

*AFTER RECORDING RETURN TO:*  
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Lakewood, CO 80228

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS  
OF  
HOVER VILLAGE SEVEN COMMUNITY ASSOCIATION  
(a Planned Community)**

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
HOVER VILLAGE SEVEN COMMUNITY ASSOCIATION  
(a Planned Community)**

THIS AMENDED AND RESTATED DECLARATION is made effective upon recording.

*RECITALS*

A. Declarant, Storck Corporation, a Colorado corporation, recorded that certain Declaration of Covenants, Conditions, and Restrictions of Hover Village Seven Community Association in the real property records of Boulder County, Colorado on June 29, 1987, at Reception No. 00860082, as amended and supplemented by the following documents:

1. Second Supplement to the Declaration of Covenants, Conditions, and Restrictions of Hover Village VII Community Association recorded November 12, 1987 at Reception No. 00888424 in the Office of the Clerk and Recorder for Boulder County, State of Colorado;
2. Third Supplement to the Declaration of Covenants, Conditions, and Restrictions of Hover Village VII Community Association recorded April 3, 1989 at Reception No. 00975281 in the Office of the Clerk and Recorder for Boulder County, State of Colorado;
3. Fourth Supplement to the Declaration of Covenants, Conditions, and Restrictions of Hover Village VII Community Association recorded January 9, 1990 at Reception No. 01022549 in the Office of the Clerk and Recorder for Boulder County, State of Colorado;
4. Fourth Supplement to the Declaration of Covenants, Conditions, and Restrictions of Hover Village Seven Community Association recorded February 17, 2012 at Reception No. 03203709 in the Office of the Clerk and Recorder for Boulder County, State of Colorado;

and other documents of record (collectively, the "Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Hover Village Seven Community Association ("Declaration"), and intend, upon the

recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration.

C. The Original Declaration provides for and allows for this Declaration in Article X which provides, in relevant part, as follows:

This Declaration may be amended during the first twenty (20) year period by an instrument approved in writing by not less than 90% of the Members of all classes and by 75% of the First Mortgagees who have given the association notice of their interest in any Lot, and thereafter by any instrument approved in writing by not less than 75% of the Members of all classes and 75% of said First Mortgagees.

D. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(1)(a), the required approval of 75% of the Members of all classes for amendment is now void.

E. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(1)(a), the amendment requirement for this Declaration is now 67% of the Members of all classes.

F. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

G. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

H. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, regulate and restrict leasing within the Community, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions.

I. The purpose of the Association as provided in the Declaration is to preserve the value and desirability of the Community and the Lots and to further the interests of the residents of the Community and Members of the Association; and

J. Pursuant to the Colorado Common Interest Ownership Act, the Association has obtained the required approval for this Declaration. Alternatively, a

Court Order entered by the District Court for Boulder County, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration.

NOW THEREFORE, the Original Declaration is amended and restated as follows:

## ARTICLE 1 DEFINITIONS

### Section 1.1 Defined Terms.

Each capitalized term in this Declaration shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

- (a) "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 *et. seq.*, as it may be amended.
- (b) "Assessment" shall include all Common Expense Assessments, insurance Assessments, utility Assessments, Special Assessments, Supplemental Assessments, and any other expense levied to a Lot pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.
- (c) "Association" shall mean and refer to Hover Village Seven Community Association, a Colorado nonprofit corporation, and its successors and assigns.
- (d) "Board" or "Board of Directors" or "Executive Board" shall mean the body designated in the Governing Documents to act on behalf of the Association.
- (e) "Common Area" or "Common Elements" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, together with all improvements located thereon and all common property owned by the Association, but excluding the Lots, and shall include any Common Area located upon any real property which is annexed to the Property.
- (f) "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.
- (g) "Community" or "Hover Village Block Seven Community" shall mean the planned community created by the Original Declaration, as amended and restated by this Declaration, consisting of the Property, Common Area, and any improvements constructed on the Property and the Common Area.

(h) "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Hover Village Seven Community Association, as amended, recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

(i) "Design Review Committee" or "Committee" shall mean the committee appointed by the Board of Directors pursuant to this Declaration for the purpose of administering the architectural approval and design review provisions contained in this Declaration.

(j) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as they may be amended from time to time.

(k) "Lot" or "Unit" shall mean and refer to any of the Lots shown upon any recorded subdivision map or plat of the Property, together with all appurtenances thereto and improvements now or hereafter located thereon, with the exception of the Common Area.

(l) "Map" or "Plat" shall mean and refer to the map(s) and/or plat(s) of the Property and improvements that are subject to this Declaration and which are designated in the Map or Plat recorded in the records of the Office of the Clerk and Recorder of Boulder County. More than one Map or supplement thereto may be recorded, and, if so, then the term "Map" shall collectively mean and refer to all of such maps, plats and supplements thereto.

(m) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(n) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(o) "Pet" shall mean and include cats, dogs, birds, reptiles or other household animals, as may be further defined in or supplemented by the Rules and Regulations.

(p) "Property" shall mean the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(q) "Rules and Regulations" shall mean any written instruments, however identified, which are adopted by the Association for the regulation and



management of the Community, and/or clarification of the Governing Documents, including any amendment to those instruments.

(r) "Residence" shall mean the residential dwelling improvement constructed on a Lot which is designed and intended for use and occupancy as a residence.

## ARTICLE 2 NAMES/DESCRIPTION OF PROPERTY/EASEMENTS

### Section 2.1 Name and Type.

The type of Common Interest Community is a Planned Community. The name of the Planned Community is "Hover Village Block Seven." The name of the Association is the "Hover Village Seven Community Association."

### Section 2.2 Property.

The Community is located in Boulder County, State of Colorado. The Property of the Community is described in *Exhibit A* of this Declaration and/or as is consistent with the common scheme and plan for the creation and operation of the Community.

The Property currently consists of 38 Lots.

Easements for utilities and other purposes over and across the Lots and Common Area may be as shown upon a recorded Map and on any recorded map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

### Section 2.3 Easement for Encroachments.

Each Residence and the property included in the Common Area shall be subject to an easement for encroachments created by the original construction, settling and overhangs. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Residences is partially or totally destroyed, and then rebuilt, the owners of the Residences so affected agree that minor encroachments of parts of the adjacent Residence or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

### Section 2.4 Blanket Easement.

(a) Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, and employees to enter in or to cross over the Common Area and any Lot to perform the duties of operation, installation,

maintenance, repair and replacement of the Lot, Residence, or Common Area provided for in this Declaration.

(b) Utility Easement. A blanket easement is granted to the Association upon, across, over and under all of the Lots for ingress, egress, installation, replacing, repairing and maintaining any utilities, including but not limited to water, sewers, gas, telephones, electricity, cable, and a master antenna system, to the extent the Association is responsible for such utilities. By virtue of this easement, the Association shall have the authority to permit a utility company to affix and maintain wires, circuits, conduits, meters and similar equipment on, across and under the Residences. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Common Area or Lots, except as approved by the Board of Directors. The easements provided for in this paragraph shall in no way affect any other prior recorded easements on the premises.

#### Section 2.5 Easement for Common and Party Walls.

Each Owner, his agents and contractors, are granted a non-exclusive easement for the purpose of maintenance, construction, reconstruction and repair, in, over, under and upon adjacent Lots and in and upon adjacent Residences for purposes of common wall maintenance and repair, in accordance with the party wall provisions contained in this Declaration, upon reasonable notice to the Owners of the common wall. Any damage occasioned to the adjacent Lot or improvements, including the dwelling thereon, in exercising this easement, shall be the responsibility of the Owner whose negligent or wrongful acts or omissions caused the damage.

#### Section 2.6 Access.

For the purpose of performing the maintenance referred to in this Article, and inspections related thereto, the Association, through its duly authorized agents, contractors, employees or the Design Review Committee, shall have the right, after reasonable notice to the Owner or occupants thereof and during regular business hours, to enter upon any Lot and improvements thereon, and such entry shall not be deemed a trespass. In emergency situations, the Association or its agents, contractors or employees, may enter without notice at any time, but the Owner or other occupants thereof shall be notified as soon as reasonably possible thereafter. In performing repairs or maintenance authorized under this Article, the Association shall not be liable for any loss, cost or damage caused by its actions, except on account of its willful misconduct.

#### Section 2.7 Mechanic's Liens.

No labor performed and/or materials furnished for use and incorporated into any Lot with the consent or at the request of the Owner thereof, his agent, contractor, or

subcontractor, shall be the basis for the filing of a lien against a Lot of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Area. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Lot of any other Owner, the Common Area, or any part thereof, for labor performed and/or materials furnished in work on the first Owner's Lot. The Association may pay any sums necessary to eliminate any lien filed against Common Area not benefitting from the labor and/or materials furnished and all sums paid shall be an Assessment against the Owner or Owners for whom the labor and/or materials were furnished.

#### Section 2.8 Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Area;
- (c) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Area;
- (d) the right of the Association to transfer or convey ownership of the Common Area, or any portion thereof, subject to the prior approval of Members holding at least 67% of the total votes entitled to be cast in the Association;
- (e) the right of the Association to suspend the voting rights for a period not to exceed 60 days or during any period of violation of any other provision of the Governing Documents, whichever is greater; provided that suspension of voting rights shall be automatic during any period that an Owner is in default in payment of any Common Expense Assessment;
- (f) the right of the Association to close portions of the Common Area for maintenance, repair, replacement, and improvement; and
- (g) the right of the Association to change use of, add or remove improvements to the Common Area.

### Section 2.9 Delegation of Use.

Owners may delegate, in accordance with the Bylaws and Rules and Regulations adopted by the Board of Directors, his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the Property. If the Owner delegates rights to use the Common Area and facilities to tenants or contract purchasers who reside on their Lot, the Owner shall not be entitled to use the Common Area and facilities.

### Section 2.10 Disclaimer of Liability.

The Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect to the use and operation of, the Common Area or any of its improvements, fixtures, and facilities. It shall be the affirmative duty and responsibility of each Owner, and each user of the Common Area, to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

## ARTICLE 3 THE ASSOCIATION

### Section 3.1 Membership.

Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. Each Owner shall be allocated voting rights pursuant to the allocated interests section of this Declaration. Fractional and cumulative voting are prohibited.

### Section 3.2 Allocated Interests.

The Common Expense liability and votes in the Association allocated to each Lot are set as follows:

- (a) the percentage of liability for Common Expenses, equally (i.e. 1/38); and
- (b) the number of votes in the Association, equally, with one vote per Lot.

### Section 3.3 General Purposes and Powers of the Association.

The Association, through its Board of Directors, shall perform functions and manage the Community as provided in the Recitals section of this Declaration. All Owners and any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all power necessary or desirable to effectuate such purposes.

### Section 3.4 Authority of the Association.

The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, to the extent it applies to communities created prior to July 1, 1992, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to effect such right or privilege or to satisfy such duty or obligation.

In order to provide a continuing liaison between the Association and the neighboring Hover Senior Living Community, the Hover Senior Living Community, or its successors or assigns, shall have the right to designate two individuals to serve as non-voting liaisons who shall serve in an advisory capacity to the Association's Board of Directors. Those persons need not be Owners or Members of the Association. The identity of those individuals shall be provided to the Association by Hover Senior Living Community and they shall serve at the pleasure of Hover Senior Living Community. Notice of meetings of the Association's Board of Directors shall be provided to Hover Senior Living Community at the address on file with the Colorado Secretary of State or such other address provided to the Association by Hover Senior Living Community.

### Section 3.5 Managing Agent.

The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The agreement shall be by written contract having a term of no more than three years and shall be subject to cancellation by the Association on 30 days' notice, with or without cause, and without a cancellation fee. The Board shall not be liable for any omission or improper exercise by a managing

agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.6 Right to Notice.

Notice of matters affecting the Community, via any means of communication, may be provided to Owners and any occupants as determined by the Board of Directors in its sole discretion.

Section 3.7 Indemnification.

To the full extent permitted by law, each officer, director, committee member and volunteer of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member, or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member, or volunteer at the time such expenses are incurred, pursuant to the indemnification provisions set forth in the Bylaws and by Colorado law.

Section 3.8 Security Disclaimer.

The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community; however, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by residents. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of measures taken.

Section 3.9 Education and Training.

As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting use of facilities for such purposes. The Association shall provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics

benefitting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

#### ARTICLE 4 MAINTENANCE AND SERVICE RESPONSIBILITIES

##### Section 4.1 Association Maintenance and Service Responsibilities.

(a) The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance and service responsibilities. The Association shall maintain, repair, replace, and keep in good repair in a workman like manner as a Common Expense those items set forth in Exhibit B of this Declaration.

(b) Association Discretion. The Association may, in its sole discretion, assume the obligation for maintenance or repair of additional property, either real or personal, that lies within or outside the Community. The Association shall have the right to assume such obligation even if the obligation currently lies with Owners or other entities, provided however, the Association shall provide Owners with 15 days prior written notice of any such change. The Association, in its sole discretion, shall determine the time and manner in which any maintenance, whether required or assumed, shall be performed as well as the color or type of materials used.

(c) Maintenance of Common Area by Owner. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area or any portion of the Lot that is Association maintenance responsibility by an Owner or occupant shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

(d) Damage to Lot by Association. The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association. Such repair and subsequent cleaning shall be performed based upon a reasonableness standard.

(e) Liability of Association.

(i) The Association shall not be liable for injury or damage to person or property caused by or resulting from any water, rain, snow or ice which may leak or flow from any portion of the Common Area or from any device, pipe, drain, conduit, structure, appliance, or equipment which the Association is responsible to maintain hereunder, except:

(A) for injuries or damages arising after the Owner of a Lot has put the Association on written notice of a specific leak or flow from any portion of the Common Area or device, pipe, drain, conduit, structure, appliance, or equipment for which the Association has a maintenance responsibility; and

(B) only if the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter.

(ii) The Association shall not be liable to the Owner of any Lot or such Owner's tenant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Area.

(iii) The Association shall not be liable to any Owner, or any Owner's tenant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

(iv) No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

#### Section 4.2 Owner's Maintenance Responsibility.

Except as otherwise provided in this Declaration, each Owner shall have the obligation to maintain, repair and replace all portions of the Owner's Lot as further set forth in Exhibit B of this Declaration.

#### Section 4.3 Owner Responsibilities.

Each Owner shall have the responsibility to:

(a) perform his or her maintenance responsibility in such manner so as to not unreasonably disturb or put at risk other persons in Residences, on Lots, or on the Common Area.

(b) promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible;



(c) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Owner's next chargeable Assessment; and

An Owner shall not be liable for injury or damage to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Lot except if the Owner has failed to exercise due care in performing said maintenance. An Owner shall not be liable to any other Owner, or any Owner's occupant, guest or family or the Association for any damage or injury caused in whole or in part by the Owner's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Owner's failure to discharge its responsibilities.

#### Section 4.4 Mold.

Each Owner shall be required to take necessary measures to retard and prevent mold from accumulating in the Residence, and the Common Area, including but not limited to appropriate climate control, removal of visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces and cleaning of the same. No Owner shall block or cover any heating, ventilation or air conditioning ducts. Owners shall immediately notify the Board in writing of the following:

- (a) any evidence of water leaks, water infiltration or excessive moisture in a Residence;
- (b) any evidence of mold that cannot be removed by the Owner with a common household cleaner;
- (c) any failure or malfunction in heating, ventilation or air conditioning;
- (d) any inoperable doors, windows, heating, ventilation or air conditioning ducts.

The receipt of notice by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners shall be responsible for any damage to his or her Lot and personal property, to any other Lot or the Common Area, as well as any injury to the Owner or occupants resulting from the Owner's failure to comply with this section. Owners shall be responsible for all

costs and expenses incurred by the Board to remove mold and/or damage within his or her Lot, to any other Lot or to the Common Area if the Owner fails to meet the requirements of this Section.

Section 4.5 Failure to Maintain.

If the Association determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, except in the case of an emergency, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that: (I) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as provided in this Section; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the Assessment to which such Owner is subject, shall become and be a lien against the Lot, and shall be collected as provided in this Declaration for the collection of Assessments.

If the Board determines that the need for maintenance or repair is a Common Expense and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or occupant's Lot, shall become a lien against the Lot, and shall be collected as provided in this Declaration for the collection of Assessments.

## ARTICLE 5 PARTY WALLS

Section 5.1 General Rules of Law to Apply.

Each wall which is built as a part of the original construction of a Residence upon the Property and placed on the dividing line between Lots shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 5.2 Sharing of Repair and Maintenance.

The cost of reasonable repair, replacement and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

Section 5.3 Destruction by Fire or Other Casualty.

If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 5.4 Liability for Negligence.

Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for in this Declaration, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and damages as a result of failure to do so.

Section 5.5 Right to Contribution Runs with Land.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5.6 Dispute Resolution.

In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the parties shall submit the dispute to mediation. If the dispute cannot be resolved through mediation, the parties may pursue the dispute in arbitration or through a legal proceeding before a court.

## ARTICLE 6 ASSESSMENTS

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Assessments.

Each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments, insurance Assessments (assessed in proportion to risk); utility Assessments, if levied, (assessed in proportion to usage), and such other Assessments as imposed by the Association.

Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association and additional fees charged by the managing agent, including but not limited to, administration and witness fees, shall be the personal obligation of the Owner of such Lot at the time when the Assessment or other charges became or fell due.

The Association annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, and additional fees charged by the managing agent, including but not limited to, administration and witness fees, and/or any other charges that may be assessed and/or levied or may be agreed to in the process of collecting past due Assessments, including but not limited to, credit card convenience fees from whatever source, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made.

If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot against which the Common Expense Assessments are made.

All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Lots equally.

#### Section 6.2 Basis of Assessments.

The Common Expense Assessment may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year.

#### Section 6.3 Annual Assessment.

The budget for annual Common Expense Assessments shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget may be vetoed by Owners holding a majority of the total Association vote. Assessments for Common

Expenses shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 6.4 Special Assessments.

Special Assessments may be made for the purposes of raising funds for capital improvements and for any other Association purpose for which annual Common Expense Assessments may not or have not been made. Whether to make a Special Assessment and the amount thereof per Lot shall be determined by the Board of Directors in its reasonable discretion. For example, the amount per Lot may be based upon the roof area of each Residence if the Special Assessment is to be used for roof replacement. Notwithstanding the above, no Special Assessment shall be valid unless approved by a majority of the Members present and voting, in person or by proxy, at a meeting of the Members at which a quorum is present.

Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 6.5 Supplemental Assessments.

The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

(a) Those amounts expended by the Association for the benefit of any individual Lot or any occupant thereof, including but not limited to: Lot insurance; improvement, repair, replacement and maintenance specific to a Lot; improvement, repair, replacement or maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;

(b) Any extraordinary maintenance, repair, improvement or replacement costs of any area which the Association maintains required on fewer than all the Lots;

(c) Any extraordinary insurance costs incurred as a result of the value of a particular Owner's Residence or the actions of an Owner (or his agents, guests, licensees, invitees or lessees);

(d) All fines and costs assessed against an Owner pursuant to the Governing Documents; and

(e) Any other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Lot and are reasonably determined to be allocable to a particular Lot.

Section 6.6 Application of Payments.

All sums collected on a delinquent account referred to an attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on an account of any Owner or the Owner's Lot shall be applied first to any delinquent Assessments, then to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents.

Section 6.7 Effect of Non-Payment of Assessments.

(a) Any Assessment, charge, or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 30 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors which may not exceed 8% per annum, or such higher amount allowed by law, to accrue monthly from the due date. The Association may also assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Failure to make payment within 90 days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) Further, the Association may foreclose its lien and/or bring an action at law or in equity, or all of the same, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor. Likewise, the obtaining of a money judgment shall not preclude the foreclosure of the Association's lien so long as the judgment remains unsatisfied.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid

on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may apply for the appointment of a receiver for the Lot. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

#### Section 6.8 Lien Priority.

The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Original Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is 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 of the homestead exemption as against said Assessment lien. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

#### Section 6.9 Borrowing.

The Association shall have the power to assign its right to future income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of the Owners present and voting, in person or by proxy, at a duly constituted meeting called for that purpose.

#### Section 6.10 Working Capital.

Each Owner of each Lot shall make a non-refundable contribution to the Association in an amount equal two times the then current monthly installment of the Annual Assessment for the year in which the transfer occurs. This contribution shall be collected and transferred to the Association at the time of closing of the sale of the Lot and shall be used for the benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making

regular payments of Assessments as the same become due. No refund shall be due to any Owner for such payment.

## ARTICLE 7 55 AND OVER AGE RESTRICTED COMMUNITY

### Section 7.1 Intent.

The Residences within the Community are intended for the housing of persons 55 years of age or older. The provisions of this Article are intended to be consistent with, and are set forth in order to comply with, the federal Fair Housing Act of 1968 (the "FHA Act"), amendments thereto of 1988 regarding discrimination based on familial status, the Housing for Older Persons Act of 1995 (the "HOPA Act"), and Colorado Revised Statutes H24-34-501 et seq. The Association, acting through its Board of Directors, shall have the power to amend this Article, without the consent or vote of the voting Members or any person, for the purpose of making this Article consistent with the FHA Act and or the HOPA Act, and Colorado law, as each may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article.

### Section 7.2 Restrictions on Occupancy.

(a) 100% of the occupied Residences within the Community shall at all times have as a permanent occupant therein at least one person who is 55 years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Lot, the spouse or civil partner of such Qualifying Occupant may continue to occupy the Residence as long as the provisions of the FHA Act, the HOPA Act, Colorado law, and the regulations adopted thereunder are not violated by such occupancy. For purposes of this Article, an occupant shall not be considered a "permanent occupant" unless such occupant considers the Residence to be his or her legal residence and actually resides in the Residence for at least six months during every calendar year.

(b) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Residence, provided, no Owner may occupy a Residence unless the requirements of this Article are met nor shall any Owner permit occupancy of the Residence in violation of this Article. Owners shall be responsible for including the statement that the Residences within the Community are intended for the housing of persons 55 years of age or older, as set forth in this Article, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Residence, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, prospective purchaser, or other potential occupant of the Residence. Every lease



of a Residence shall provide that failure to comply with the requirements and restrictions of this Article shall constitute a default under such lease.

(c) Any Owner may request in writing that the Board of Directors make a hardship exception to the requirements of this Article with respect to his or her Residence. The Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the FHA Act and the HOPA Act and Colorado law would still always be met.

### Section 7.3 Change in Occupancy/Notification.

In the event of any change in occupancy of any Residence, as a result of a transfer of title, a lease, or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner(s) of the Residence shall immediately notify the Board of Directors in writing and provide to the Board the names and ages of all current occupants of the Residence and such other information as the Board may reasonably require to verify the age of each occupant. In the event that the Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner(s) and the Residence for each separate violation after the change in occupancy occurs until the Association receives the required notice and information, notwithstanding the fact that the changed occupancy continues to meet the requirements of this Article and applicable federal and Colorado laws. In addition, the Association shall have all other remedies available to it under this Declaration and Colorado law.

### Section 7.4 Monitoring Compliance/Appointment of Attorney-In-Fact.

(a) The Association shall be responsible for maintaining age records and occupancy information upon all occupants of the Residence. The Board shall adopt policies, procedures, and rules to monitor and control occupancy of the Residence, and to maintain compliance with this Article and applicable federal and Colorado laws. Such policies, procedures, and rules may address, by way of example and not limitation, visitors, gathering and maintenance of occupancy records, leasing of the Residence, and granting of exemptions pursuant to this Article, and enforcement. The Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their tenants and Mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Article in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of the Residences not more often than annually, and taking action to evict the occupants of any Residence which does not comply with the requirements and restrictions of this Article. Such census may require that Owner(s) and occupants provide to the

Association copies of birth certificates or other proof of age for each occupant of a Residence. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANT OF HIS OR HER DWELLING AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of a Residence which in the judgment of the Board are reasonably necessary to monitor compliance with this Article.

(c) Each Owner shall be responsible for ensuring compliance of the owned Residence with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by all tenants and other occupants of a Residence. EACH OWNER, BY ACCEPTANCE OF TITLE TO A RESIDENCE, AGREES TO INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES AND CAUSES OF ACTION WHICH MAY ARISE FROM FAILURE OF SUCH OWNER'S RESIDENCE TO SO COMPLY.

## ARTICLE 8 RESTRICTIONS

### Section 8.1 Flexible Application of the Subsequent Covenants and Restrictions.

All Lots within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

### Section 8.2 Authority.

All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

- (a) The ability of Owners to use their Lots may be limited by the provisions in the Governing Documents.
- (b) The Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents.
- (c) The Board may establish penalties for the infraction of the Governing Documents and/or regulations, and Owners will be responsible for

finer assessed against them based on violations committed by their tenants, guests, and invitees for violations.

- (d) All fines imposed are collectable as Assessments.

### Section 8.3 Use/Occupancy.

All Lots within the Community shall be used only for those uses and/or purposes permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Lots shall not be used for any purpose other than a residential dwelling except as set forth in this Section. Home occupations shall be allowed so long as the home occupations are incidental and secondary to the use of the Lot and does not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration.

External advertising of any kind is prohibited. In no instance shall a home occupation be visible externally, nor shall any home occupation employ any person other than the Owner on the Lot. Uses which have one or more of the following characteristics are not permitted: (a) manufacturing or fabrication of any kind; (b) storage of hazardous materials; (c) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (d) permanent or long term parking of heavy equipment, including semi-trailers; (e) the use or rental of any structure on a Lot for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

### Section 8.4 Restriction on Further Subdivision.

No Lot upon which a Residence has been constructed shall be further subdivided or separated into smaller Lots by any Owner.

### Section 8.5 Leasing and Occupancy.

In order to preserve the character of the Community as predominantly Owner-occupied, the leasing of Lots shall be governed by the restrictions imposed by this Section. Except as provided herein, the leasing of Lots shall be prohibited. "Leasing," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person other than the Owner; provided, however, for the purposes of this Declaration, leasing shall not include the occupancy of the Lot by the child or parent of an Owner.

- (a) General. Owners desiring to lease their Lots may do so only if they have applied for and received from the Association either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Lot provided that such leasing is in strict accordance with the terms of the permit and this Section. The Association shall

have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All Leasing Permits and Hardship Leasing Permits shall be valid only as to specific Owners and Lots and shall not be transferable between either Lots or Owners; provided, however if a valid lease is in place at the date of transfer of the Lot, that lease may continue until the expiration of the lease term or for a maximum of one year, whichever is earlier.

(b) Applicability. Those Owners who are leasing their Lots upon the effective date of this Declaration shall be entitled to a Leasing Permit after submitting a proper application within the Board specified time frame, notwithstanding the percentage limitations set forth herein. However, upon conveyance or transfer of a Lot, any grantee of the Lot shall be subject to the provisions of this Section.

(c) Leasing Permits. An Owner's request for a Leasing Permit shall be approved if current, outstanding Leasing Permits have not been issued to three or more Lots within the Community. A Leasing Permit shall be automatically revoked upon the happening of any of the following events:

- (i) subject to the terms of subsection (a) above, the sale or transfer of the Lot to a person or entity other than the Owner (excluding sales or transfers to (a) an Owner's spouse, (b) a person cohabitating with the Owner, and (c) a corporation, partnership, company, or legal entity in which the Owner is a principal);
- (ii) the failure of an Owner to lease his or her Lot within 180 days of the Leasing Permit having been issued; or
- (iii) the failure of an Owner to have his or her Lot leased for any consecutive 180-day period thereafter.

The Board may make an exception to the 180-day provision upon written application from the Owner at least 30 days prior to the expiration of the 180-day period that shows the Owner made reasonable efforts to rent the Lot, but has been unable to do so due to market conditions or if the Owner demonstrates an abnormal or hardship reason for the vacancy. If current Leasing Permits have been issued for three or more Lots, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits) until the number of outstanding current Leasing Permits falls below three. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued the same if they so desire when the number of current outstanding Leasing Permits issued falls below three total Lots in the Community. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

(d) Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Association for a Hardship Leasing Permit. The Association shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors:

- (i) the nature, degree, and likely duration of the hardship;
- (ii) the harm, if any, which will result to the Community if the permit is approved;
- (iii) the number of Hardship Leasing Permits which have been issued to other Owners;
- (iv) the Owner's ability to cure the hardship; and
- (v) whether previous Hardship Leasing Permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to the following situations:

- (i) an Owner must relocate his or her residence outside Boulder County and cannot, within six months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so;
- (ii) where the Owner dies and the Lot is being administered by his or her estate; and
- (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot.

Hardship Leasing Permits shall be valid for a term not to exceed one year. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if, during the term of the permit, the Owner is approved for and receives a Leasing Permit.

(e) Leasing Provisions. Leasing which is authorized, pursuant to permit, hereunder shall be governed by the following provisions:

- (i) Notice. At least 10 days prior to entering into the initial lease of a Lot, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If the Board approves the form of lease, the Owner

agrees not to change the lease form without submitting the new lease form to the Board for approval. In the event a lease form is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any Rules and Regulations adopted pursuant thereto.

(ii) General. Lots may be leased only in their entirety. No fraction or portion of a Lot may be leased without prior written Board approval. All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than 12 months. Within 10 days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease. The Owner may redact financial terms of the lease. The Owner must provide the lessee copies of the Declaration, Bylaws, and the Rules and Regulations.

#### Section 8.6 Prohibition on Short Term Occupancies.

Short term occupancies and rentals of Lots and Residences for less than 12 consecutive months through the use of VRBO, Airbnb, HomeAway, and other such online rental sites shall be prohibited and such occupancies and rentals are subject to the limitations and permit requirements set forth in Section 8.5 above.

#### Section 8.7 Landscaping Requirements and Restrictions.

The landscaping of each Lot shall be maintained by the Owner (to the extent such maintenance is not the obligation of the Association pursuant to Exhibit B) in a good, neat, attractive and well-kept condition, whether xeriscaped or turf, which shall include lawns, if any, mowed, hedges, shrubs, and trees pruned and trimmed and removal of weeds and debris.

#### Section 8.8 Restrictions on Pets.

Up to two total Pets may be kept on a Lot, *if* the Pet is not a nuisance to other residents. No resident shall maintain or keep any Pet which, in the sole discretion of the Board, is considered to be a danger to the Owners, management staff or residents in the Community, as may be further defined in the Rules and Regulations.

If a Pet is deemed a nuisance by the Association, the resident having control of the Pet shall be given a written notice to correct the problem and if not corrected, that resident will be required to remove the Pet from the Community pursuant to, and in accordance with, any dispute resolution procedures as may be set forth in this Declaration or the Rules and Regulations, if any.

Pets may not be kept for any commercial purposes. When on Common Area, Pets must be on a leash and under control. Feces left by Pets upon the Common Area must be removed promptly by the owner of the Pet or the person responsible for the Pet. Pets shall not be allowed to defecate or urinate on any patio or balcony in the Community. Owners shall hold the Association harmless from any claim resulting from any action of their Pets or the Pets of their tenants, guests or other invitees.

Section 8.9 Antennae.

“Permitted Antennas” are defined as:

- (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite;
- (b) an antenna which one meter or less in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite;
- (c) an antenna which is designed to receive or broadcast television signals; or
- (d) other antennas which are expressly permitted under applicable federal statutes or regulations.

In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on a Lot which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station, or similar device of any type shall be erected, installed, or maintained on a Lot.

Section 8.10 Tanks.

No tanks of any kind (either elevated or buried), except for small portable propane tanks no larger than 20 pounds associated with an outdoor gas grill, shall be erected,

placed or permitted upon any Lot without the prior written approval of the Association. The Association may further restrict tanks as may be required for insurance purposes.

#### Section 8.11 Nuisances.

No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Lot or any Common Area, or any portion of the Community by residents. Nuisance shall be further defined in the Rules and Regulations.

#### Section 8.12 Vehicular Parking, Storage, and Repairs.

(a) Parking upon any Common Area shall be regulated by the Association.

(b) The following may not be parked or stored within the Community, unless such parking or storage is within a garage on a Lot, or unless authorized in writing by the Association or is otherwise exempted by Colorado law: oversized vehicles (as defined in the Rules and Regulations), commercial vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats or accessories thereto, self-contained motorized recreational vehicles, or other oversized types of vehicles or equipment as prohibited by rule or regulation. The foregoing may be parked as a temporary expedience for loading or delivery of goods or services; provided, however, parking of the same for more than 48 consecutive hours is prohibited. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community which are necessary for construction or for the maintenance of any Common Area, Lots, or any improvement located thereon.

(c) No abandoned, unlicensed or inoperable automobiles or vehicles of any kind shall be stored or parked on a Lot or within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable, unlicensed or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Association.

(d) No motor vehicle may impede the safe and efficient use of streets within the Community by residents, obstruct emergency access to/from the Community or interfere with the reasonable needs of other residents to use their driveway, streets, or guest parking within the Community.

(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or



boat, may be performed or conducted outside of garages. This provision shall not be deemed to prevent washing and polishing of a vehicle, together with those activities normally incident and necessary to such washing and polishing, provided washing is done with a hose with a shut off valve to prevent waste of water. Minor repairs may be performed, provided they may be completed the day commenced, there is no damage (e.g., oil, residue) to paved areas, and all equipment and parts are removed upon completion of the work. No vehicles may be left unattended on jacks or jack stands.

(f) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall be prohibited.

(g) If any vehicle is parked on any portion of the Common Area in violation of this Section or in violation of the Association's Rules and Regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after 72 hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If 72 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user, and the owner thereof shall be solely responsible for all towing and storage charges.

(h) If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Lot or Residence, is obstructing the flow of traffic, is parked in a space which has been assigned as exclusively serving another Lot, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

(i) If a vehicle is towed or booted in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

### Section 8.13 Use of Common Area.

There shall be no obstruction of any Common Area, nor shall anything be kept or stored on any part of any Common Area without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from any Common Area without the prior written approval of the Association.

### Section 8.14 No Annoying Lights, Sounds, or Odors.

No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive, as further defined in the Rules and Regulations. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Association.

### Section 8.15 No Hazardous Activities.

No activity shall be conducted on and no improvement shall be constructed on any Property within the Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Property within the Community. No open fires shall be lighted or permitted on any Property within the Community except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent dispersal of burning embers unless otherwise prohibited by governmental ordinances. No Owner or Owners shall permit any condition on his Lot or Lots which creates a fire hazard or is in violation of applicable fire prevention regulations.

### Section 8.16 Restrictions on Clotheslines, Dog Runs, and Storage.

Except for retractable clotheslines which comply with reasonable aesthetic regulations adopted by the Board and except as otherwise permitted by Colorado law, no dog runs, drying areas or yards, shops, equipment, storage or storage areas shall be installed, allowed, kept, maintained or permitted on any Lot unless the same, in each instance, is expressly permitted in writing by the Association.

### Section 8.17 Restriction on Signs and Flags.

Signs, posters, billboards, and flags (including flag poles) may be displayed in accordance with Colorado law. The Association may prohibit signs and flags bearing commercial messages, and may establish reasonable, content-neutral regulations addressing the number, placement, or size of the signs and flags, and other objective factors as permitted by Colorado law.

### Section 8.18 Outbuildings.

An "outbuilding" shall mean an enclosed or covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, trailers, mobile homes, tents, shacks, barns, recreational outbuildings, or detached garages or carports, shall be allowed on any Lot unless approved in writing by the Board of Directors or the Design Review Committee. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

### Section 8.19 Trash Removal Restriction.

No garbage, refuse, rubbish, or cuttings shall be deposited on any street, road or any Common Area or on any Lot, unless placed in a suitable container suitably located. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans or receptacles shall be maintained in an unsightly manner. Burning of trash, leaves, and other similar materials shall be prohibited within the Community.

### Section 8.20 Prohibition of Marijuana Distribution and Growing.

No Owner or occupant of a Lot may utilize such Lot for the purpose of growing or distributing marijuana or medical marijuana for commercial purposes. This prohibition may further be clarified by the Board of Directors through Rules and Regulations.

### Section 8.21 Prohibited Activities.

No Owner or occupant of a Lot may engage in any hoarding, creating conditions conducive to indoor fires, allowing Residences to fall into a state of disrepair to the point that rodents or other pests enter, or any other conditions which could cause damage or harm to other Residences in the Community.

### Section 8.22 Restriction on Mining and Drilling.

No Property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

### Section 8.23 Restrictions on Structural Alterations and Exterior Improvements.

No structural alterations to any Residence or any Common Area shall be done by any Owner, without the prior written approval of the Association. No improvement to the exterior of a building which includes a Residence or to the Common Area shall be constructed, erected, placed or installed within the Community unless complete plans

and specifications thereto shall have been first submitted to and approved in writing by the Association.

Section 8.24 Placement and Usage of Rain Barrels.

- (a) Residents who choose to collect precipitation from their rooftops must use rain barrels. A Rain Barrel is defined as a storage container with a sealable lid located above ground outside of a residential home that is used for collecting precipitation from a downspout of a rooftop.
- (b) Written Committee approval is required prior to placement of Rain Barrels on a Lot.
- (c) No more than two Rain Barrels with a combined storage capacity of 110 gallons may be utilized at any given time;
- (d) Rain Barrels must be placed in the back of the house so as not to face or be visible from the street.
- (e) Rain Barrels must be mosquito resistant, commercially manufactured, and harmonize with the color scheme of the home.
- (f) Collected precipitation collected must be utilized for the Lot upon which it is collected and may only be used for outdoor purposes such as lawn irrigation. Collected precipitation may not be utilized for any indoor purposes or as drinking water.

Section 8.25 Rules and Regulations.

In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time to time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 8.26 Compliance with Governing Documents.

Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

Section 8.27 Use of the Words Hover Village Block Seven and Hover Village Seven Community Association.

No resident or Owner shall use the words Hover Village Block Seven or Hover Village Seven Community Association or the logo of the Community or Association, if

any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

Section 8.28 No Imperiling of Insurance.

Nothing shall be done or kept in or within the Community which might result in an increase in the premiums with respect to insurance obtained for all or any portion of the Community or which might cause cancellation of such insurance except with the prior written consent of the Association.

Section 8.29 Underground Electric Lines.

All electric, television, radio, and telephone line installations and connections from any property line of a Lot or to a Residence or other structures shall be placed underground.

## ARTICLE 9 ARCHITECTURAL APPROVAL/DESIGN REVIEW

Section 9.1 Required Approval.

No structures, including residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted under this Declaration), flag poles (except as otherwise permitted by the Act), fences, storm doors, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated, removed or installed on a Lot, nor shall any alteration or change to the exterior of the improvements, the exterior of a Residence, to a Lot or to any structure or any attachment to the exterior of a residence (including paint, awnings, patios, decks, or shutters) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the Design Review Committee ("Committee") as may be outlined in the Rules and Regulations.

Only house numbers and mail boxes which were installed by the Association or approved by the Committee shall be used and maintained on any Lot within the Community. The Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee.

Section 9.2 Acknowledgment of Owners.

Owners acknowledge, accept and agree to the following:

- (a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Committee;
- (b) Owners shall immediately comply with any request by the Association for additional information relating to an improvement prior to the Committee's approval of a request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted;
- (c) Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;
- (d) Owners, by submitting an application for approval, hereby certify:
- (i) they will construct or modify improvements located only on their own Lot or upon Property which they have permission to construct, modify or improve; and
  - (i) they will not violate any easements, rights-of-way, or other rights appurtenant to such Property.
- (e) Owners shall notify the Committee of completion of the improvement's installation or construction within five days of such completion;
- (f) Upon completion of an improvement, Owners authorize the Committee or its representative(s) to enter onto the Lot for exterior inspection;
- (g) Failure of an Owner to notify the Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of the Committee's approval;
- (h) If the improvement as built does not conform to the improvement as approved by the Committee, the Committee's approval will be deemed withdrawn, and upon written request of the Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;
- (i) In the event of withdrawal of Committee approval for any reason(s) cited in this Section, and upon written request from the Committee, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

### Section 9.3 Architectural Criteria.

The Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth in this Declaration. The approval or consent of the Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures and conformity with the specifications and purposes generally set forth in this Declaration. Upon its review of such plans, specifications and submittals, the Committee may require that the applicant(s) reimburse the Board for actual expense incurred by it in its review and approval process.

### Section 9.4 Establishment of the Committee.

The Committee shall consist of a minimum of three members appointed by the Board of Directors. If no Committee is appointed, the Board of Directors shall act as the Committee. The Board shall have the authority to remove any members of the Committee at their sole discretion.

In order to provide a continuing liaison between the Association and the neighboring Hover Senior Living Community, the Hover Senior Living Community, or its successors or assigns, shall have the right to designate one individual to serve as a non-voting liaison who shall serve in an advisory capacity to the Committee. The designated person need not be an Owner or Member of the Association. The identity of that individuals shall be provided to the Association by Hover Senior Living Community and he/she shall serve at the pleasure of Hover Senior Living Community. Notice of Committee meetings shall be provided to Hover Senior Living Community at the address on file with the Colorado Secretary of State or such other address provided to the Association by Hover Senior Living Community.

### Section 9.5 Architectural Guidelines.

The Committee may propose architectural guidelines from time to time, which guidelines, to be effective, must be approved by the Board of Directors.

### Section 9.6 Reply and Communication.

The Committee shall reply to all submittal of plans made in accordance herewith in writing within 60 days after receipt. In the event the Committee fails to take any action on submitted plans and specifications within 60 days after the Committee has received the plans and specifications, approval shall be deemed to be denied. All communications and submittals shall be addressed to the Committee in care of the Association.

### Section 9.7 Condition of Approval.

In the discretion of the Board or the Committee, an Owner may be required to enter into a written agreement establishing the approval of an application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

### Section 9.8 Commencement and Completion of Construction.

All improvements approved by the Committee must be commenced within six months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee shall be completed within six months of commencement.

### Section 9.9 Variances.

The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

### Section 9.10 Right to Appeal.

If the Board of Directors is not acting as the Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Committee to the Board of Directors. The Board of Directors shall review the decision of the Committee pursuant to the criteria set forth in this Article and the architectural guidelines. Any decision of the Committee may be overruled and reversed on appeal by a majority of the directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Committee's decision was inconsistent with the criteria set forth in this Article and/or the guidelines.

### Section 9.11 Waivers.

The approval or consent of the Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of



any right to hold or deny approval or consent by the Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 9.12 Liability.

The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. The Committee shall not bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. The Association will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to Property with respect to architectural requests and shall not be liable for any disputes relating to the same.

Section 9.13 Enforcement.

Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association may be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Additionally, or in the alternative, the Association may levy fines after notice and an opportunity for a hearing. Failure of the Association to enforce any covenant or restriction in this Section shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE 10      INSURANCE

Section 10.1 Insurance to be Carried by the Association.

The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth in this Declaration, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado. All insurance purchased by the Association shall be purchased from companies with ratings of "A" or better, to the extent that insurance is available at reasonable cost to the Association through such companies.

Section 10.2 Real Property Insurance on the Residences and Common Areas.

- (a) The Association shall obtain insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without

deduction for depreciation, for all insurable improvements located on the Common Areas, the Residences, and the other property of the Association.

(b) The Association's insurance policy shall cover that property within the Community as set forth in Exhibit B of this Declaration, regardless of ownership.

(c) If the Board of Directors changes policies so that a lesser level of coverage is provided, the Board shall notify all Owners in writing at least 10 days prior to the commencement of the policy with reduced coverage.

(d) All policies shall contain a standard non-contributory mortgage clause in favor of each first mortgagee, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such first mortgagee, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of Boulder County.

(e) The Association may also obtain any additional endorsements which it deems advisable and in the best interests of the Community by the Board of Directors.

(f) The insurance described in this Section shall be inflation coverage insurance, if such insurance is available, which shall at all times represent 100% of the replacement value of all facilities in the Common Area except land, foundation, excavation and other items normally excluded from coverage and except for any deductible provisions as permitted under this Article.

(g) At least every three years, the Association may obtain an appraisal for insurance purposes which shall be maintained as a permanent record showing that the insurance in any year represents 100% of the replacement value of each Lot and the facilities in the Common Area.

(h) The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

### Section 10.3 Association Flood Insurance.

The Association shall obtain flood insurance to the extent required by the Federal Emergency Management Agency (FEMA) or any other governmental agency.

#### Section 10.4 Liability Insurance.

The Association shall obtain a comprehensive policy of public liability and property damage liability insurance covering all of the Residences (excluding liability within each Residence) and the Common Areas, including structural coverage of the Residences, in such limits as the Board may from time to time determine, but not in any amount less than a combined single limit of \$1,000,000.00, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Lots and the Common Area. The foregoing liability insurance shall name the Association as the insured.

#### Section 10.5 Fidelity Insurance.

The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees, volunteers and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The clause "officers, directors, trustees and employees" shall not include any officer, director, agent or employee of any independent, professional manager or managing agent heretofore or hereafter employed by the Association. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees, as required by law. If the Association retains a Managing Agent, the Managing Agent shall be required to provide such fidelity insurance covering itself and its employees and naming the Association as the loss payee.

#### Section 10.6 Workers Compensation.

The Association shall obtain and maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in forms now or hereafter required by law.

#### Section 10.7 Director and Officer Liability Insurance.

The Association shall purchase directors' and officers' insurance in an amount reasonably necessary to protect the directors and officers.

#### Section 10.8 Other Insurance.

The Association may obtain insurance against such other risks, of similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 10.9 Miscellaneous Terms Governing Insurance Carried by the Association.

The Association shall maintain, to the extent reasonably available and necessary, policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least 45 days prior written notice to all of the Owners, holders of First Mortgages and the Association.

(d) If requested, certificates of insurance and renewals thereof, together with proof of payments of premiums, shall be delivered to all First Mortgagees at least 10 days prior to expiration of the then current policies.

(e) All liability insurance shall be carried in blanket form naming the Association, the Board, the manager or managing agent, if any, and the officers of the Association, as insureds.

(f) Prior to renewing casualty insurance and not less than every three years, pursuant to the provisions hereof, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement cost of the Residences and the Common Area, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause.

(g) All policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner.

(h) All policies of insurance shall provide that the insurance thereunder shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner, only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before

or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

#### Section 10.10 Insurance Obtained by Owners.

Each Owner shall be responsible for maintaining insurance which covers his Lot to the extent not covered by policies maintained by the Association and as set forth in Exhibit B. Such insurance shall include, but may not be limited to, furnishings and personal or other property in the Residence and liability insurance for injury, death or damage in the Residence or upon the Lot. Any such policy shall contain waivers of subrogation and shall be so written that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished thereby.

#### Section 10.11 Insurance Premium.

Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

#### Section 10.12 Managing Agent Insurance.

The manager or managing agent, if any, shall be insured for the benefit of the Association, and shall maintain and submit evidence of such coverage to the Association, including professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage, as set forth in the managing agent agreement.

#### Section 10.13 Waiver of Claims Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by these persons.

#### Section 10.14 Adjustments by the Association.

Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any first mortgagee. The Association shall hold any insurance proceeds in trust for the Association, Owners and first mortgagees as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged

property, and the Association, Owners and first mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored. If the insurance proceeds are insufficient to cover the cost of repair or reconstruction, the Association may levy a Special Assessment to cover the short fall (or deductible) pursuant to this Declaration.

Section 10.15 Duty to Repair.

Any portion of the Property and Common Area for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner.

Section 10.16 Condemnation and Casualty Insurance Allocations and Distributions.

In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be to the parties as their interests and rights are determined or allocated by record or as set forth in the Act.

Section 10.17 Responsibility for Payment of Deductible Amount.

Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs, or reconstruction for damage to Common Area unless the damage is the liability of an Owner, his family, guests, or invitees, as set forth in this Declaration, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration. Any Owner who receives the proceeds of any Association insurance shall be responsible for the payment of the deductible in proportion to the percentage of insurance proceeds received. Such deductible shall be due within 10 days of notification and shall be considered an Assessment allocated directly to the Lot and shall be collected as provided in this Declaration.

(b) The Owner shall pay or absorb the deductible, or any loss falling within the deductible amount, for any loss to the Lot that would be the responsibility of the Owner in the absence of insurance (i.e. the Owner has the underlying maintenance and repair responsibility for the damaged property), unless the loss is caused by the negligent or willful act or omission of the Association or another Owner, in which case the negligent party shall be responsible for the deductible. If a negligent Owner fails to pay the deductible for damage to a Lot, the Association may, but shall not be obligated to seek the deductible on behalf of the Owner suffering the loss as provided in this Declaration for the collection of Assessments.

(c) If a Lot or Party Wall is damaged, then the Owner of that Lot or the Owners sharing the Party Wall shall have primary responsibility, either directly or through his insurance company, for handling and paying for, any work, repairs, reconstruction or replacement.

Section 10.18 Insurance Assessments.

If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost may be assessed to the Owners in the form of an insurance Assessment. This insurance Assessment may be imposed by the Board of Directors and shall not require any vote or ratification of the Owners.

Section 10.19 Association as Attorney-in-Fact.

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of dealing with any improvements covered by insurance written in the name of the Association pursuant to this Article upon their damage or destruction as provided in this Declaration, or a complete or partial taking or condemnation as provided in this Declaration. Acceptance by a grantee of a deed or other instrument of conveyance conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact. Furthermore, if so requested, an Owner shall execute a separate instrument specifically setting forth this appointment.

Section 10.20 Payment of Claims to Delinquent Owners.

Notwithstanding anything to the contrary in this Declaration, the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in payment of Assessments owed to the Association under this Declaration hereof, then the Association may retain and apply such proceeds recovered to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

## ARTICLE 11 MISCELLANEOUS AND GENERAL PROVISIONS

Section 11.1 Compliance and Enforcement.

- (a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.
- (b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:
- (i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
  - (ii) suspending the right to vote or use Common Area;
  - (iii) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition;
  - (iv) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and
  - (v) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.
- (c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.
- (d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.
- (e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action.



Section 11.2 Term of Declaration.

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 11.3 Covenants to Run.

All of the covenants, easements, servitudes and provisions contained in this Declaration shall be a burden on the title to all of the lands within the Property, and the benefits thereof shall inure to the owners of all of the lands within the Property.

Section 11.4 Termination.

Termination of this Common Interest Community shall be in accordance with the Act.

Section 11.5 Attorney Fees.

If an Owner fails to pay any Assessment as provided in this Declaration, the Association may require reimbursement for reasonable attorney fees and costs without the necessity of commencing a legal proceeding. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any other provision of the Governing Documents, the Association may seek reimbursement for reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. In a legal proceeding in any way related to the Governing Documents or the Community, the court shall award to the prevailing party reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner shall be charged as an Assessment and shall constitute a lien against the Lot.

Section 11.6 Amendment of Declaration by Owners.

Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of Members holding at least 51% of the total votes in the Association. Said votes may be obtained in any method allowed by the Governing Documents of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the Boulder County, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

No amendment to Section 3.4 or 9.4 related to the rights of Hover Senior Living Community shall be effective without the prior written consent of Hover Senior Living Community.

Section 11.7 Interpretation.

The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to interpret the meaning of any provision contained in this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 11.8 Singular Includes the Plural.

Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neutral.

Section 11.9 Captions.

All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 11.10 Non-Waiver.

Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 11.11 Conflict of Provisions.

In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 11.12 Challenge to this Amendment.

All challenges to the validity of this amendment must be made within one year after the date of recording of this document.

Section 11.13 Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.



EXHIBIT A  
PROPERTY

Lots 1 through 38, inclusive,  
Hover Village Block Seven, City of Longmont, County of Boulder, State of Colorado.

**EXHIBIT B**  
**MAINTENANCE AND INSURANCE OBLIGATIONS**

A = Hover Village Seven Community Association

O = Owner

	MAINTENANCE	INSURANCE
<b>BUILDING EXTERIORS</b>		
Residence-structure, including foundation, columns, girders, beams and supports	O	A
Siding, sheathing, wrap, brick, trim, molding, and other exterior building facade surfaces	A	A
Exterior stoops, steps, railings, and concrete surfaces including driveways	O	A
Patios and decks including concrete, wood, stones, pavers, lattice, and railings	O	A
Party wall fencing on Lots	O	O
Perimeter fencing (along north property line)	A	A
Roof shingles and roof underlay	A	A
Gutters and downspouts	A	A
Residence chimneys caps, dryer vents, and other exterior vents (as originally installed and constructed)	A	A
Residence chimneys caps, dryer vents, and other exterior vents (as added by Owners)	O	A
Window and window screens	O	A
Skylights and solar tubes	O	A
Water spigots	O	A
Window caulking (only in connection with Association's caulking and painting of siding)	A	A
Window caulking (other than in connection with Association's caulking and painting of siding)	O	A
Window well covers	O	O
Roll out patio covers	O	O

	MAINTENANCE	INSURANCE
Exterior Residence doors and garage doors including peep holes, doorknobs and lock mechanisms	O	A
Storm doors	O	O
Exterior patio and porch light fixtures (excluding city street lamps)	O	A
Satellite dishes and antennae	O	O
<b>UTILITIES</b>		
Unit fixtures, equipment and utilities including but not limited to: <ul style="list-style-type: none"> <li>• Furnaces</li> <li>• Heating equipment</li> <li>• Thermostats</li> <li>• Ducts</li> <li>• Conduits</li> <li>• Unit Water/Sewer pipes</li> <li>• Meters</li> <li>• Electrical wiring</li> <li>• Electrical outlets</li> <li>• Telephone wiring</li> <li>• Telephone outlets</li> <li>• Light switches</li> <li>• Hot water equipment</li> <li>• Cable wiring</li> <li>• Compressors</li> <li>• Circuit boxes and breakers</li> <li>• Air Conditioners</li> <li>• Radon mitigation systems</li> </ul>	O	A
<b>RESIDENCE INTERIORS</b>		
Furnishings, including all personal property such as furniture, electronics, jewelry, and clothing	O	O
Window coverings	O	O

	MAINTENANCE	INSURANCE
Permanent fixtures including but not limited to: <ul style="list-style-type: none"> <li>• ceiling fans</li> <li>• hand rails</li> <li>• cabinets</li> <li>• countertops</li> <li>• bathtubs and showers</li> <li>• sinks</li> <li>• toilets</li> </ul>	O	A
Appliances including: <ul style="list-style-type: none"> <li>• oven</li> <li>• range</li> <li>• refrigerator</li> <li>• dishwasher</li> <li>• washer/ dryer</li> <li>• countertop microwave</li> </ul>	O	O
Fireplaces (including facade, screen, flue, and damper)	O	A
Residence interior walls, floors, and ceilings—including finished and unfinished surfaces, doors, drywall, paint, wallpaper, paneling, texture, studs, insulation, hardware, tile, vinyl, hardwood, carpeting, and other material lying within such walls, floors, and ceilings	O	A
Any components lying <u>between the perimeter drywall and Residence exterior wall</u> , including but not limited to: <ul style="list-style-type: none"> <li>• insulation</li> <li>• girders</li> <li>• beams</li> <li>• pipes</li> <li>• wiring</li> <li>• plumbing</li> </ul>	O	A

	MAINTENANCE	INSURANCE
Subflooring	O	A
Party walls (walls dividing Residences and shared by Owners/residents on each side)	O	A
Basements and crawlspaces	O	A
<b>GROUNDS</b>		
Landscaping on Common Area including irrigation systems	A	A
Landscaping on Lots including irrigation system, plants, sod, river rock, and steel edging	A	O
Landscaping on Lots (planter boxes, pots, and additional plantings installed by homeowners)	O	O
Planter boxes on Lot	O	O
Drainage, grading, and drainage improvements on Lots	O	O
Drainage, grading, and drainage improvements on Common Area including, but not limited to, French drain/trickle channel and detention pond area	A	A
<b>OTHER</b>		
Snow removal from driveways and sidewalks on Lots	A	NA
Snow removal from sidewalks on Common Area	A	NA
Garbage pick-up	O	NA
Common Area existing in Community and not otherwise listed	A	A
Any personal property of Owners not otherwise listed	O	O