this Article 7, subject to the exemptions for Declarant set forth in these Restrictions, and subject to the applicable limitations and restrictions as may be contained in the Rules. The strict application of the following Covenants and other provisions in any specific case may be modified or waived in whole or in part by the District 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 written guidelines or Rules promulgated by the District.

7.2 Residential and Business Uses.

(a) Residential Use. Except as set forth in this Section 7.2, each Lot shall be used only for residential and related purposes. In addition to a Residence, a Lot may contain an Ancillary Unit but only with the prior written approval of the ACC, and subject to the maximum number of Ancillary Units permitted under the PD Plan.

(b) Conduct of Business Activities. No business or trade may be conducted in or from any portion of the Property, except that an Owner or occupant residing in a Residence on a Lot may conduct business activities within such Residence so long as: (i) the existence or operation of the business activities is not apparent or detectable by sight, sound or smell from outside the Residence; (ii) the business activity conforms to all applicable zoning and other legal requirements; (iii) the business activity does not involve regular visitation to the Residence by employees, clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the District. Notwithstanding any provision of this Section 7.2(b) to the contrary, a home-based day care business may be conducted on a Lot, if allowed by applicable zoning and/or governmental approvals, with the written consent of the District, and pursuant to the Rules.

(c) Business or Trade. The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider’s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full- or part-time; (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

(d) Exceptions; Leasing of Residences and Ancillary Units. Notwithstanding the above, the leasing of a Residence or Ancillary Unit, and the management of such Residence or Ancillary Unit as rental property shall not be considered a business or trade within the meaning of this Section 7.2. This Section 7.2 shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to the development or sale of the Property, or to any activity conducted by Declarant or a Builder approved by Declarant, that relates to the performance of their respective rights or obligations under these Restrictions or otherwise benefits the Owners. “Leasing,” for purposes of these Restrictions, is defined as regular, exclusive occupancy of a Residence or Ancillary Unit by any person or persons other than the Owner, for which the Owner receives any consideration or benefit including, without limitation, a rent, fee, service, gratuity or emolument.

7.3 Water and Mineral Operations. No oil, gas or water drilling, oil, gas or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on the Property except by Declarant, by a Person acting under written authorization

from Declarant, or by a Person who acquired an interest in the oil, gas or other hydrocarbons, coal, minerals, rocks, stones, ground or earth pertaining to any portion of the Property prior to the date upon which such portion of the Property was annexed to the Property and made subject to these Restrictions in accordance with the Covenants and other provisions set forth in these Restrictions.

7.4 Unsightly or Unkempt Conditions. All portions of the Property outside of enclosed structures shall be kept in a clean and tidy condition at all times. Nothing shall be done, maintained, stored or kept outside of enclosed structures on the Property which, in the determination of the District, causes an unclean, unhealthy or untidy condition to exist or is obnoxious to the senses. Any Improvements, equipment or other items which may be permitted to be erected or placed on the Property shall be kept in a neat, clean and attractive condition and shall promptly be removed upon request of the District if, in the judgment of the District, they have become rusty or dilapidated or have otherwise fallen into disrepair. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions is prohibited, unless either conducted entirely within an enclosed garage or, if conducted outside, is begun and completed within 12 hours, and not done on a regular or frequent basis. No Owner or Permittee shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances in or on any portion of the Property or any drainage ditch, stream, pond or lake or elsewhere on the Property, except that fertilizers may be applied to landscaping as provided for in Section 7.6(a), provided care is taken to minimize runoff and such application complies with applicable Law. The provisions of this Section 7.4 shall not be applicable to any District Property within the Property or to the activities of the District thereon.

7.5 Quiet Enjoyment. Nothing shall be done or maintained on any part of the Property that emits foul or obnoxious odors outside a Building or Residence or creates noise or other conditions that tend to disturb the peace, quiet, safety, comfort or serenity of the Owners or Permittees of other portions of the Property. In addition, no noxious or offensive activity shall be carried on upon any portion of the Property nor shall anything be done or placed on any portion of the Property that is or may become a nuisance or cause any significant embarrassment, disturbance or annoyance to others. As used herein, the term “noxious or offensive activity” shall not include any activities that are reasonably necessary to the development and construction of Improvements so long as such activities do not violate the statutes, rules or regulations of any governmental authority having jurisdiction with respect thereto and do not unreasonably interfere with the permitted use of another portion of the Property or with any Owner’s or Permittee’s ingress and egress to and from its Lot, nor shall such term include uses (such as the keeping of horse or chickens) that are permitted hereunder or pursuant to the PD Plan simply due to the existence of the normal and ordinary odors, noises or other conditions created by such uses.

7.6 Prohibited Conditions. The following conditions, Improvements and activities are prohibited on the Property, as more particularly set forth below:

(a) Fertilizers. No fertilizers or similar substances of any kind may be applied to any portion of the Property, including the Lots, except those approved by the District from time to time. Such approval may be granted in blanket form pursuant to the Rules. In

connection with the application of any such approved fertilizer of similar substance to any Lot, the Owner must use care to minimize runoff and must comply with all applicable Law.

(b) Antennas. No exterior antennas of any kind, including, without limitation, satellite dishes, shall be permitted, except with the approval of the ACC. Notwithstanding the foregoing, however, the requirements of this Section shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996, and the regulations promulgated pursuant thereto, as amended from time to time. As to "antenna" which are specifically covered by the Telecommunications Act of 1996, and the regulations promulgated pursuant thereto, the ACC 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, and the regulations promulgated pursuant thereto, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance of such "antenna."

(c) Tree Removal. No trees, shrubbery or similar items shall be removed except with the prior written approval of the ACC.

(d) Drainage Patterns; Foundation. Once a Builder has completed a Residence on a Lot, no subsequent Owner may alter the drainage patterns established on its Lot by the Builder or otherwise remove soil immediately adjacent to the foundation of such Residence, except with the prior written approval of the ACC; provided, however, that the approval by the ACC of any such alteration of any such damage pattern or of any such removal of soil shall not affect or impair the rights and limitations on liability applicable with respect thereto in accordance with Section 6.10.

(e) Air-Conditioning Units. No window air-conditioning units shall be installed.

(f) Holiday Lights. Reasonable seasonal or holiday decorative lights, figures and other displays may be lighted and exhibited during the holiday season, subject to the Rules.

(g) Exterior Lighting. Subject to Section 7.6(f) above, no light shall be emitted from any portion of the Property which is unreasonably bright or causes unreasonable glare or shines directly onto adjacent portions of the Property. Without limiting the generality of the foregoing, all exterior lighting on a Lot must be in compliance with the Design Criteria and the PD Plan and is subject to the prior approval of the ACC.

(h) Alternative Energy Equipment. Subject to the provisions of applicable Law and the prior approval of the ACC, alternative energy systems, including without limitation, wind, solar and geothermal energy systems, may be installed or constructed on a Lot, so long as such alternative energy systems are clearly consistent with the design of the Residence, as determined by the ACC.

(i) Signs. No sign of any kind, including, without limitation, banners or similar items advertising or providing directional information, shall be erected on the Property without the written consent of the ACC, except entry, directional and other signs installed by Declarant, the ACC or the District and except for one sign erected or posted on a Lot, not to

exceed two feet by three feet in dimension, which may be used in connection with the sale or lease of such Lot; provided, however, that if permission is granted to any Person to erect a sign on the Property, the ACC may, to the extent authorized by applicable Law, restrict the size, color, lettering, placement and length of time for display of such sign.

(j) Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(k) Doors and Windows. No "burglar bars," steel or wrought iron bars or similar fixtures, whether designed for decorative, security or other purposes, or any reflective covering or other window covering, shall be installed on the exterior of any windows or doors of any building without the approval of the ACC.

(l) Animals and Pets. Subject to applicable Law, a reasonable number of dogs, cats or other usual and common household pets (which are bona fide household pets) may be kept on a Lot, subject to the Rules. In addition, chickens, turkeys, ducks and horses may be kept on any Lot to the extent permitted by the PD Plan, and provided that any secondary structure used to house such animals is subject to prior approval by the ACC. No pets shall be kept, bred or maintained on the Lots for any commercial purpose. Each Owner maintaining any animal, and any Permittee of such Owner, shall be liable in accordance with applicable Law to each and all remaining Owners and Permittees of such Owners for any damage to person or property caused by any such animal; and it shall be the absolute duty and responsibility of each such Owner or Permittee to clean up after such animals to the extent they have used any portion of the Property other than the Lot of such Owner.

(m) Garages; Parking and Prohibited Vehicles.

(i) Garages; Parking. If any Lot includes an enclosed garage, such enclosed garage must be used for vehicular parking and not for storage of personal property in a manner that prohibits vehicular parking. Vehicles of an Owner of a Lot shall be parked only in the garages, in the driveways servicing the Lots or in appropriate spaces or areas within a Lot as may be approved by the ACC from time to time, in that order of priority. Garage doors shall remain closed when not in use for ingress or egress of vehicles or persons. The parking of vehicles on public streets which are not a part of the Property are governed by the applicable Law of governmental authorities having jurisdiction and not by these Restrictions. The District may adopt Rules pertaining to vehicles and parking within the Property from time to time not inconsistent with these Restrictions.

(ii) Prohibited Vehicles. Except as otherwise set forth in the Rules, commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers may not be kept on the Property, except in enclosed garages. Stored vehicles and vehicles which are inoperable or do not have current operating licenses shall not be permitted on the Property except within enclosed garages. For purposes of this Section 7.6(m) a vehicle shall be considered "stored" if it is up on blocks or covered with a tarpaulin and remains on blocks or

so covered for seven consecutive days without the prior approval of the District. Service, construction and delivery vehicles may be parked on the Property for such periods of time as are reasonably necessary to provide services or to make deliveries to the Property. Any vehicle parked in violation of this this Section 7.6(m) or any Rules may be towed at the direction of the District and at the expense of the Owner of the affected Lot or the owner of the vehicle.

(n) Fencing. Declarant, Builders and/or the District may construct entryways, fences, fence pillars or walls on common areas or those portions of the Property owned by Declarant, Builders and/or the District. No other Owners shall construct, modify, replace, paint or obstruct any fence, fence pillars or walls except in accordance with the prior written approval of the ACC. For purposes of this Section 7.6(n), hedges shall be considered to be the same as fences and subject to the same restrictions. (The term "wall" as used in this Section shall mean walls which are free-standing and intended to enclose the areas outside a structure.) Material for containment of any pets permitted by these Restrictions may be added to perimeter fencing so long as the ACC has approved such material and the design and location of such containment.

(o) Landscaping. All landscaping on the Property shall be maintained in good condition in accordance with Article 8. Any areas on a Lot outside the fencing envelope established under the Design Criteria (if applicable) shall be kept in such area's natural state.

(p) Swimming Pools, Tennis Courts and Fire Pits. Swimming pools, tennis courts and fire pits may be constructed on a Lot; provided, that no more than one each shall be allowed on each Lot and any such fire pit shall be gas operated. The design and location of all swimming pools, tennis courts and fire pits on a Lot shall be subject to approval by the ACC. No wood-burning fires shall be intentionally caused or created outside of a Residence located on any Lot; provided, however, this Section 7.6(p) shall not operate to prohibit any barbeque grill used in accordance with applicable Law.

(q) Irrigation. All landscape irrigation by an Owner shall be limited in amount and frequency to that which is reasonably necessary and appropriate and shall at all times comply with the most restrictive restrictions or guidelines put in place by applicable governmental entities, including without limitation, the Parker Water and Sanitation District and the District(s). In no event shall any landscaping irrigation be allowed to result in flooding, saturation or other adverse effects of, on or to other property.

(r) Grading, Drainage and Septic Systems. No Person shall alter the grading of any Lot without prior approval of the ACC; provided, however, that the approval by the ACC of any such alteration to the grading of any Lot shall not affect or impair the rights and limitations on liability applicable with respect thereto in accordance with Section 6.10. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains, or materially alter the rate, volume or location of runoff from a Lot onto adjacent property. Septic tanks and drain fields, other than those installed by or with the consent of Declarant, are prohibited on the Property.

(s) Secondary Structures. With prior written approval of the ACC, secondary structures such as Ancillary Units, play structures, guest houses, caretaker residences, barns, sheds, gazebos, green houses and the like may be constructed on a Lot to the extent allowed by the PD Plan. Except as allowed by the Design Criteria and approved by the ACC, no mobile home or other structure of a temporary nature shall be placed upon a Lot. This prohibition shall not apply to restrict the construction or installation of temporary construction sales trailers or similar temporary structures used in connection with development and sale of the Property.

(t) Outside Storage. No personal property of any kind or type may be stored on any Lot except inside a Residence constructed on such Lot or any other Improvements (provided that storage of personal property within a garage shall be subject to the provisions of Section 7.6(m)) constructed on a Lot that have been approved by the ACC. This prohibition shall not be interpreted to apply to normal and customary patio furniture and barbecue grills.

(u) Firearms, Fireworks and Explosives. The discharge of firearms, fireworks or explosives on the Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, soft pellet guns and other firearms of all types, regardless of size.

7.7 Roads. No motor vehicles may be driven or operated upon any portion of the Property, except for roads within the Property, on multi-use trails approved for motor vehicle use pursuant to the Rules, in garages or on driveways approved by the ACC; provided that Declarant, the District and any Builder shall be permitted to operate (or consent to the operation of) motor vehicles on portions of the Property either owned by them or as to which they have been granted an easement, license or other right to use for the operation of motor vehicles by the owner thereof, in connection with their development or maintenance of the Property and the Additional Land, or any portion thereof.

7.8 Compliance with Law. Every Owner and Permittee shall comply with all Laws applicable to the Property. Any violation of applicable Law shall be considered a violation of these Restrictions. However, Declarant, the Appointing Authority, the ACC and the District shall have no obligation to take action to enforce such Laws.

7.9 Permittees Bound. All Covenants and other provisions set forth in these Restrictions and the Rules shall also apply to all Permittees. Every Owner shall be responsible for its Permittees' compliance with these Restrictions and the Rules.

7.10 Exceptions for Construction. During the course of actual construction of Improvements, the above use restrictions in this Article 7 shall not apply to the extent reasonably necessary to permit such construction to be undertaken in a reasonable manner, provided that nothing is done or occurs during the period of construction that will result in the violation of any such use restriction upon the completion of such construction.

7.11 Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any part of the Property, except within an enclosed structure or when appropriately screened from view, except that any container containing such materials may be placed outside at proper times for garbage or trash pickup.

7.12 No Further Subdivision. No Local Common Area, Lot or Improvement thereon in the Property (other than a Lot or Improvement thereon owned by Declarant) may be further subdivided (including, without limitation, by imposing a condominium ownership regime thereon), nor may any easement or other interest therein less than the whole (including any time-share estate) be conveyed by the Owner thereof (including any Homeowner Association but excluding Declarant), unless such Owner complies with the requirements of applicable Law and unless such Owner obtains the prior approval thereto of the Appointing Authority. In applying for the approval of the Appointing Authority of any such further subdivision of a Lot or Local Common Area, such Owner shall submit to the Appointing Authority all maps, plats and other documentation required to be submitted by such Owner to the applicable governmental authorities. The Appointing Authority may approve any such proposed further subdivision unless the Appointing Authority determines, in its sole discretion, that such subdivision is inconsistent or incompatible with the PD Plan or these Restrictions (including, without limitation, the Covenants and other provisions set forth in these Restrictions with respect to annexation procedures, use restrictions and architectural control) or determines, in its sole discretion, that such subdivision might be detrimental to the Property and the development thereof or to the interests of the District or other Owner. The Appointing Authority shall have the right, at its option, to assign and delegate its rights and duties under this Section, with respect to all or a specified portion of the Property, to the ACC, or, with respect to a certain portion of the Property covered by a HOA Declaration, any similar architectural committee that may be established pursuant to such HOA Declaration. Nothing in this Section shall be deemed to prevent an Owner from, or require the approval of the Appointing Authority for, (a) selling or leasing of a Residence or Ancillary Unit in accordance with Section 7.2(d) (to the extent the same is applicable), or (b) transferring or selling any Lot to more than one Person to be held by them as tenants in common, joint tenants or tenants by the entirety.

7.13 No Hanging Articles. No clothing or household fabrics or other articles shall be hung, dried or aired on any Lot or Local Common Area in such a way as to be visible from other Lots or from any other portion of the Property except to the extent otherwise provided in guidelines promulgated by the ACC or as may otherwise be approved by the ACC.

7.14 Garage Sales. No garage, patio, rummage, porch or lawn sale shall be held on any Lot within the Property, except that the Owner of any such Lot may conduct such a sale for up to three (3) consecutive days not more than twice in any calendar year if (a) the items sold are only his own furniture and furnishings, not acquired for purposes of resale; (b) such sale is held at such time and in such manner as not to unreasonably disturb any other resident of the area; and (c) such sale is held in full compliance with the requirements of all applicable Law.

7.15 Rules. In addition to the Covenants and other provisions set forth in this Article 7 concerning the use of the Property, the District from time to time may promulgate and amend reasonable Rules not in conflict with these Restrictions.

ARTICLE 8 MAINTENANCE

8.1 Owner's Maintenance Responsibility.

(a) Generally. Each Owner shall keep and maintain such Owner's Lot and the Improvements thereon and all fencing located adjacent to such Owner's Lot in a clean, safe, healthy, sightly, attractive and orderly manner and shall perform all necessary repairs of such Lot, Improvements and fencing, unless such maintenance responsibility is otherwise assumed by the District or by a Homeowners Association pursuant to an HOA Declaration. Notwithstanding any Covenant or other provision contained in these Restrictions to the contrary, if any Owner damages fencing located adjacent to such Owner's Lot which fencing is located in open space or a recreational area, such Owner shall repair, replace or otherwise restore such fencing to its prior condition, unless such repair or replacement responsibility is otherwise assumed by a Homeowners Association pursuant to an HOA Declaration.

(b) Election to Perform Owners' Duties. The District may elect to maintain or repair any Lot or portion thereof, the maintenance or repair of which is the responsibility of an Owner pursuant to Section 8.1(a), and may enter upon such Lot (other than the interior of any Residence) without the consent of the Owner of such Lot unless an emergency exists, if (i) such Owner has failed, for more than 30 days after notice from the District, to perform its responsibilities under these Restrictions with respect to the maintenance or repair of its Lot; and (ii) such failure has a material effect on the appearance of such Lot when viewed from any area outside such Lot or has a material adverse effect on the use of another Lot or any District Property for its permitted and intended use; provided, however, that if such failure is not susceptible of being cured within such 30-day period, the District will not be entitled to perform any repairs or maintenance if such Owner commences performance of its obligations within such 30-day period and thereafter diligently completes such performance. Such Owner will pay all costs (including, without limitation, reasonable attorneys' fees) incurred by the District in exercising its rights under this Section 8.1(b), and such costs shall create a lien on such Owner's Lot. Such payment will be made upon receipt of a demand from the District therefor. If an Owner fails to make such payment within 30 days of receipt of a demand therefor, the District will be entitled to take whatever lawful action it deems necessary to collect such payment including, without limitation, foreclosing its lien or instituting an action at law or in equity.

8.2 Restoration in the Event of Damage or Destruction. In the event of damage to or destruction of any Improvements on any Lot, the Owner thereof shall, subject to the approval of the ACC, if and to the extent that the approval of the ACC is required therefor pursuant to Section 6.1, either: (a) cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the ACC; or (b) the Owner shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped, so as to present a pleasing and attractive appearance.

8.3 Landscaping.

(a) Generally. Subject to seasonal limitations as described below, within 90 days after Recordation of an instrument conveying a Lot to the first Owner other than Declarant or a Builder, subject, however, to reasonable delays resulting from weather conditions, or within such longer period as may be approved in writing by the ACC, the Owner of such Lot shall install landscaping on the Lot and any right-of-way immediately adjacent to the Lot (such as the area between a sidewalk and the street, or such as a roadside culvert). Thereafter such Owner shall maintain such landscaping in a neat and attractive condition, including, without limitation,

all necessary gardening to properly maintain and periodically replace when necessary any trees, plants, grass and other vegetation which may have been originally installed on such Lot or in the public right-of-way immediately adjacent to such Lot by Declarant, a Builder, the Owner or any prior Owner. Notwithstanding the foregoing, to the extent that such first Owner takes title to its Lot between October and the ensuing April, the deadline for installation of such initial landscaping shall be extended until the next occurring June 15. To the extent that any such landscaping is installed by Declarant, a Builder or a prior Owner, the Owner's responsibility for maintenance shall commence immediately upon taking title to its Lot, or immediately upon installation, in the event such landscaping is installed after such Owner takes title to its Lot. The Appointing Authority may adopt Design Criteria to regulate landscaping permitted and required; provided, however, that Declarant shall be exempt from compliance with the Design Criteria.

(b) Election to Perform Duties. In the event any Owner fails to install and/or maintain landscaping in conformance with these Restrictions or such Design Criteria, or shall allow the landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the District, upon 30 days prior written notice to such Owner, shall have the right, in accordance with the Covenants and other provisions set forth in these Restrictions, (i) to seek any remedies at law or in equity which it may have or to correct such condition, (ii) to enter upon such Owner's Lot for the purpose of correcting such condition and such Owner shall promptly reimburse the District for the cost thereof and such cost shall create a lien on such Owner's Lot, or (iii) to do both of the foregoing. In addition to the landscaping of its Lot and any right-of-way immediately adjacent to the Lot (such as the area between a sidewalk and the street, or such as a roadside culvert immediately adjacent to the Lot), each Owner is solely responsible for the maintenance, repair and replacement of the sidewalks immediately adjacent to its Lot, which responsibility shall include, without limitation, snow removal.

8.4 Homeowners Association Landscape Area.

(a) Generally. Except as provided below, (i) no later than 90 days after Recordation of an instrument conveying the first Lot subject to an HOA Declaration to the first Owner other than Declarant or a Builder, subject, however, to reasonable delays resulting from weather conditions, or within such longer period as may be approved in writing by the ACC, a Builder shall install landscaping on all Local Common Area that is subject to such HOA Declaration, and (ii) no later than 90 days after Recordation of an instrument conveying a Lot subject to an HOA Declaration to the first Owner other than Declarant or a Builder, subject, however, to reasonable delays resulting from weather conditions, or within such longer period as may be approved in writing by the ACC, a Builder or the Owner of such Lot shall install landscaping on such Lot, other than any portion thereof which is a Local Common Area, and any right-of-way immediately adjacent to the Lot, other than any portion thereof which is a Local Common Area, such as the area between a sidewalk and the street or such as a roadside culvert (each such Local Common Area and each such Lot shall hereinafter collectively be referred to as the "**Homeowners Association Landscaped Area**"). Thereafter, the applicable Homeowners Association shall maintain such Homeowners Association Landscaped Area in a neat and attractive condition, which maintenance shall include, without limitation, all necessary gardening to properly maintain and periodically replace as needed any trees, plants, grass and other vegetation which may have been originally installed by Declarant, a Builder or such Owner. Notwithstanding the foregoing, any HOA Declaration may delegate responsibility for

landscaping installation and/or maintenance for the backyard area or other portion of a Residence or Lot to the Owner of that Lot pursuant to the HOA Declaration (the “**Private Landscaped Area**”), in which case the landscaping on such Private Landscaped Area shall be installed by such Owner in accordance with this Section 8.4(a) and thereafter maintained by such Owner in accordance with Section 8.3(a); provided, however, that the applicable Homeowners Association will continue to be responsible for the Private Landscaped Area in the event the Owner fails to install landscaping or thereafter fails to maintain the landscaping in accordance with this Section 8.4, and if and to the extent that such HOA Declaration does not grant to such Homeowners Association the power to do so and an easement to enter onto the Lot to maintain the Private Landscape Area thereon, then such Homeowners Association is hereby granted and reserved the power to do so and to have a non-exclusive easement to enter upon such Lot (other than the interior of any Residence or other structure constructed upon such Lot in accordance with these Restrictions) in order to exercise such power. The Appointing Authority may adopt Design Criteria to regulate landscaping permitted and required within the Homeowners Association Landscaped Area; provided, however, that Declarant shall be exempt from compliance with such Design Criteria.

(b) Election to Perform Duties. In the event the applicable Homeowners Association or any Owner fails to install and/or maintain landscaping on the Homeowners Association Landscaped Area or Private Landscaped Area, as applicable, in conformance with these Restrictions or such Design Criteria, or shall allow such landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the District, upon 30 days prior written notice to such Homeowners Association or Owner, as applicable, shall have the right, in accordance with the Covenants and other provisions set forth in these Restrictions, (i) to seek any remedies at law or in equity which it may have or to correct such condition, (ii) to enter upon such Homeowners Association Landscaped Area (including any Private Landscaped Area) for the purpose of correcting such condition, and such Homeowners Association or Owner, as applicable, shall promptly reimburse the District for the cost thereof and such cost shall create a lien on such Owner’s Lot, or (iii) to do both of the foregoing. Until such time as a Homeowners Association is formed, the applicable Builder is solely responsible for the maintenance, repair and replacement of all sidewalks adjacent to that portion of the Property subject to the HOA Declaration, which maintenance shall include, without limitation, snow removal. Upon formation of a Homeowners Association, the Homeowners Association shall assume responsibility for such work, or the HOA Declaration shall require the applicable Owners to assume responsibility for such work.

ARTICLE 9
ENFORCEMENT, EASEMENTS AND DECLARANT’S RIGHTS

9.1 Enforcement Powers and Procedures. The Covenants and other provisions contained herein will run with the land, and be binding upon and inure to the benefit of all real property within the Property. In the event of any violation of any Covenant or other provisions set forth in these Restrictions, Declarant (so long as Declarant owns any Interest in the Property or the Additional Land), the Appointing Authority, the ACC and the District will have the right to all remedies available at law or in equity. Without limiting the foregoing, in the event of any violation of any Covenant or other provision set forth in these Restrictions, (a) any of Declarant (so long as it continues to own an Interest in the Property or Additional Land), the ACC, the

Appointing Authority or the District may bring proceedings at law or in equity against the party or parties violating or intending to violate said Covenant or other provision, (i) to enjoin them from so doing, (ii) to cause any such violation to be remedied and such Owner shall promptly reimburse the party who remedied the violation for the cost thereof and such cost shall create a lien on such Owner's Lot, or (iii) to recover damages resulting from such violation; (b) the ACC and the District have right and the power to impose fines and monetary penalties, in such amounts as are reasonably determined by such party, against the party or parties violating or intending to violate said Covenant or other provision; and (c) after notice and an opportunity to cure as provided elsewhere in these Restrictions or the Rules or the Design Criteria, the District and the ACC have the right to enter any portion of the Property on which the violation is occurring and abate, remove, modify, or replace at the expense of the Owner thereof any structure, thing, activity or condition that may exist thereon contrary to the intent and meaning of the provisions hereof. Declarant, the Appointing Authority, the District and the ACC shall not be held liable to any Owner or any other Person for exercising the rights granted by this Article 9. Nothing in this Article 9 is intended or will be construed to limit the ACC's, Declarant's, any Appointing Authority's or the District's exercise or enjoyment of any rights reserved or granted to such party pursuant to these Restrictions or the Rules or the Design Criteria.

9.2 Lien Rights. By taking title to a Lot, each Owner hereby grants to the ACC, the Appointing Authority and the District a lien against its Lot to secure the timely payment of any costs incurred in the enforcement of these Restrictions, including, without limitation, fines, monetary penalties or expenses resulting from the ACC, the Appointing Authority or the District remedying of a violation of the these Restrictions from time to time (the "Lien"). Upon the occurrence of any Owner's delinquency in the payment of any costs incurred in the enforcement of these Restrictions, the ACC, the Appointing Authority or the District, as applicable, may proceed to enforce its lien rights to recover the delinquency by a foreclosure of the Lien. The Lien will be enforceable against the Lot only by judicial foreclosure in the same manner as a real property mortgage is foreclosed under the prevailing Laws of the State of Colorado. In addition to securing payment of the delinquency, the Lien will also secure the late fees established under the foregoing provisions or the Rules or Design Criteria, and all costs and expenses, including attorneys' fees, incurred by the ACC, the Appointing Authority or the District, as applicable, in confirming, exercising or foreclosing upon the Lien or in otherwise attempting to enforce the delinquent payment obligation, together with interest on all such amounts from the date incurred by such party, where such costs and expenses have been incurred by such party, or otherwise from the date when the same became payable, to the date the same is paid, at a rate equal to the lesser of 18% per annum, or the amount as may be permitted to be charged pursuant to the provisions of applicable Law, and all such enforcement and collection costs and interest will be due and owing from the Owner upon demand. The Lien will survive and will not be extinguished by any foreclosure, cure or redemption in connection with any one payment delinquency. Any further delinquencies (and any late fees and collection, enforcement costs attributable thereto and such interest thereon) which become delinquent after the commencement and prior to the completion of any foreclosure of the Lien (and the expiration of any redemption period in favor of the Owner) will become part of the payment delinquency foreclosed upon and added to the indebtedness necessary to redeem. The ACC, the Appointing Authority and the District may be the purchaser at any foreclosure, and, for bidding purposes, will be entitled to a credit in the amount of the obligations secured from time to time by the Lien. In order to

evidence and confirm the Lien upon the occurrence of a delinquency in payment, the ACC, the Appointing Authority or the District, as applicable, may, but are not required to, prepare a written notice setting forth the amount of the pertinent delinquency (including any accrual of late fees and collection and enforcement costs incurred in connection therewith and such interest thereon), the name of the Owner, the legal description of the Lot, and such other information concerning the Lien and the delinquency as the ACC, the Appointing Authority or the District, as applicable, may consider appropriate, which notice may then be recorded in the Records. The Lien and the lien of the District for any fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District imposed pursuant to Section 32-1-101, C.R.S. are not subject to the provision of any homestead exemption as allowed under state or federal Law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver by the Owner of such Lot of the homestead exemption as against the same. The right to exercise and enforce the Lien is a non-exclusive remedy. The ACC, the Appointing Authority or the District may maintain a suit to recover any delinquencies in payments, together with the related late fees and enforcement and collection costs and such interest thereon, without first foreclosing upon the Lien, as well as exercise any other remedies provided for in these Restrictions. The undertaking of any such collection action will not constitute any election of remedies or waiver by the ACC, the Appointing Authority or the District that bars enforcement of the Lien, and the ACC, the Appointing Authority or the District retain all rights to enforce the Lien for the same or other delinquencies.

9.3 Enforcement Rights of the Owners.

(a) ACC Review. Owners do not have the right to participate in the design review process for any Development on any portion of the Property not owned by such Owner, and, if the ACC has approved a particular Development, no Owner has standing to enforce the Design Criteria against any portion of the Property or to argue that a particular Development does not comply with the Design Criteria. The ACC's approval of any Development will be binding upon all Owners, the District and any other Person having the right to enforce the Covenants and other provisions set forth in these Restrictions from time to time.

(b) Use Restrictions. In the event of any violation of any Covenants or other provisions set forth in Article 7 of these Restrictions, if the ACC and the District have at that time failed to have commenced an action or proceeding to enforce said Restrictions, any Owner may bring proceedings at law or in equity against the party or parties violating or intending to violate said Covenants and other provisions, (i) to enjoin them from so doing, (ii) to cause any such violation to be remedied, or (iii) to recover damages resulting from such violation.

9.4 Costs of Enforcement. In any legal or equitable proceeding to enforce the provisions hereof or to enjoin their violation, the party or parties against whom judgment is entered will pay the attorneys' fees of the party or parties for whom judgment is entered in such amount as may be fixed by the court in such proceeding.

9.5 Remedies Cumulative. Such remedies will be cumulative and not exclusive. The failure of any party with enforcement rights hereunder to enforce any of the Covenants or other provisions herein contained will in no event be deemed to be a waiver of the right to do so for

subsequent violations or of the right to enforce any other Covenants or other provisions herein, and none of the Owners, the ACC or the District will be liable therefor.

9.6 General Easements Benefiting Declarant, the ACC and the District. Declarant hereby reserves to itself, and establishes and grants to the ACC and the District, a nonexclusive perpetual easement over each Lot and other portions of the Property (but excluding in any case the interior of Improvements) for the purpose of permitting Declarant, the ACC and the District reasonable and necessary access to any of the Property for the purpose of performing their respective obligations, and exercising their respective rights, including, without limitation, exercising their respective enforcement rights, in accordance with the Covenants and other provisions set forth in these Restrictions. The easements granted pursuant to this Section 9.6 shall be subject to these Restrictions and any other applicable Covenants or other title matters Recorded against the Property.

9.7 Declarant's Rights to Complete Development of The Canyons. No Covenant or other provision of these Restrictions shall be construed to prevent or limit Declarant's Rights, and Declarant expressly reserves the right, to complete the development of property within the boundaries of The Canyons, including, without limitation, the Property and the Additional Land; to construct or alter Improvements on any property owned by Declarant within The Canyons, including, without limitation, the Property and the Additional Land; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant within The Canyons, including, without limitation, the Property and the Additional Land; and to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the boundaries of The Canyons, including, without limitation, the Property and the Additional Land. Declarant may maintain, or permit other Persons to maintain, management offices, signs, model homes, construction offices, trailers and sales offices, in such numbers, of such sizes and at such locations within the Property and the Additional Land, as Declarant may determine in its reasonable discretion from time to time. Nothing contained in these Restrictions shall limit the right of Declarant or require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any Building or other structure on any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within the boundaries of The Canyons, including, without limitation, within the Property and the Additional Land, nor shall anything herein be deemed to require Declarant to seek or obtain the approval of the ACC or of the District for any such activity or Development by Declarant on any property owned by Declarant. Nothing in this Section shall limit or impair the Declarant's Rights as may be elsewhere provided in these Restrictions.

9.8 Declarant's Rights to Grant and Create Easements. Declarant shall have and hereby reserves the right, in addition to its rights under Section 9.9, to grant or create temporary or permanent easements, for access, utilities, drainage, water and other purposes incident to development and sale of The Canyons, located in, on, under, over and across Lots or other portions of the Property owned by Declarant.

9.9 Utilities. Declarant hereby creates and reserves to itself until Declarant shall no longer own any Interest in the Property and the Additional Land, and, thereafter, to the District, a

blanket non-exclusive easement upon, across, over, in and under the Property for the installation, operation, replacement, repair and maintenance of utilities and facilities therefor and other appurtenances thereto and improvements therefor, including, but not limited to, water, sanitary sewer, storm sewer, surface drainage, gas and other energy services, telephone, electricity and cable television, fiber optic and other telecommunication services; provided, however, that the foregoing easement shall not apply to any portion of a Lot (a) upon which is located any Building which has been constructed in a manner consistent with the Covenants and other provisions set forth in these Restrictions, (b) if no such Building has actually been constructed on such Lot, upon which any Building may be constructed pursuant to any plans for such Building on such Lot which shall have been approved by either Declarant or the ACC (to the extent the ACC is empowered to review and approve such plans pursuant to the provisions hereof), or (c) if no such Building has actually been constructed on such Lot, and if no such plans have theretofore been approved by either Declarant or the ACC, upon which a Building may be constructed pursuant to the setback requirements and other applicable requirements of zoning Laws which shall apply to such Lot. By virtue of such blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Property and to affix, repair, maintain and replace water and sanitary and storm sewer pipes, surface drainage improvements, gas, electric, telephone, fiber optic and television wires, cables, circuits, conduits and meters. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Property (other than any portion thereof upon which is located a Building as set forth above) without conflicting with the Covenants and other provisions set forth in these Restrictions; provided, however, that such right and authority shall be transferred and shall devolve upon the District at such time as Declarant shall no longer own any Interest in the Property and the Additional Land. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement affecting the Property.

9.10 Sound Easement.

(a) Purpose of Sound Easement. Declarant, the District and other Persons may (subject to the approval by the owner of the Park Property or respective portion thereof and to such terms and conditions as may be imposed by such owner) use the Park Property, or any portion thereof, for social, cultural, entertainment, athletic and other events which may produce sound or noise, such as, without limitation, noise and live or recorded music generated over sound amplification systems, which may be audible over the Property and Additional Land, or portions thereof. Declarant desires to create and reserve an easement to permit the emission of sounds from the Park Property over and across the Property and Additional Land, and each portion thereof, all as is more particularly hereinafter provided.

(b) Creation of Sound Easement. Declarant hereby creates and reserves a perpetual nonexclusive easement (the "**Sound Easement**") for the purpose of the transmission of sounds and noise over and across the Property and Additional Land, and each portion thereof, which may be emitted from time to time from the Park Property, or any portion thereof, by any means in connection with any event, function or other use of the Park Property or any portion thereof (including, without limitation, noise and any live or recorded music emitted from sound

systems used within or without any building located on any portion of the Park Property). The Sound Easement shall be for the benefit of the Park Property, and for the benefit of the owner or owners of all or any portion thereof from time to time, the District and such owner's, and the District's Permittees, and shall be appurtenant to, for the benefit of, and run with title to the Park Property, and each portion thereof.

(c) Permitted Sounds Not a Public Nuisance. The sounds and noise which may be emitted from time to time from the Park Property, or any portion thereof, pursuant to the Sound Easement shall conclusively be deemed not to be a public or private nuisance. To the extent that any Law (including, but not limited to, the Colorado Noise Abatement Act of 1971, C.R.S. Section 25-12-101, et seq., and any amendment or successor statute thereto), shall impose any type of regulation or restriction on the level, quality or type of sound or noise which may be emitted from the Park Property, or any portion thereof, which is more restrictive of the level, type or quality of sounds or noise which, pursuant to the Sound Easement, are permitted to be emitted over and across the Property and Additional Land from the Park Property, or any portion thereof, then the owner of the Property and Additional Land, and each portion thereof, and such owner's successors and assigns, shall conclusively be deemed to have waived the right to bring an action or proceeding to enforce, or otherwise to rely upon or enforce, the terms or restrictions contained in any such law, ordinance, rule, regulation, judicial decision or statute in such a manner as shall preclude or restrict the sounds which may be emitted from the Park Property, or any portion thereof, pursuant to the Sound Easement.

(d) Amendment and Termination. Notwithstanding any other provisions of these Restrictions, the Covenants and other provisions of this Section 9.10 may be amended at any time, in whole or in part, in a manner that does not materially increase the scope or authority or powers of the Declarant, the Appointing Authority, the ACC or the District beyond the powers and authority described in these Restrictions and that does not materially increase the burdens or restrictions placed on the Property pursuant to the Sound Easement, effective upon the execution and Recordation of a written instrument setting forth such amendment executed by the then current owner or owners of the respective Park Property, or any portion thereof, and the execution or consent of no other party shall be required. Notwithstanding any other Covenant or other provision of these Restrictions, this Section 9.10 may be terminated at any time, in whole or in part, effective upon the execution and Recordation of a written instrument stating that this Section 9.10 and the Sound Easement created hereby is terminated by the then current owner or owners of the respective portion of the Park Property for which the Sound Easement is being so terminated, and the execution or consent of no other party shall be required.

9.11 Easement for Encroachments. If any portion of an Improvement encroaches upon any Local Common Area, or upon any adjoining Lot, whether as a result of construction of any Improvements (including, without limitation, as a result of errors in architectural design or construction), or reconstruction, repair, shifting, settlement, or movement of such Improvements, a valid non-exclusive easement on the surface and for subsurface support below such surface and for the maintenance of the same, so long as such Improvement stands, shall and does exist for such encroachment; provided, however, that no such easement shall be deemed to exist for an encroachment of Improvements from a Lot upon any other Lot or Local Common Area when such encroachment is negligently or willfully created.

9.12 Easements Deemed Created. All easements and other rights established and granted pursuant to Sections 9.6, 9.7, 9.8, 9.9, 9.10 and 9.11 are appurtenant to and run with the Property and will be perpetually in full force and effect so long as these Restrictions are in force and will inure to the benefit of and be binding upon Declarant, the ACC, the District, Owners, Permittees and any other Persons having any interest in the Property or any part thereof. The Lots will be conveyed and encumbered subject to all easements and other rights set forth in Sections 9.6, 9.7, 9.8, 9.9, 9.10 and 9.11, whether or not specifically mentioned in such conveyance or encumbrance.

ARTICLE 10
AMENDMENT AND ASSIGNMENT

10.1 Amendment of Restrictions by Declarant to Annex Additional Land. So long as Declarant continues to own an Interest in the Property and the Additional Land, Declarant may (but shall not be obligated to), without the consent of the Appointing Authority, any Owner or any other Person, from time to time amend these Restrictions to make the Additional Land or any portion thereof, or any other portion of The Canyons, or any other additional real property within the vicinity of the Property, the Additional Land or any portion thereof, subject to the Covenants and other provisions set forth in these Restrictions and annexed to and made a part of the Property hereunder; provided that, if Declarant is not then the owner of the Additional Land, or portion thereof, or other portion of The Canyons or other additional property, being annexed to the Property and made subject to these Restrictions, any such amendment will require the consent of the owner of the Additional Land, or portion thereof, or other portion of The Canyons or other additional property being so annexed to the Property and made subject to these Restrictions. Any amendment to these Restrictions executed by Declarant pursuant to this Section 10.1 affecting a particular portion of the Property may impose on such portion of the Property additional Covenants and other provisions than those set forth in these Restrictions, taking into account the unique and particular aspects of the proposed Development of such portion of the Property.

10.2 Amendment of Restrictions by Appointing Authority. The Appointing Authority may (but shall not be obligated to), without the consent of any Owner or Declarant (except as expressly provided below), or any other Person; from time to time amend these Restrictions to: (a) make the Additional Land or any portion thereof, any other portion of The Canyons, or any other additional real property within the vicinity of the Property, the Additional Land or any portion thereof, annexed to the Property and subject to the Covenants and other provisions set forth in these Restrictions, provided that any such amendment will require the consent of the owner of the Additional Land, or portion thereof, or other portion of The Canyons or other additional property being so annexed to the Property and made subject to these Restrictions; (b) correct any clerical, typographical errors or technical errors in these Restrictions or any amendment to these Restrictions; and (c) make any other changes to the Covenants and other provisions set forth in these Restrictions that do not materially increase the scope of authority or powers of the Declarant, the Appointing Authority, the ACC or the District beyond the powers and authority described in these Restrictions and that do not materially increase the burdens or restrictions placed on the Property pursuant to these Restrictions. Notwithstanding the foregoing, so long as Declarant owns any Interest in the Property and the Additional Land,

Declarant's prior written consent is necessary for any amendment made pursuant to this Section 10.2.

10.3 Amendment of Restrictions by Owners. These Restrictions may be amended at any time with the consent of the Owners of at least 67% of the total number of Lots which then are a part of the Property, with, in the case where a particular Owner shall then own more than one Lot within the Property, each such Lot considered separately for the purposes of calculating such percentage. Notwithstanding the foregoing, so long as Declarant owns any Interest in the Property or the Additional Land, Declarant's prior written consent is necessary for any amendment made pursuant to this Section 10.3.

10.4 Effectiveness of Amendment. Any amendment to these Restrictions under Section 10.1 will be effective upon the Recording of an instrument, executed by Declarant and, if the consent of the owner of the Additional Land, or portion thereof, or other additional property being so annexed to the Property and made subject to these Restrictions is required as provided in Section 10.1, containing the consent of such owner, setting forth the amendment in full. Any amendment to these Restrictions under Section 10.2 or Section 10.3 will be effective upon the Recording of an instrument, executed by the Appointing Authority, setting forth the amendment in full and certifying that the amendment has been approved pursuant to Section 10.2 or Section 10.3, as applicable and, if the consent of Declarant is required pursuant to Section 10.2 or Section 10.3, or if the consent of the owner of the Additional Land, or portion thereof, or other additional property being annexed and made subject to these Restrictions is required as provided in Section 10.2, containing the consent of Declarant or such owner, as applicable.

10.5 Assignment of Declarant's Rights and Duties.

(a) Assignment to Successor Declarant. Declarant has the right to assign all of the Declarant's Rights contained in these Restrictions to any purchaser of all or substantially all of the portions of the Property or Additional Land owned by Declarant at the time of such purchase pursuant to a written agreement setting forth such terms and conditions on which Declarant and such successor-in-interest may agree, and in which Declarant designates such successor-in-interest as the successor to the Declarant generally hereunder. Any such successor-in-interest to Declarant, after consenting in writing to such assignment, will succeed to the Declarant's Rights and automatically be deemed Declarant hereunder. Notwithstanding the foregoing, however, a successor to Shea Canyons by consolidation or merger, and any Person acquiring all or substantially all of the right, title and interest of Shea Canyons in the Property and the Additional Land by foreclosure, judicial sale, bankruptcy proceedings or by other similar involuntary transfer, shall automatically be deemed a successor of Shea Canyons as the Declarant generally under these Restrictions. Upon any such assignment, the predecessor Declarant will be relieved from the Declarant's Rights, and the liabilities, obligations and duties of the Declarant hereunder arising or accruing after such assignment with respect thereto. Any assignment made under this Section 10.5 (except any such assignment occurring automatically as a matter of law or by involuntary transfer) will be evidenced by a Recorded memorandum or similar document executed by both the predecessor Declarant and the successor Declarant that summarizes the essential terms of such assignment.

(b) Partial Assignment. Declarant shall also have the right from time to time to assign only certain designated portions of the Declarant's Rights, or with respect only to certain designated portions of the Property and the Additional Land, on an exclusive or non-exclusive basis, as Declarant shall determine, but while the assignee thereof shall succeed to those designated portions of the Declarant's Rights, and with respect only to those designated portions of the Property and the Additional Land, such successor shall not be deemed to be the Declarant generally hereunder.

ARTICLE 11
MISCELLANEOUS

11.1 Use of the Name "The Canyons". No Person shall use the name and trademark "The Canyons" or any derivative in any printed or promotional material without the prior written consent of the owner of such name and trademark.

11.2 Term. All Covenants and other provisions set forth in these Restrictions will continue in effect in perpetuity unless these Restrictions are terminated with the consent of those Owners of at least 67% of the total number of Lots which are then a part of the Property as determined pursuant to Section 10.3; provided, however, that any termination of these Restrictions will also require the written approval of the Appointing Authority and, so long as Declarant owns an Interest in the Property or Additional Land, Declarant. The termination of these Restrictions will be effective upon the Recording of a certificate, executed by the Appointing Authority declaring that these Restrictions have been terminated as provided herein, and approved by the Appointing Authority and, so long as Declarant owns an Interest in the Property and the Additional Land, Declarant, and where the consent of Declarant is so required, containing the written consent of Declarant to such termination. Notwithstanding anything in this Section 11.1 to the contrary and unless these Restrictions are terminated earlier pursuant to this Section 11.1, each Covenant and other provision set forth in these Restrictions that is subject to the rule commonly known as the rule against perpetuities will continue and remain in full force and effect until 21 years following the death of every descendent of Donald Trump living at the time these Restrictions are Recorded.

11.3 Notices. Except for notices concerning meetings of the ACC, the Appointing Authority or Declarant, any notices required or permitted under these Restrictions to be given to any Owner, the ACC, the Appointing Authority or Declarant will be sent by regular mail, first-class postage prepaid, return receipt requested, to the intended recipient at, in the case of notices to an Owner, the address of such Owner at its Lot; in the case of notices to the ACC, the address listed in the most current Design Criteria; in the case of notices to the initial Appointing Authority and Declarant, the address set forth below. All notices are deemed given and received three business days after mailed as provided in the previous sentence. Any Owner may change its address for purposes of notice by notice to the Appointing Authority in accordance with this Section 11.3. The ACC, the Appointing Authority and Declarant may change their addresses for purposes of notice by notice to all Owners in accordance with this Section 11.3. Any such change of address is effective five days after the required notice is given.

If to Declarant: Shea Canyons, LLC
9380 Station Street, Suite 600
Lone Tree, Colorado 80124
Attention: Jeffrey F. Kappes

With a copy to: Legal Department
Shea Homes Limited Partnership
9380 Station Street, Suite 600
Lone Tree, Colorado 80124

11.4 Interpretation. The Covenants and other provisions set forth in these Restrictions will be construed as a whole to effectuate the purpose of these Restrictions. With respect to matters addressed by more than one restriction, the more restrictive will be interpreted to override the less restrictive.

11.5 Governing Law. These Restrictions shall be governed by and construed under the Laws of the State of Colorado. In any instance where there is a conflict between the Covenants and other provisions set forth in these Restrictions or the Design Criteria on the one hand and applicable Law relating to the Property on the other hand, the more restrictive shall prevail. These Restrictions do not create any authority for the City to enforce any Covenant or other provision set forth in these Restrictions or of the Design Criteria.

11.6 Severability. Each of the Covenants and other provisions set forth in these Restrictions will be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial enforceability of any provision or portion thereof will not affect the validity or enforceability of any other Covenant or other provision.

11.7 Number and Gender. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular, and the masculine, feminine or neuter will each include the masculine, feminine and neuter.

11.8 Captions for Convenience. The titles, headings and captions used in these Restrictions are intended solely for convenience of reference and will not be considered in construing any of the Covenants and other provisions set forth in these Restrictions.

11.9 Limitation of Liability. Except as may otherwise be provided by Law, the District, the ACC, the Appointing Authority, Declarant, or any officer, director, agent or employee of any of the same, shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

11.10 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 officers, directors, agents or employees in connection with any portion of The Canyons (including, without limitation, the Property or the Additional Land), or any Improvement thereon, as to its or their physical condition, zoning, compliance with applicable Laws, or fitness for intended use, or in connection with the subdivision, Development, sale, operation, maintenance, costs of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in a writing signed by Declarant. **ANY AND ALL WARRANTIES WITH RESPECT TO ANY**

PORTION OF THE CANYONS (INCLUDING, WITHOUT LIMITATION, THE PROPERTY OR THE ADDITIONAL LAND) AND ANY IMPROVEMENTS THEREON, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OR MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY SPECIFICALLY DISCLAIMED.

[Signatures on Following Pages]

IN WITNESS WHEREOF, Declarant has executed these Restrictions as of the date first written above.

DECLARANT:

SHEA CANYONS LLC, a Colorado limited liability company

By: SHEA HOMES LIMITED PARTNERSHIP, a California limited partnership, its Manager

By: [Signature]
Name: JEFFREY A. KAPPES
Title: Assistant Secretary

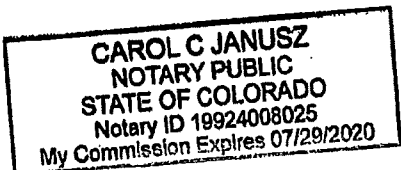
By: [Signature]
Name: JEFFREY H. DOWNS
Title: Assistant Secretary

STATE OF COLORADO)
 Arapahoe) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 5th day of December, 2018, by Jeffrey F. Kappes as Asst. Secretary and Jeffrey H. Downs as Asst. Secretary of Shea Homes Limited Partnership, a California limited partnership, as Manager of Shea Canyons, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 7/29/20



[Signature]
Notary Public

**EXHIBIT A
TO
DECLARATION
OF
ARCHITECTURAL, USE AND MAINTENANCE RESTRICTIONS
FOR
THE CANYONS**

Legal Description of Property

Lots 1 through 39, inclusive, Block 2, Lots 1 through 20, inclusive, Block 3, Lots 1 through 32, inclusive, Block 4, Lots 1 through 14, inclusive, Block 7, Lots 1 through 30, inclusive, Block 8, Lots 1 through 7, inclusive, Block 10, and Lots 1 through 37, inclusive, Block 11, The Canyons Filing No. 1, City of Castle Pines, County of Douglas, State of Colorado, according to the recorded plat thereof.

Lots 1 through 14, inclusive, Block 1, Lots 1 through 30, inclusive, Block 2, Lots 1 through 28, inclusive, Block 3, and Lots 1 through 26, inclusive, Block 4, The Canyons Filing No. 1, 1st Amendment, City of Castle Pines, County of Douglas, State of Colorado, according to the recorded plat thereof.

**EXHIBIT B
TO
DECLARATION
OF
ARCHITECTURAL, USE AND MAINTENANCE RESTRICTIONS
FOR
THE CANYONS**

Legal Description of Additional Land

Parcel 2, The Canyons Superblock Plat No. 1, according to the plat thereof recorded December 18, 2015 at Reception No. 2015090038, City of Castle Pines, County of Douglas, State of Colorado, excluding the portions thereof which are a part of the Property as described in Exhibit A attached to these Restrictions.