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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
THE RIDGE AT SAND CREEK**

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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE RIDGE AT SAND CREEK**

This Declaration of Covenants, Conditions and Restrictions for The Ridge at Sand Creek (“Declaration”) is made as of July 30, 2020, by Saint Aubyn Homes, LLC, a Colorado limited liability company, and Pikes Peak Habitat For Humanity, INC, a Colorado nonprofit corporation (each individually a “Declarants” and collectively “Declarants”).

BACKGROUND AND PURPOSE

- A. Declarants are the owners of the real property located in City of Colorado Springs, El Paso County, Colorado described in **Exhibit A** attached hereto and incorporated herein by this reference (hereafter the “Property”).
- B. Declarants desire to subject and place upon the Property certain covenants, conditions, and restrictions, for the development, improvement, use, operation, maintenance, repair, and enjoyment of the Property, which run with the land.
- C. Declarants impose the covenants, conditions, restrictions and easements set forth in this Declaration on the Property, and pursuant to C.R.S. §32-1-1004 Declarants empowers the Ridge at Sand Creek Metropolitan District authority to furnish covenant enforcement and design review services for the Property, using revenues that are derived from the Property.
- D. Declarants reserve the right to add additional real property to this Declaration by recording one or more amendments to this Declaration.
- E. Declarants execute this Declaration (a) in furtherance of a common and general plan of development for the residential land located on the Property and to create the Community of Ridge at Sand Creek (“Community”); (b) to protect and enhance the quality, value, desirability and attractiveness of the Property and Improvements (as hereafter defined) within the Community; (c) to provide for design review of Improvements within the Community; (d) to enforce the provisions of this Declaration, the Design Guidelines (as hereafter defined), and Rules and Regulations (as hereafter defined) adopted under the provisions of this Declaration; and (e) to define duties, powers and rights of Declarants, the District (as hereafter defined), and the Owners (as hereafter defined). This Declaration does not create a Common Interest Community (as defined by the Colorado Common Interest Ownership Act at C.R.S. §38-33.3-103(8)). Therefore, this Declaration, the Property and the creation of the Community are not governed by the Colorado Common Interest Ownership Act.

DECLARATION

NOW, THEREFORE, Declarants, for themselves, and Declarants’ successors and assigns, hereby incorporates the recitals contained hereinabove as though fully set forth, and declares that the Property is and shall hereafter be owned and conveyed subject to the following uniform covenants, conditions and restrictions in furtherance of a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Community, and to

enhance the value, desirability and attractiveness of the Community. This Declaration is intended to and shall run with the land and shall be binding on all persons having or acquiring any interest in the Property or any part thereof; shall inure to the benefit of and be binding upon every part of the Property and every interest therein; and shall inure to the benefit of, be binding upon and be enforceable by Declarants, the District, their successors in interest, owners associations within the Community that have been delegated such enforcement authority, and each Owner and such Owner's successors in interest.

ARTICLE 1. DEFINITIONS

Section 1.1 Board shall mean the board of directors of the District.

Section 1.2 Builder shall mean any Person who acquires one or more Lots for the purpose of constructing Homes for later sale to consumers in the ordinary course of its business.

Section 1.3 Declarants shall mean Saint Aubyn Homes, LLC, a Colorado limited liability company, and Pikes Peak Habitat For Humanity, INC, a Colorado nonprofit corporation, as well as any Person to whom Declarants specifically assign all or a portion of Declarants' rights or obligations as Declarants hereunder by written document recorded in the Records.

Section 1.4 Declaration shall mean this instrument as it may be supplemented by or amended from time to time by an instrument executed by Declarants or other parties authorized herein to amend the same, which instrument shall be Recorded.

Section 1.5 Design Guidelines shall mean the architectural, construction, structural and/or aesthetic criteria, rules or standards, if any, established by the Design Review Committee from time to time that will apply to Improvements within all or specified portions of the Property.

Section 1.6 Design Review Committee shall mean the committee created pursuant to Article 3.

Section 1.7 Development Rights shall mean the right to: (a) add additional property to the Community; (b) create Lots within the Community; (c) subdivide or combine Lots; (d) withdraw real estate from the Community; (e) reserve, grant, create, modify and use easements over, across, under or through the Property; and (f) the right to move any Lot lines(s) on Lot(s) owned by Declarants or Builders, for the purpose of accommodating Improvements which are constructed or may be constructed.

Section 1.8 District shall mean The Ridge at Sand Creek Metropolitan District, which entity has been formed as a special district in accordance with the Special District Act, Section 32-1-101, *et seq.*, Colorado Revised Statutes. The District is the entity authorized and empowered to enforce the covenants, conditions, and restrictions contained herein, and to provide design review services for the Community.

Section 1.9 District Properties shall mean all real and personal property, together with any Improvements and appurtenances and rights thereto, now or hereafter owned, leased or maintained by the District. District Properties may include, without limitation, when conveyed to the District, parks and open space within the Property, public trails, landscaping, and related structures along public rights of way, entry signage and features, public walkways and trails.

Section 1.10 Home shall mean all Improvements on a Lot intended or used for residential occupancy and shall include a townhome and similar higher density projects.

Section 1.11 Improvement shall mean structures now or hereafter located on a Lot and anything which alters the previously existing exterior appearance of any Lot, including but not limited to Homes, buildings, outbuildings, sheds, patios, swimming pools, garages, doghouses, pet enclosures, mailboxes, aerials, antennas, roads, driveways, sidewalks/walks, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, water softener fixtures or equipment, and poles, tanks, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electric, telephone, radio, television (including cable or satellite systems), internet/broadband services, or other utilities.

Section 1.12 Lot shall mean a parcel of land designated as a lot in a recorded Plat within the Property, together with all appurtenances and Improvements associated therewith, now existing or subsequently created.

Section 1.13 Notice and Hearing shall have the meaning set forth in Section 4.3 of this Declaration.

Section 1.14 Owner shall mean the party, whether one or more Persons, including Declarants or a Builder, holding fee simple title to a Lot as shown in the Records.

Section 1.15 Person shall mean a natural individual, trust or any other legal entity.

Section 1.16 Plat shall mean a governmentally approved and recorded subdivision plat creating a subdivision of land that is part of the Property which results in the creation of Lots. All such Plats are incorporated herein by reference and made a part hereof as though attached as an Exhibit.

Section 1.17 Property shall initially mean the real property described on **Exhibit A** attached hereto and, unless the context indicates the contrary, all real property that is made subject to this Declaration in the future pursuant to a document recorded in the Records pursuant to Section 6.1 of this Declaration; provided, however, that it shall not include any property that has been withdrawn by Declarants in accordance with this Declaration.

Section 1.18 Records shall mean the real estate records in the Office of the Clerk and Recorder of El Paso County, Colorado; and "Recorded," without further reference, shall mean recorded in the real estate records in the Office of the Clerk and Recorder of El Paso County, Colorado.

Section 1.19 Rules and Regulations shall mean those rules and regulations, however, denominated, if any, adopted as provided in Section 4.1 of this Declaration, for the regulation and management of the Community, including Lots, as the same may be amended from time to time.

Section 1.20 Special Declarants Rights shall mean the rights reserved for the benefit of the Declarants and Builders as further described in Article 6.

ARTICLE 2. COVENANTS TO PRESERVE THE CHARACTER OF THE COMMUNITY

Section 2.1 Purpose of Covenants. The following covenants are adopted in order to preserve the desirability, attractiveness and value of residential property in the Community. The following restrictions and conditions shall apply to all land that is now or may hereafter be subject to this Declaration.

Section 2.2 General. All Homes, buildings and structures of any kind shall be constructed, installed, maintained, used and improved in compliance with all applicable federal, state, and local statutes, ordinances, laws, regulations, rules and requirements of all governmental and quasi-governmental entities, agencies and authorities after obtaining all required permits and licenses, and in accordance with any Design Guidelines and Rules and Regulations, as those may be amended from time to time.

Section 2.3 Improvements. Except as provided in Section 3.6 below, all Improvements placed on a Lot shall be subject to prior approval in writing by the Design Review Committee or as provided in the Design Guidelines.

Section 2.4 Construction.

(a) Construction Type. All construction shall be new. Any building previously constructed or used at another location or any building or Improvement originally constructed as a modular or mobile dwelling may not be moved onto a Lot except as expressly provided in Section 2.4 (h) for temporary construction, sales or administration buildings or as approved by the Design Review Committee.

(b) Storage. Building materials may not be stored on any Lot except temporarily during continuous construction of a Home or building or its alteration or improvement, unless such building materials are stored in an enclosed area and fully screened; except that Declarants and Builders may store building materials, supplies and equipment on their own land in the Property.

(c) Construction Rules and Regulations. During the period of construction of a Home, building or other Improvement on a Lot, the Owner of the Lot shall comply with all construction rules and regulations which the Declarants, the Board or the Design Review Committee may reasonably establish from time to time.

(d) Construction Completion. All construction work shall be prosecuted diligently and continuously from the time of commencement of construction until fully completed. All approved Improvements (other than those installed or constructed by Declarants or Builders) must be completed within twelve (12) months after the commencement of construction, or such other time as the Design Review Committee deems reasonable under the circumstances due to the nature of the project or other factors. "Commencement of Construction" for an Improvement is defined as the obtaining of necessary building permits and the excavation of earth for a foundation or the undertaking of any visible exterior work. If construction is not completed within the above time periods or such later time as approved by the Design Review Committee, the Design Review Committee or Board may take further action as provided for in this Declaration.

(e) Occupancy. Any Home or building constructed on a Lot shall not be occupied in the course of original construction until the applicable building authority authorizes such occupancy.

(f) Landscaping. If acquisition of a Lot occurs between April 1 and July 31 of any year, the Owner of the Lot (other than Declarants or Builders) shall install landscaping on such Lot within six (6) months after issuance of a certificate of occupancy for the Home constructed on the Lot or such longer period of time approved by the Design Review Committee or as established in the Design Guidelines; if acquisition does not occur between such dates, then such landscaping shall be installed by such Owner by the following July 31 or such longer period of time approved by the Design Review Committee or as established in the Design Guidelines. All portions of the Lot, which includes front, back, and sides will be landscaped and maintained in accordance with the Design Guidelines, and as initially installed by the Declarants or a Builder, if so installed.

(g) Fences or Walls. Fences or walls are subject to approval by the Design Review Committee. Within six (6) months after occupancy of a Home on a Lot or such longer period of time approved by the Design Review Committee or as established in the Design Guidelines, all fencing must be properly installed by the Builder or Home Owner. All portions of the Lot, which includes front, back, and sides will be fenced and maintained in accordance with the Design Guidelines, and initially installed by the Builder or Homeowner. All fencing installed by Declarants or Builders must be properly maintained and repaired by the Owner as initially installed by the Declarants or a Builder.

(h) Construction or Sales Offices. Temporary buildings for construction or administration purposes or for sales offices and accompanying parking lots may be erected or maintained by the Declarants and Builders. Model homes may be used and exhibited by the Declarants and Builders. Temporary buildings shall be promptly removed when they cease to be used for construction or sales purposes.

(i) Utilities. All utilities serving a Lot will be placed underground. Declarants or District reserves the right to locate main transmission lines above ground if determined to be advisable. Declarants may grant approval for temporary above ground utility service during construction.

Section 2.5 Grading Patterns. Following the conveyance of the Lot by Declarants or

Builders, each Owner shall maintain the grading on his Lot (including grading around the foundation of the building constructed thereon) at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage. For purposes of this Section, "established drainage" is defined as the drainage that exists at the time final grading by the Declarants or Builders is completed. Material changes shall not be made in the established drainage of any Lot as fixed by the original finish grading without the prior approval of the Design Review Committee. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from buildings and to protect foundations and footings from excess moisture.

Section 2.6 Building and Grounds Maintenance. Except during initial construction by the Declarants or Builders, the exterior of all Improvements and grounds of a Lot must be maintained by the Owner in a state of good condition and repair, and adequately painted, or otherwise finished by such Owner, before the surfacing becomes weather-beaten or worn off. Such obligation includes, but is not limited to, maintaining the exterior materials and finishes of the Improvements, fencing, landscaping, drainage areas, driveways and sidewalks. Irrigation of landscaping will be in compliance with any applicable watering ordinance or restriction. If an Owner fails to maintain the Improvements, the Board may give written notice to the Owner that, unless the required maintenance is diligently pursued within the ten (10) days following such notice, the property will be declared a nuisance and the Board shall have the right to take enforcement action pursuant to this Declaration.

Section 2.7 Rebuilding or Restoration. Except for Improvements installed or constructed on Lots owned by Declarants or Builders, if any Improvement is destroyed in whole or in part, it must be rebuilt or all debris must be removed promptly and the Lot restored to a safe and attractive condition. Such rebuilding or restoration must be commenced within thirty (30) days after the damage or destruction occurs and thereafter diligently pursued to completion within a reasonable time, not to exceed ten (10) months after the date the damage occurred or such longer period of time as may be approved by the Design Review Committee. If restoration or rebuilding is not completed within the above time periods or such later time approved by the Design Review Committee, or if the restoration or rebuilding shall cease for a period of twenty (20) days without permission of the Design Review Committee, the Design Review Committee may give written notice to the Owner that unless the restoration is diligently pursued within the ten (10) days following notice, the Improvement will be declared a nuisance and the Declarants or the Board shall have the right to take enforcement action pursuant to this Declaration.

Section 2.8 Outside Storage. Equipment, tools and other items must be stored in an enclosed building or otherwise adequately screened so as not to be visible from neighboring properties or adjoining streets, except that Declarants and Builders may temporarily store materials as necessary in connection with construction on a Lot.

Section 2.9 Patio Covers, Swing Sets, Play Structures, and Other Similar Structures. Patio covers, swing sets, play structures and other similar structures or other similar facilities may only be installed on a Lot in accordance with the Design Guidelines or as approved by the Design Review Committee.

Section 2.10 Refuse. Unsightly objects or materials, including but not limited to ashes, trash, garbage, grass or shrub clippings, scrap material or other refuse, or containers for such items, must not be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street, except during hours of refuse collection. This Section 2.10 shall not apply to Declarants or Builders.

Section 2.11 Nuisances. Noxious, hazardous or unreasonably offensive activity must not be carried in or upon any Lot, Home or Improvement, nor may anything be done on a Lot tending to cause unreasonable embarrassment, discomfort, annoyance or nuisance to the neighborhood. No Lot may be used for the growing, sale or dispensing of marijuana or any of its compounds or derivatives.

Section 2.12 Lights, sounds and odors. Lights that are unreasonably bright or cause unreasonable glare and sounds or odors that are unreasonably noxious or offensive to others are not permitted to emanate from any Lot.

Section 2.13 Noxious Weeds and Insects. All portions of a Lot must be kept free from noxious weeds and insects.

Section 2.14 Animals. No horses, livestock, birds, poultry, reptiles, insects or other animals of any kind shall be raised, bred, kept or boarded in the Community; provided, however, that the Owners of each Lot may keep a reasonable number of bona fide household pets (including dogs, cats and other domestic animals approved by the Board), so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Community. No animal of any kind shall be permitted which, in the opinion of the Board, makes an unreasonable amount of noise or odor or is otherwise a nuisance. The District shall have, and is hereby given, the right and authority to do the following as well as take such other action(s) with regard to these matters as the Board may determine: set a maximum number of household pets; set a size or weight limit for pets; regulate the type(s) of animals that are permitted to be kept; determine that any dog(s), cat(s) or pet(s) or other animals are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; determine that an Owner is in violation of the leash laws of the applicable jurisdiction or other governmental laws, ordinances, or other provisions; or determine that an Owner is otherwise in violation of any provision of this Declaration or the Rules and Regulations. If the Board determines that any of the foregoing have been or are being violated, the Board may take any action(s) it determines appropriate, including requiring permanent removal of the pet. An Owner's right to keep household pets is coupled with the responsibility to pay for any damage caused by such pets, as well as all costs incurred by the District as a result of such pets, and all such costs and damages shall be subject to all of the District's rights with respect to the enforcement of the obligations set forth in this Declaration.

Section 2.15 Vehicles; Parking. A boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor homes, any towed trailer unit, motorcycle, all-terrain vehicle, recreational vehicle or non-pickup truck shall not be parked on any street in the Community or within any Lot except as a temporary expedience for loading and unloading, and in any event, not overnight, and otherwise except in a completely enclosed building such as a

garage, or unless screened in a manner approved by the Design Review Committee. An exception to this restriction will be made for an emergency motor vehicle used by an Owner who is a bona fide member of a volunteer fire department or is an employee of an emergency firefighting, ambulance service, law enforcement or emergency medical services provider, provided that the vehicle: (i) has a gross weight rating of 10,000 pounds or less; (ii) bears an official emblem of the emergency services provider; and (iii) does not obstruct emergency access or interfere with the reasonable needs of other Owners. Passenger vehicles owned, leased, rented or used by Owners or any other Person used as primary transportation on a day-to-day basis shall not be parked on any street within the Property for longer than seventy-two (72) consecutive hours without being moved. It is the intent of this Declaration that all vehicles park in garages and driveways; no extended street parking is permitted. The foregoing notwithstanding, however, this Section 2.15 shall not apply to Declarants or Builders, nor shall it restrict trucks or other commercial vehicles that are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon.

(a) Vehicle Repairs. The maintenance, servicing, repair, dismantling, sanding or repainting of any type of vehicle, boat, machine, apparatus, trailer, equipment or device may not be carried on except within a completely enclosed Improvement which screens the sight and sound of the activity from adjoining streets and from neighboring property.

(b) Abandoned or Inoperable Vehicles and Equipment. Any type of stripped down, partially wrecked or abandoned or other similar vehicle or equipment (boat, machine, apparatus, trailer, equipment or device, or any sizeable part thereof) which has not been driven or operated under its own propulsion or by its own means for a period of two weeks, shall not be permitted to be placed anywhere within the Property except within a completely enclosed Improvement.

Section 2.16 Leases. The term "lease," as used herein, shall include any agreement or arrangement for the occupancy of a Lot or Home on the Lot by a Person other than the Owner or members of the Owner's immediate family, with or without the contemporaneous occupancy by the Owner or members of the Owner's immediate family, including month-to-month rentals, shorter term rentals, long-term rentals, and subleases. All leases shall have a minimum term of thirty (30) days. No Home or portion thereof may be used for short term lodging, home share arrangements, home exchange arrangements, vacation rental, or any similar temporary lodging or living quarter arrangement. Within ten (10) days after commencement of the lease/rental term, the Owner shall provide the District with the following information: (a) the commencement date of the lease term; (b) the names of each of the Lessees and each other adult who will reside in the home; (c) the address, telephone number and email address at which the Tenant can be contacted in the event of an emergency, and (d) the expiration date of the rental contract. The Owner shall be liable for any violation of this Declaration, the Design Guidelines or the Association Rules by the Lessees or other persons residing in the home and their guests or invitees and, in the event of any such violations, the Owner, upon demand of the District, shall immediately take all necessary actions to correct any violations.

Section 2.17 Signs. One (1) temporary sign advertising the real property for sale or rent, or for a garage sale, which is no more than six square feet in size, the style of which is compatible with the appearance of the Community and which may be subject to prior approval of

the Design Review Committee or as provided in the Design Guidelines, may be installed on a Lot. Trade signs identifying a contractor performing work such as landscaping, painting, remodeling, etc., may only be displayed while such work is in progress on a Lot and must be removed upon completion of the work. Political signs for an upcoming election may be displayed on a Lot no earlier than 60 days before an election and must be taken down within 15 days after an election. No Owner or Person may post signs upon any portion of the District Properties or Public Right-of-ways. This Section 2.17 shall not apply to Declarants or Builders.

Section 2.18 Hazardous Activities. No activities shall be conducted on any Lot or within an Improvement which are unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on any Lot except in a contained cooking unit while attended and in use for cooking purposes or within an attended fireplace. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in common household products and in such limited quantities so as to not constitute a hazard or danger to person or property. An Owner must not permit any condition on a Lot that creates a fire hazard or is in violation of fire prevention regulations adopted by the governmental authority having jurisdiction and control over outside burning. If any ban on outdoor fires is at any time imposed by a governmental authority, such ban shall be observed within the Property

Section 2.19 Temporary Buildings. No temporary house, trailer, garage or other outbuilding may be placed or erected on a Lot, except by Declarants and Builders in accordance with the terms of this Declaration or used as a residence. The Design Review Committee may grant permission to an Owner for the placement of a temporary structure for storage of materials during construction on a Lot.

Section 2.20 Professional or Home Occupation. Except as may be required of Declarants or Builders in pursuit of development of the Property, sales of Homes on the Property, and construction activities within the Property, Lots shall be used for residential use only including uses which are customarily incident to such residential use, and shall not be used at any time for business, commercial or professional purposes except as permitted herein. However, an Owner may conduct business activities within a Home provided that all of the following conditions are met:

- (a) the business conducted is clearly secondary to the residential use of the Home and is conducted entirely within the Home;
- (b) the existence or operation of the business is not detectable from outside of the Home by sight, sound, smell, vibration or otherwise, or by the existence of signs or deliveries indicating that a business is being conducted;
- (c) the business does not result in an undue volume of traffic or parking within the Property;
- (d) the business conforms to all applicable zoning requirements and is lawful in nature; and

(e) the business conforms to any Rules and Regulations that may be adopted by the Board from time to time.

Section 2.21 Subdivision or Combination of Lots. No Lot may be subdivided or further divided or combined with another Lot by an Owner other than by Declarants or Builders.

Section 2.22 Satellite Dishes and Antennas. Except as provided below in this Section, no aerial, antenna or other device for reception of radio, television, microwave device or other electronic signals may be maintained on the roof of any Improvement, nor shall such structure be mounted at any location so as to be visible from neighboring properties or adjacent streets. Plans for structures, other than FCC Structures (defined below) must be approved by the Design Review Committee prior to installation. An FCC Structure is defined by the Federal Communications Commission as: (a) an antenna that is one meter (39.37") or less in diameter and is designed to: (i) receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite; (ii) receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite; and (b) an antenna that is used to receive television broadcast signals. An FCC structure may be installed on a Lot without prior Design Review Committee approval, subject to the following conditions:

(a) To the extent feasible, the satellite dish/antenna should be placed in the rear or side yard in such a manner that it is screened from adjacent street(s) and neighboring properties. Rooftop mounting that is visible from adjacent street(s) is discouraged.

(b) The satellite dish/antenna should be installed at the lowest possible placement, utilizing ground level siting (unless a signal is not attainable).

(c) The satellite dish/antenna should be painted to match the surrounding environment or screened with a reasonable amount of plantings to minimize its visual impact to surrounding areas, so long as such painting or screening does not materially interfere with the broadcast signals.

Section 2.23 Utilities Location. When installing Improvements on a Lot, Owners are responsible for locating all water, sewer, gas, electrical, cable television or other utility lines within easements granted for such purposes. Owners must not construct any Improvements over utilities easements without the consent of the utility involved and Owners will be responsible for any damage to utility lines caused by their work. Owners should request the location of underground utility lines and easements through a utility line location center.

ARTICLE 3. DESIGN REVIEW AND APPROVAL

Section 3.1 Design Review Committee. The Design Review Committee shall consist of at least one and not more than five individuals, all of whom shall be appointed by the Board. In lieu of appointing a separate Design Review Committee, the Board may act as the Design Review Committee. The Design Review Committee shall exercise the functions assigned to it by the Board, this Declaration and the Design Guidelines.

Section 3.2 Composition of the Design Review Committee. If the Board does not serve as the Design Review Committee, then individuals appointed to serve on the Design Review Committee shall serve for a two-year term and may be removed by a majority vote of the Board at any time even if prior to expiration of a designated term. If a vacancy on the Design Review Committee occurs for any reason, a majority of the Board may appoint a replacement to complete the unexpired term. Design Review Committee members need not be Owners.

Section 3.3 Design Guidelines. The Design Review Committee may from time to time adopt Design Guidelines applicable to Improvements within the Property. Such Design Guidelines may regulate, without limitation, the following matters:

- (a) site location;
- (b) architectural design;
- (c) site accessories, (e.g., lights, signs);
- (d) landscape design;
- (e) building size and height;
- (f) aesthetics of Improvements; and
- (g) approval processes.

The Design Review Committee shall have the right to modify or supplement the Design Guidelines from time to time upon the written approval of the Board. The Design Guidelines may include guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the Design Review Committee, may state procedural requirements, may specify acceptable Improvement(s) that may be installed without the prior approval of the Design Review Committee, may include design standards, conditions, restrictions, requirements, and/or other provisions, pertaining to any matters; and may provide for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or other laws or ordinances, or for any other reason that the Design Review Committee deems to be proper, necessary or in the best interests of the Community. In addition, such provisions may provide for blanket approvals, interpretations and/or restrictions on Improvements. All Improvements proposed to be constructed, and any guidelines that are adopted, shall be completed and used in accordance with this Declaration. The Design Guidelines shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of conflict between the Design Guidelines and the provisions of this Declaration, the Declaration shall control.

Section 3.4 Approval Required. An Improvement shall not be placed, erected, installed or permitted to exist on any Lot, the exterior of any existing Improvements shall not be altered, and construction shall not be commenced on any Improvements, unless and until the plans for such Improvement have been submitted to and approved in writing by the Design Review Committee. Improvements installed or constructed prior to Design Review Committee written approval, or not installed or constructed in compliance with the approved Plans, shall be

deemed to be in non-compliance and may be subject to enforcement action under this Declaration including, in addition to any other available right or remedy set forth herein, the Board's right to record a notice of violation or noncompliance against title to the Lot.

Section 3.5 Exclusive Approval by Board. Notwithstanding the foregoing provisions of this Article 3, the Board shall have the exclusive right to review, approve and enforce construction of all Improvements on a Lot prior to the completion of the first Home on a Lot in accordance with this Declaration and Design Guidelines. After the first Home on a Lot has been completed, the Design Review Committee shall have the right to review and approve construction of Improvements on a Lot in accordance with this Declaration and Design Guidelines.

Section 3.6 Exemption of Declarants and Builders. Declarants and Builders shall be exempt from the provisions of this Article 3. This exemption shall terminate at such time as Declarants and Builders no longer own any real property within the Property.

Section 3.7 Submittal of Plans. The requirements for submittal of plans to the Design Review Committee will be set forth in the Design Guidelines.

Section 3.8 Approval Process. All action required or permitted to be taken by the Design Review Committee must be stated in writing, and any such written statement must establish the action of the Design Review Committee. The Design Review Committee will approve or disapprove Plans within forty-five (45) days following submission of a complete set of Plans. If the Design Review Committee does not act within forty-five (45) days following submission, the plans shall be deemed disapproved. The Design Review Committee may charge reasonable fees to cover expenses incurred in the review of plans. The Design Review Committee will retain, for such time as provided in its records retention policy, one copy of all approved plans as part of its records and written records of all actions taken by it that will be available to Owners for inspection at reasonable business hours. Plan approval will automatically expire one year after approval if construction is not commenced within such one-year period, and if approval so expires, the applicant must submit a new request for approval.

Section 3.9 Approval Standards. In granting or withholding approval of matters submitted to it, the Design Review Committee shall consider the specific standards and specifications set forth in any Design Guidelines then in effect and any other matter, whether objective or subjective, that the Design Review Committee feels is relevant to the issue presented. The Design Review Committee shall have the right to disapprove any plans or details submitted to it if it determines, in its sole discretion, that the proposed Improvement is not consistent with the Design Guidelines or any provision of this Declaration; if the plans submitted are incomplete; or if the Design Review Committee deems the plans or details, or any part thereof, to be contrary to the best interests, welfare or rights of all or any part of the Community, District, or the Owners. If the Design Review Committee believes there may be questions of structural integrity or proposed Improvements that affect drainage on the Lot or adjacent portions of the Property, it may, as part of the review process, require certification of the final plans and specifications by a professional architect or engineer licensed in Colorado. A majority of the Design Review Committee members attending a meeting at which plans are approved shall

constitute a quorum, and a majority vote of the members of the Design Review Committee who are present at which a quorum is present shall constitute action of the Design Review Committee. Owners acknowledge that Design Review Committee review is inherently a subjective process and that the Design Review Committee is given wide discretion in carrying out its function. The decisions of the Design Review Committee shall be final and binding.

Section 3.10 Variances. The Board or the Design Review Committee shall have the authority to grant for a Lot a variance from any provision of this Declaration (including any provision of the Design Guidelines) that is within the authority of the Board or the Design Review Committee, as the case may be. Such variance will only be made upon a finding of exceptional and extraordinary circumstances or unreasonable hardship not created by the Lot Owner or circumstances where literal enforcement of the covenant will create a material hardship to the applicant, and that such a variance is not contrary to the intent or interests of the Community, District and Owners. A variance may be made subject to terms and conditions approved by the Board or the Design Review Committee. If a variance is denied, the applicant may not bring another application for a similar variance for the same Lot for a period of one year after submittal of the original request.

Section 3.11 Waivers; No Precedent. The approval or conditional approval or consent of the Design Review Committee, or any representative thereof, to any application shall not be deemed to constitute a waiver of any right to withhold or deny approval or conditional approval by the Design Review Committee as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval, conditional approval or consent be deemed to constitute a precedent as to any other matter.

Section 3.12 No Liability. The Declarants, the Builders, the District, the Board and the Design Review Committee, and any member, agent or representative thereof, shall not be liable in damages or otherwise to anyone submitting plans for approval or requesting a variance, or to any Owner or other Person, by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval or failure to approve the Plans or variance. Approval of plans shall not mean that plans are in compliance with the requirements of any local building codes, zoning ordinances, or other governmental regulations, and it shall be the responsibility of the Owner or applicant to comply with all codes, ordinances and regulations.

Section 3.13 Design Review Non-Compliance. If an Owner is in violation of the provisions of this Article or the Design Guidelines, the violation will be processed in accordance with Article 4 of this Declaration.

ARTICLE 4. ENFORCEMENT AND DELEGATION OF AUTHORITY

Section 4.1 Adoption of Rules and Regulations. The Board may adopt, amend, repeal and enforce such Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the use and enjoyment of District Properties, and the use of any other property within the Community, including Lots. Any such Rules and Regulations will be reasonable and non-discriminatory as determined by the Board in

its sole discretion. The Rules and Regulations may provide for the assessment of fines for a violation of this Declaration or the Rules and Regulations. Written notice of the adoption, amendment or repeal of any Rule or Regulation will be provided to all Owners, and copies of the currently effective Rules and Regulations will be made available to each Owner upon request. Rules and Regulations shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, this Declaration shall control. An owner's association or District which has been delegated authority by the Board to adopt, amend or repeal Rules and Regulations may so adopt, amend or repeal only with the written approval of the Board.

Section 4.2 Enforcement. The Board shall have the power to enforce the provisions of this Declaration and the Rules and Regulations, and shall take such action as the Board deems necessary or desirable to cause compliance by each Owner or other Person, including without limitation, the power to collect any fines, attorneys' fees or other charges that may be levied against an Owner or a Lot as provided in this Declaration. Without Notice and Hearing being required, the Board or its designees may take the following enforcement actions to ensure compliance with this Declaration or the Rules and Regulations:

- (a) taking action (with or without judicial approval) to abate a violation on the District Properties or a violation on a Lot in an emergency situation; and
- (b) bringing action at law or in equity to enjoin any violation or to recover monetary damages, or both.

The enforcement provisions of Sections 4.3 and 4.4 below are in addition to other specific provisions outlined in this Declaration and the Rules and Regulations, and the District is not required to follow the enforcement provisions of Sections 4.3 or 4.4 before seeking such other remedies. For example, the Board may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (a) the District's position is not strong enough to justify taking any or further action;
- (b) the covenant, restriction, or Rule and Regulation being enforced is, or is likely to be construed as, inconsistent with applicable law;
- (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the District's resources; or
- (d) that it is not in the District's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision to enforce or not enforce shall not be construed as a waiver of the Board's right to enforce such provision at a later time or preclude the Board from enforcing any other covenant, restriction, or Rule and Regulation.

Section 4.3 Notice and Hearing. If the Board determines a violation of this Declaration or the Rules and Regulations by an Owner or other Person has occurred, the Board or its designated representative shall give written notice to the Owner or other Person of the violation and the scheduling of a hearing by the Board or its designated representative. The notice shall provide the day, time and location of the hearing. The notice shall be hand-delivered or sent by U.S. Mail, postage prepaid, to the Owner or Person alleged to be in violation not less than ten (10) days prior to the scheduled hearing date. The hearing may be audiotaped by the Board. The Board or its designated representative and the Owner or other Person will have the opportunity to present evidence in support of their respective positions. Within ten (10) days of the hearing, the Board or its designated representative will issue its decision. The hearing will occur whether or not the Owner or other Person attends the hearing, absent extraordinary circumstances as determined by the Board or its designated representative, to hear evidence concerning the violation and render a decision. The decision shall be final and binding. The Board has the right to assess fines against an Owner or Person found to be in violation and all fines, together with interest (computed from its due date at a rate of twenty-one percent (21%) per annum or such lesser rate as the Board may establish from time to time), charges, late charges as determined by the Board, costs, fees, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full.

Section 4.4 Failure to Remedy Violation. Except in those instances when Notice and Hearing is not required before enforcement as set forth in Section 4.2 above, if an Owner is found to be in violation of the Declaration after Notice and Hearing and fails to remedy such violation within forty-five days after a decision is rendered, the Board may record a notice of noncompliance or notice of lien on the Owner's Lot. The notice will substantially set forth:

- (a) the amount of the monetary lien or description of the violation;
- (b) the interest and expenses of collection which have accrued, if any;
- (c) the legal description and street address of the Lot against which the lien is claimed or violation has occurred; and
- (d) the name of the record Owner.

The notice shall be signed and acknowledged by an officer of the Board or its duly authorized agent. The amounts claimed under the lien may include, without limitation, all collection expenses, attorney fees, court costs, recording costs and filing fees. Upon an Owner's payment in full or the remedying of the violation, the Board shall execute and record a release of the notice on the Owner's Lot. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosures of real estate mortgages (not including public trustee foreclosures of deeds of trust), or in any other manner permitted by law. In addition to, or as an alternative to, recording a notice on an Owner's Lot, if an Owner or Person has failed to remedy the violation within forty-five (45) days after a decision under Section 4.3 above is rendered, the Board may

remove the violation or otherwise remedy the noncompliance, and the Owner or Person responsible for the violation shall reimburse the Board, upon demand, for all costs and expenses incurred by the Board in remedying the violation, including reasonable attorneys' fees.

Section 4.5 Delegation of Authority. Subject to limitations set forth elsewhere in this Declaration, the Board shall have the right to delegate all or a portion of its design review and covenant enforcement rights and obligations under this Declaration to the Board of another District within which the Property is located, or to one or more owners associations within the Community. Such delegation will occur by separate written agreement between the Board and the entity to which such rights and obligations are being delegated. A delegation to an owner's association by the Board shall also include the right of the owner's association to levy and collect assessments from Owners to pay for the obligations of the owners association delegated to it under this Declaration. Notwithstanding such delegation, the Board shall always maintain the right, but not the obligation, to enforce the provisions of this Declaration, Design Guidelines and the Rules and Regulations if the Board, an owners association, Owner or Declarants fails to enforce the same.

ARTICLE 5. EASEMENTS

Section 5.1 District Easement. An easement to enforce its rights or perform its obligations pursuant to this Declaration is hereby granted to the District, its officers, agents, employees, representatives and assigns, upon, across, over, in and under all property within the Community, but only the exterior portions of all Lots, together with the right to make such use of the Community as may be necessary or appropriate in carrying out such maintenance or other rights or obligations.

Section 5.2 Easements for Utilities. Declarants hereby create and reserve to themselves and to all Builders until Declarants and Builders no longer own any real property within the Property, and thereafter, to the District, perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the utility easements of each Lot as shown on a Plat for the placement of utilities, drainage structures or other similar purposes, together with a blanket easement across, over and under the District Properties for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities and drainage facilities.

Section 5.3 Easement for Emergency Vehicles. An easement is granted for emergency vehicles, including fire, police and ambulance, to enter upon any portion of the Community for emergency and other official purposes.

Section 5.4 Matters of Record. In addition to the easements created in this Article and on any Plat, the Property is subject to all other easements, reservations and restrictions of Record.

ARTICLE 6.
SPECIAL DECLARANT RIGHTS; ADDITIONAL RESERVED RIGHTS

Section 6.1 Exercise of Special Declarant Rights. For so long as Declarants or Builders own any portion of the Property, Declarants reserve for themselves and all Builders and their successors and assigns the right to perform the acts and exercise the rights specified below (the "Special Declarants Rights"). Special Declarants Rights include the following rights:

(a) to exercise any Development Right, except that (i) Declarants shall not exercise any Development Right that materially adversely affects any Builder's rights without such Builder's prior written consent, which consent such Builder will not unreasonably withhold, condition or delay; and (ii) Declarants shall not exercise any Development Right that materially adversely affects or involves the District Properties without the District's prior written consent, which consent the District will not unreasonably withhold, condition or delay. The exercise of Development Rights as to some portions of the real property owned by Declarants or Builders will not obligate the Declarants or Builders to exercise them as to other portions;

(b) to maintain sales offices, sales trailers, construction offices, construction trailers, management offices, model homes and signs advertising the Community and/or Lots; and

(c) to use easements through the District Properties for the purpose of making Improvements within the Community or within real estate which may be added to the Community.

All of the Special Declarants Rights may be exercised by the Declarants or Builders with respect to any portion of the Property now or hereafter within the Community. Declarants and Builders may exercise any or all of these Special Declarants Rights at any times, and from time to time.

Section 6.2 Additional Reserved Rights. In addition to the Special Declarants Rights set forth above, Declarants reserve for themselves and all Builders and their successors and assigns the following additional rights for so long as Declarants or Builders own real property in the Property:

(a) The right to amend this Declaration without Owner consent or approval in connection with the exercise of any Development Rights or in connection with the qualification or continued qualification for loan guarantees, and for compliance with the requirements of government financing programs, except that Declarants shall not amend this Declaration without all Builders' prior written consent, which consent the Builders will not unreasonably withhold, condition or delay. Notwithstanding the forgoing provisions of this Section 6.2(a), Builders' rights to consent to Declarants' amendment of this Declaration shall automatically expire as to a specific Builder in the event that such Builder no longer has the right to acquire any portion of the Property from Declarants. Without requiring the consent of any other Person, Declarant and Builders, each with the consent of the other, also shall have the right to amend this Declaration to comply with the requirements of applicable law if any provision contained in this Declaration does not comply with applicable law; and

(b) The right to amend this Declaration without Owner consent or approval in order to correct clerical, typographical or technical errors, or to clarify any provision of this Declaration except that Declarants shall not amend this Declaration without all Builders' prior written consent, which consent the Builders will not unreasonably withhold, condition or delay. Notwithstanding the forgoing provisions of this Section 6.2(b), Builders' rights to consent to Declarants' amendment of this Declaration shall automatically expire as to a specific Builder in the event that in the event that such Builder no longer has the right to acquire any portion of the Property from Declarants.

ARTICLE 7. MANDATORY DISPUTE RESOLUTION

Section 7.1 Statement of Clarification. Without modifying or restricting the scope of this Article 7 and as a statement of clarification only, nothing contained in this Article is intended to prevent the parties from attempting to resolve any differences between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a Claim (as defined herein), that the mandatory dispute resolution provisions contained in this Article are required.

Section 7.2 Alternative Method for Resolving Disputes. Declarants, Builders, the District, their officers, directors, affiliates, agents, employees and contractors, all Owners, consultants, and any Person not otherwise subject to this Declaration but who agrees to submit to this Article (including any subcontractors and suppliers), each such entity being referred to individually as a "Bound Party" and collectively as the "Bound Parties," agree to encourage the amicable resolution of disputes involving the Community and all of its improvements without the emotional and financial costs of litigation. Accordingly, except as otherwise agreed to in writing between any Bound Parties, each Bound Party covenants and agrees to submit all Claims to mediation, and if such mediation is not successful, final binding arbitration, as set forth below in this Declaration, and not to otherwise bring legal or equitable action in any court. None of Declarants or Builders shall have any liability for the Improvements to Lots made or constructed by the other, and no Claimant shall have, nor be entitled to assert, any Claim against a Declarant or Builder who did not make or construct Improvements to the Claimant's Lot.

Section 7.3 Claims. Except as specifically excluded in this Section 7.3 or as otherwise agreed to in writing between any Bound Parties, including without limitation any purchase and sale agreement or similar document (each a "Superseding Agreement"), all claims, disputes and other controversies arising out of or relating in any way to the: interpretation, application or enforcement of this Declaration;

(b) design, construction, sale, maintenance, habitability or condition of any improvements within the Community or any alleged defect therein, including without limitation any "action" as defined in C.R.S. §13-20-802.5(1);

(c) rights, obligations and duties of any Bound Party under this Declaration, and/or any breach or alleged breach thereof;

are hereinafter referred to as a "Claim" or "Claims." All Claims shall be subject to and resolved in accordance with the terms and provisions of this ARTICLE 77.

Notwithstanding any contrary provision of this ARTICLE 7, the following shall not be Claims and shall not be subject to the provisions of this ARTICLE 77:

(d) any legal action by the District, Declarants or any Builders to obtain a temporary or permanent restraining order or injunction and such other ancillary relief as the court may deem necessary in order for the District or Declarants to act under and enforce the provisions of **Error! Reference source not found.**² (Covenants to Preserve the Character of the Community Design Approval) or **Error! Reference source not found.**³ (Design Review and Approval);

(e) any action to collect a fine or other charge as provided in Article 4 above;
and

(f) any legal action to enforce an arbitration award provided in this ARTICLE 7.

Any question about whether a matter is a Claim, and/or whether such matter is covered by this Article, shall be determined by the arbitrator.

Section 7.4 Notice of Claim. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") shall submit all of their Claims by written notification delivered to each Respondent, stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim; the legal or contractual basis of the Claim (i.e., the specific authority out of which the claim arises); and the specific relief and/or proposed remedy sought.

Section 7.5 Timely Initiation. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall a Claim be made after the date when institution of legal or equitable action based on such Claim would be barred by the applicable statute of limitations or repose.

Section 7.6 Right to be Heard. Upon receipt of a Claim and prior to commencing any arbitration proceeding which may fall within the scope of this ARTICLE 77, the Respondent shall have the right to be heard by the Claimant in an effort to resolve the Claim. The parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Any party may appoint a representative to assist such party in negotiations. With respect to the foregoing, the Claimant and Respondent shall individually (i.e. without the joinder or inclusion of other Owners or such Claimant serving as a class representative for or becoming a class member of other Owners) mediate all Claims prior to proceeding under Section 7.8 below. The mediation shall be conducted by a single mediator. If such parties are unable to agree upon the selection of a mediator within fifteen (15) days of initiation of the Claim, then a single mediator shall be chosen in accordance with the rules governing the selection of an arbitrator under the Colorado Uniform Arbitration Act (the "CUAA"). All mediation fees shall be split equally among the Claimant and Respondent. Prior to

conducting such mediation, and consistent with Colorado law, the parties thereto shall agree in writing to limit the admissibility in arbitration or any court action of anything said, any admission made, and any documents prepared in the course of the mediation. If Claimant or Respondent commences an arbitration or other action based upon a Claim without first attempting to resolve the Claim through mediation, such party shall not be entitled to recover the costs of such action, even if the same would otherwise be available in such arbitration or other action.

Section 7.7 Right to Inspect. If the Claim is asserted against Declarants or Builders and/or their respective officers, directors, affiliates, agents, employees, contractors or consultants and is based on a defect in the design or the construction of any Improvements within the Community, subject to Owner's prior written approval, which shall not be unreasonably withheld, Declarants and Builders respectively shall have the right to access the affected area for purposes of inspecting the condition complained of, and the correction thereof, including any necessary redesign. This shall include, but not be limited to, notice prior to conducting any investigative or destructive testing. The Claimant shall meet with Declarants and the Builders, as applicable, and/or their respective designees to discuss, in good faith, ways to resolve the Claim. In the exercise of the inspection rights contained herein, the inspecting party ("Inspecting Party") shall be careful to avoid any unreasonable intrusion upon, or harm, damage or costs to the other party. The Inspecting Party shall use best efforts to avoid causing any damage to, or interference with, any improvements on the property being inspected ("Inspection Property") and minimize any disruption or inconvenience to any person who occupies the Inspection Property; shall remove all debris placed on the Inspection Property by the Inspecting Party on a timely basis; and in a reasonable and timely manner, at the Inspecting Party's sole cost and expense, promptly remove equipment and materials from the Inspection Property placed on the Inspection Property by the Inspecting Party, and repair, replace and restore the Inspection Property to the condition of the Inspection Property as of the date of entry thereon by the Inspecting Party. The Inspecting Party shall not permit any claim, lien or other encumbrance arising from the use of its rights to accrue against or attach to the Inspection Property. The repair, replacement and restoration work includes, without limitation, the repair or replacement to any structures, driveways, fences, landscaping, utility lines or other Improvements on the Inspection Property that were damaged, removed or destroyed by Inspecting Party.

The Inspecting Party shall indemnify, defend and hold harmless the Owners, tenants, guests, employees and agents, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and attorneys' fees, resulting from or in performance of this Section 7.7, or as a result of any Inspecting Party's breach of this Section 7.7.

Section 7.8 Final Binding Arbitration. If the Parties do not reach a settlement of the Claim within 30 days after the mediation was conducted, binding arbitration shall be the sole means for resolving the Claim, and the Claimant shall have 30 additional days after conducting the mediation to submit the Claim to binding arbitration in accordance with the arbitration procedures set forth below: The parties agree that where any Claim is submitted to arbitration, and any other Bound Party other than another Owner may have liability with respect thereto, all parties to the dispute agree that other Bound Parties (other than another Owner) related to such dispute or any intertwined or connected dispute, may be joined as additional parties in such arbitration, or if separate arbitrations exist or are separately initiated, to the consolidation of all

such arbitrations. Notwithstanding anything to the contrary herein, each arbitration shall be conducted on an individual Owner basis to address the applicable Claim (i.e. without the joinder or inclusion of other Owners or such Claimant serving as a class representative for or becoming a class member of other Owners).

(b) If the Claim(s) are not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claims shall be deemed abandoned, and Respondent(s) shall be released and discharged from any and all liability to Claimant arising out of such Claims.

(c) In the absence of an agreement otherwise between the applicable Bound Parties, all Claims subject to arbitration shall be conducted in accordance with the CUA and be decided by a single private party arbitrator who is a retired Colorado state court or Federal judge or attorney licensed to practice law in Colorado.

(d) If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the demand for arbitration, then the arbitrator shall be chosen in accordance with the rules governing the selection of an arbitrator under the CUA.

(e) No person shall serve as the arbitrator who may have any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality and/or actual impartiality, including any bias or financial or personal interest or relationship in the outcome of the arbitration ("Arbitrator's Disclosure"). If any party objects to the service of any arbitrator within 14 days after receipt of that Arbitrator's Disclosure, such arbitrator shall be replaced in the same manner as provided in Section 7.8(c) above.

(f) The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in El Paso County, Colorado unless otherwise agreed by the parties.

(g) Subject to the provisions of these procedures, the arbitration shall be conducted in accordance with rules and procedures determined by the arbitrator.

(h) Subject to the arbitrator's right to establish rules and procedures governing formal discovery in the arbitration, no formal discovery shall be conducted in the absence of an order of the arbitrator or express written agreement of the parties. Notwithstanding the foregoing sentence, any party asserting Claims against the Declarants and/or Builders or their respective officers, directors, affiliates, agents, employees, contractors or consultants shall notify the Declarants and Builders, as applicable, prior to retaining any Person as an expert witness for purposes of any arbitration or authorized litigation, and the Declarants and Builders shall be entitled to conduct discovery, including depositions, of such expert.

(i) The award rendered by the arbitrator shall be final and binding, may be filed with any court of competent jurisdiction in accordance with applicable law and judgment obtained thereon, and execution may issue. An award in favor of any party shall be limited to actual damages, and the arbitrator shall not have any authority to award exemplary, punitive,

special, indirect, consequential or any other damages other than actual damages. All arbitrator and arbitration fees shall be split equally among all Claimants and Respondents. Each party shall be responsible for its own costs and expenses related to the Claim and shall not be entitled to or awarded its attorneys' fees or costs incurred with respect thereto, or the arbitrator's fees or arbitration fees.

(j) Unless directed by the arbitrator, there shall be no post-hearing briefs.

(k) The arbitration award shall address each claim to be resolved in the arbitration, provide a summary of the reasons therefor and the relief granted.

Section 7.9 Amendment; Servitude in Gross. The rights, terms and provision of this ARTICLE 77 are enforceable by Declarants and Builders, and shall not be amended without the written consent of Declarants and Builders. Further, this ARTICLE 77 and the rights, terms and provisions contained herein constitute a servitude in gross for the benefit of Declarants and Builders and their respective officers, directors, affiliates, agents, employees, contractors and consultants, shall inure to the benefit of the foregoing, and all of the foregoing are third party beneficiaries thereof, regardless of ownership of any portion of the Community.

Section 7.10 Binding Effect. BY TAKING TITLE TO ANY PORTION OF THE COMMUNITY, EACH OWNER THEREOF ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS ARTICLE 77 ARE A SIGNIFICANT INDUCEMENT TO DECLARANTS' WILLINGNESS TO DEVELOP THE COMMUNITY, AND BUILDERS' WILLINGNESS TO CONSTRUCT IMPROVEMENTS AND SELL HOMES, AND THAT IN THE ABSENCE OF THE PROVISIONS CONTAINED IN THIS ARTICLE 77, DECLARANTS AND BUILDERS WOULD HAVE BEEN UNABLE AND UNWILLING TO DEVELOP THE COMMUNITY, CONSTRUCT IMPROVEMENTS OR SELL HOMES FOR THE PRICES PAID BY THE ORIGINAL PURCHASERS. BY ACCEPTING TITLE TO SUCH PORTION OF THE COMMUNITY, EACH OWNER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS ARTICLE 77 LIMIT HIS OR HER RIGHTS WITH RESPECT TO THE RIGHTS AND REMEDIES THAT MAY BE AVAILABLE IN THE EVENT OF A POTENTIAL OR ACTUAL CONSTRUCTION DEFECT AFFECTING THE IMPROVEMENTS OR ANY PORTION THEREOF, INCLUDING WITHOUT LIMITATION ANY HOME.

ARTICLE 8. MISCELLANEOUS

Section 8.1 Persons Entitled to Enforce Declaration. Subject to the provisions of Article 7 above, the District (acting by authority of the Board); any board of an owners association with enforcement authority which has been delegated to it by written agreement with Declarants; the Declarants, any Builders, or any Owner (acting on such Owner's own behalf), shall have the right, but not the obligation, to enforce any or all of the provisions, covenants, conditions or restrictions contained in this Declaration. Subject to the provisions of Article 7 above, the right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provision of the Declaration, and all other rights and remedies provided in the Declaration or available at law or in equity.

Section 8.2 Term of Declaration. This Declaration shall be effective for twenty (20) years following the date this Declaration was originally recorded, and thereafter shall be automatically extended for successive periods of ten (10) years each unless it is terminated by the written approval of Declarants and Builders (until such time as Declarants and Builders no longer own real property within the Property and thereafter, the Board) and Owners of at least sixty-seven percent (67 %) of all Lots in the Community. The written agreement shall be duly acknowledged by the Declarants and Builders (or Board) and the Owners and recorded in the Records.

Section 8.3 Amendment of Declaration.

(a) Except as otherwise provided in this Declaration, and subject to the written approval of Declarants and Builders (until such time as Declarants and Builders no longer own real property within the Property, and thereafter, the Board), any provision, covenant, condition, or restriction in this Declaration may be amended, rescinded, added or modified upon written approval by Owners of at least sixty-seven percent (67%) of all Lots in the Community.

(b) This Declaration may be amended at any time by Declarants and Builders without the consent or approval of any other Owner or any other Person, in order to comply with the requirements, standards, or guidelines of the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, including the Federal Housing Administration, the Veterans Administration, or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities, except that Declarants shall not amend this Declaration without all Builders' prior written consent, which consent Builders will not unreasonably withhold, condition or delay. Declarants' and Builders' right of amendment herein shall terminate at such time as Declarants and Builders no longer own land within the Property.

(c) This Declaration may be amended at any time by Declarants and Builders without the consent or approval of any other Owner or any other Person in the exercise of Special Declarant Rights, except that Declarants shall not amend this Declaration without Builders' prior written consent, which consent Builders will not unreasonably withhold, condition or delay.

(d) No action to challenge an amendment of this Declaration may be brought more than one (1) year after the date of recordation of such amendment.

(e) An amendment to this Declaration shall be acknowledged by the Declarants and Builders (or Board) and if approval of Owners is required, shall be executed and acknowledged on behalf of the Board and contain a certification that written approval of such amendment was given by Owners of at least sixty-seven percent (67%) of all Lots within the Community, and shall be recorded in the Records.

Section 8.4 Notices. Unless otherwise required by applicable law or this Declaration, any requirement to deliver any notice, statement, demand, document or record to an Owner shall be deemed satisfied by sending the same to the applicable Owner by electronic delivery if the

Owner has provided an electronic mail or delivery address to the District. Otherwise, any notice given under this Declaration shall be in writing and may be served either personally, by mail or by any other lawful means. If served by mail, the notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the District for the purpose of service of such notice, or to the Lot of such Person if no address has been given to the District, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the third business day after it is deposited in a regular depository of the U.S. Postal Service. Such address may be changed from time to time by notice in writing to Declarants or the District.

Section 8.5 Violations of Law. Any violation of any federal, state, county or municipal law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any portion of the Property is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration. There shall be no obligation or duty of Declarants to undertake the enforcement of the laws, ordinances, rules or regulations of other governmental entities.

Section 8.6 Remedies Cumulative. Each remedy provided under the Declaration is cumulative and not exclusive.

Section 8.7 Limitation on Liability. District, the Board, Declarants, Builders, the Design Review Committee, and their officers, directors, shareholders, managers, members, partners, agents or employees, shall not be liable to any Person for any action or for any failure to act if such action or failure to act was in good faith and without malice.

Section 8.8 Representations and Warranties. No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarants, District, the Board, Builders or by any of their officers, directors, shareholders, members, partners, agents or employees, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless specifically set forth in writing.

Section 8.9 Disclaimer Regarding Safety. DECLARANTS, THE DISTRICT, THE BOARD, BUILDERS AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A LOT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT DECLARANTS, THE DISTRICT, THE BOARD, BUILDERS AND THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY.

Section 8.10 Costs and Attorney Fees. In any action or proceeding to enforce any

provision of the Declaration, except as otherwise provided in Article 7 above, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney fees, court costs, and collection costs.

Section 8.11 Governing Law. The Declaration shall be construed and governed in accordance with the laws of the State of Colorado. Exclusive venue for any legal proceeding shall be in El Paso County, Colorado.

Section 8.12 Severability. Each of the provisions of the Declaration shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial enforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 8.13 Number. Unless the context requires a contrary construction, as used in the Declaration, the singular shall include the plural and the plural, the singular.

Section 8.14 Board Resolves Questions of Construction. If any doubt or question should arise concerning the true intent or meaning of any of the provisions, covenants, conditions and restrictions contained in this Declaration, the Board shall determine the proper construction of the provisions in question and shall set forth the meaning, effect, and application of the provision in a written document acknowledged by the Board. This determination will thereafter be binding on all parties so long as it is not arbitrary or capricious.

[Remainder of page intentionally left blank – signature on following page]

IN WITNESS WHEREOF, Declarants have caused this Declaration to be executed as of the day and year first written above.

DECLARANTS:

Saint Aubyn Homes, LLC, a Colorado limited liability company

By: [Signature]
Name: JEFF MARK
Title: President

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

The foregoing instrument was acknowledged before me this 30th day of June, 2020, by Jeff Mark as President of Saint Aubyn Homes, LLC, a Colorado limited liability company.

Witness my hand and official seal.

SUSAN L GONZALES
NOTARY PUBLIC
{SEAL} STATE OF COLORADO
NOTARY ID 20044004607
MY COMMISSION EXPIRES MARCH 22, 2021

[Signature]
Notary Public

My Commission expires: 3. 22 21

Pikes Peak Habitat For Humanity, INC, a Colorado nonprofit corporation

By: Kristina J. Medina
Name: Kristina J. Medina
Title: Executive Director/CEO

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

The foregoing instrument was acknowledged before me this 29th day of July, 2020__,
by Kristina J. Medina as Exec. Dir./CEO of Pikes Peak Habitat For
Humanity, INC, a Colorado nonprofit corporation.

Witness my hand and official seal.

{S E A L}

Janet Risley
Notary Public

My Commission expires: May 18, 2024

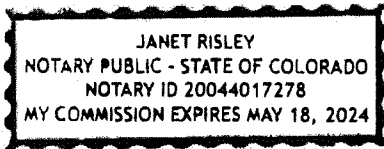


EXHIBIT A
The Property

All of Ridge at Sand Creek Filing No. 1,
County of El Paso,
State of Colorado