

Colonmade Communities LLC  
5291 E. Yale Ave  
Denver, CO 80222

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### COMMUNITY DECLARATION FOR PIONEER HILLS

THIS COMMUNITY DECLARATION FOR PIONEER HILLS is made and entered into this 29 day of September 2006, by Pioneer Hills, LLC, a Colorado limited liability company ("Declarant").

1-84

#### WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property situated in Arapahoe County, State of Colorado, which is described in Exhibit A (the "Property") and in Exhibit B (the "Community Annexable Area"); and

WHEREAS, Declarant desires to create a common interest community pursuant to the Act (as hereinafter defined) by recording this Declaration in every county in which any portion of the common interest community is located, and to be indexed in the grantee's index in the name of the common interest community and in the name of the Association (as hereinafter defined), and in the grantor's index in the name of the Declarant;

NOW, THEREFORE, Declarant, for itself and its successors and assigns, hereby declares that all of the Property shall, from and after the date hereof, constitute a planned community and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the covenants, conditions, restrictions, reservations, easements, equitable servitudes and other provisions set forth in this Declaration, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Property and to enhance the value, desirability and attractiveness of the Property. This Declaration shall: (i) run with the Property at law and as an equitable servitude; (ii) bind any Person (as defined herein) having or acquiring any right, title or interest in any portion of the Property; (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein; and (iv) inure to the benefit of, be binding upon and be enforceable by Declarant and its successors in interest and assigns, each Owner (as defined below) and its heirs, successors in interest and assigns, and the Association (as defined below) and its successors in interest.

#### ARTICLE I DEFINITIONS

"Act" means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101 *et. seq.* as the same has been and may hereafter be amended from time to time, and any statute that may from time to time replace the same.

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

“Allocated Interest” means the Common Expense Liability allocated to each Privately Owned Site. The Allocated Interest for each Privately Owned Site shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Privately Owned Sites within the Community from time to time. The Allocated Interest for each Privately Owned Site is subject to decrease with the annexation of additional property, if any, to this Community as provided in Article XIII hereof. The “Allocated Interest for Neighborhood Common Expenses” for Pioneer Hills Townhomes is as set forth on Exhibit C. Other Neighborhoods may have different methods of calculating the Allocated Interests for such Neighborhood. Such calculations shall be set out in a Supplement to this Declaration. Absent such a Supplement, the Allocated Interest for Neighborhood Common Expenses for other Neighborhoods shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Privately Owned Sites within such Neighborhood.

“Annual Assessment” is defined in Section 6.2.

“Architectural Review Committee” or “Committee” means the committee or committees appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration. Declarant and the Association reserve the right to establish separate committees for each Neighborhood.

“Articles of Incorporation” means the Articles of Incorporation of Pioneer Hills Owners Association, a Colorado nonprofit corporation, filed in the office of the Secretary of State of the State of Colorado.

“Assessments” means all monies due to the Association from Owners and all amounts which are duly assessed by the Board as Annual Assessments, Neighborhood Assessments, Special Assessments, Neighborhood Special Assessments, and Reimbursement Assessments, and all fines levied by the Board together with interest, late fees, costs and reasonable attorney’s fees for collection.

“Association” means Pioneer Hills Owners Association, a unit owners’ association organized as a Colorado non-profit corporation pursuant to the Act.

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

“Builder” means any Person who acquires from Declarant one or more Lots for the purpose of constructing on each a Dwelling and selling such Lot and Dwelling to any member of the general public.

“Building” means any one of the buildings containing Townhomes in the Community. “Buildings” means more than one Building.

“Bylaws” means the Bylaws of the Association which have been or will be adopted by the Board of Directors of the Association, as the same may be amended from time to time.

“Common Elements” means all real property interests including Improvements, now or hereafter owned by the Association or which the Association has a contractual right to use or which the Association Maintains and Repairs, holds or uses for the common benefit, use and enjoyment of the Owners, and designated by Declarant during the Development Period or by the Association thereafter, from time to time as either a General Common Element or a Limited Common Element.

“Common Expense Liability” means the liability for Common Expenses allocated to each Privately Owned Site. The Common Expense Liability for each Privately Owned Site shall be equal to the Allocated Interest of such Privately Owned Site.

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

“Community” means the Property together with any portion of the Community Annexable Area or other real property that becomes subject to this Declaration, as supplemented and amended from time to time. The Community is a planned community under the Act.

“Community Annexable Area” means the real property described in Exhibit B attached hereto and incorporated herein by this reference, all or any portion of which may from time to time be made subject to this Declaration and which may be annexed as provided in Article XIII of this Declaration.

“Community Budget” is defined in Section 3.6.1, and “Neighborhood Budget” is defined in Section 3.6.2.

“County” means Arapahoe County, Colorado.

“Declarant” means Pioneer Hills, LLC, a Colorado limited liability company and any other Person(s) to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant’s rights under this Declaration (which shall be the extent of the Declarant’s rights to which such assignee succeeds).

“Declaration” means this Community Declaration for Pioneer Hills and any other recorded instruments, however denominated, that create this Community, including any Supplemental Declarations and also including, but not limited to, Plats and maps.

“Design Guidelines” means residential design guidelines and rules relating to the procedures, materials, fees and construction of any proposed Improvements to any Privately Owned Site within a Neighborhood that may be published, amended and supplemented from time to time by the Committee. Each Neighborhood may have separate Design Guidelines.

“Development Period” means the time period commencing on the date this Declaration is recorded in the Records and terminating automatically on the earlier of the following events: (a)

conveyance of the last Privately Owned Site by Declarant to an Owner other than Declarant; or (b) thirty (30) years from the date this Declaration is recorded in the Records.

“Development Rights” means any right or combination of rights hereby reserved by Declarant to:

(a) add real property to the Community, create Privately Owned Sites or Common Elements within the Community, and subdivide or combine Privately Owned Sites or convert Privately Owned Sites into Common Elements;

(b) withdraw real property from the Community and thereby decrease the number of Privately Owned Sites and/or Common Elements; and/or

(c) exercise those rights granted to or reserved by Declarant as set forth in this Declaration or the Act.

“Dwelling” means a residential unit together with any attached garage, porch, deck or patio constructed upon a Privately Owned Site, but not including a Townhome.

“First Security Interest” means a Security Interest that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and assessments).

“General Common Elements” means any portion of the Common Elements for the common use and enjoyment by all of the Members and for other purposes as may be permitted by this Declaration. Initially, the General Common Elements shall consist of the real property described on Exhibit C attached hereto and incorporated herein by this reference and any real property dedicated as such to the Association on the Plat of the Property.

“Governing Documents” means this Declaration and any Supplemental Declarations, the Articles of Incorporation, the Bylaws, the Rules and Regulations and the Design Guidelines as they may be amended from time to time.

“Governmental Authority” means the City of Aurora, the County, the State of Colorado or any other governmental or quasi governmental entity having jurisdiction over the Community.

“Improvements” means all exterior improvements, structures (including Dwellings and Townhomes), and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, fixtures, utilities, mail boxes, swimming pools, tennis courts, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, parking areas, driveways, dog houses, dog runs, fences, screening walls, retaining walls, stairs, decks, drainage facilities, pumps, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas electricity, solar energy, telephone or other utilities, hardscape, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, basketball hoops, signs, and exterior air

conditioning, cooling, heating and water softening equipment, and including excavation, grading and construction work necessary to install, operate, or Maintain and Repair any of the foregoing.

“Limited Common Elements” means any portion of the Common Elements designated as Limited Common Elements from time to time by Declarant or by the Association for the exclusive use and benefit of one or more Owners of Privately Owned Sites within the Community, but less than all of such Privately Owned Sites. Limited Common Elements may be designated for the use of all Owners within a Neighborhood, in which case the cost of Maintenance and Repair of such Limited Common Elements shall be a Neighborhood Common Expense. Initially, the Limited Common Elements shall consist of the real property described on Exhibit C attached hereto and incorporated herein by this reference and any real property dedicated as such to the Association on the Plat of the Property.

“Lot” or “Privately Owned Site” means each platted lot, tract, or parcel of land intended for the construction of a Dwelling or Townhome shown upon any recorded Plat of the Property as the same may be amended from time to time, as well as each platted lot, tract, or parcel of land intended for the construction of a Dwelling or Townhome shown upon any recorded Plat of other real property that may be made subject to this Declaration in the future, but not including any lots, tracts, or parcels that are designated as Common Elements or intended for use as a Publicly Owned Site.

“Maintain and Repair” or “Maintenance and Repair” means maintenance, repair, improvement, alteration, renovation, restoration, re-construction and/or replacement.

“Managing Agent” means any one or more Persons employed by the Association and engaged to perform any of the duties, powers or functions of the Association.

“Member” means each Owner; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Privately Owned Site.

“Neighborhood” means a discrete group of Private Owned Sites designated as a Neighborhood in this Declaration or in any Supplemental Declaration. Initially, the Community shall have one Neighborhood, Pioneer Hills Townhomes.

“Neighborhood Assessments” is defined in Section 6.6.

“Neighborhood Common Expenses” means Common Expenses incurred for the benefit of a specific Neighborhood.

“Neighborhood Common Expense Liability” means the liability for Neighborhood Common Expenses allocated to each Privately Owned Site within the Neighborhood. The Neighborhood Common Expense Liability for each Privately Owned Site in a Neighborhood shall be equal to the Allocated Interest for Neighborhood Common Expenses.

“Neighborhood Exteriors” means all of the painted or stained exterior facades of the Townhomes within a Townhome Neighborhood or Dwellings within a Single Family Lot

Neighborhood, including without limitation, soffits, trim and facades, and the exterior facades of any Improvements located on the Neighborhood Limited Common Elements within a Neighborhood and defined in this Declaration or any Supplemental Declaration, but not including windows, pedestrian doors, replacement of light bulbs in exterior Townhome or Dwelling lighting fixtures. Regular painting and replacement of garage doors when deemed necessary for the entire Neighborhood shall be included, but not the repair or other maintenance of garage doors nor replacement due to casualty.

“Neighborhood Landscaping” means all landscaped areas, including without limitation, hardscape, flowerbeds, green belt areas, and sprinkler system located within a Neighborhood, including landscaped areas on each Townhome Lot within Pioneer Hills Townhomes.

“Neighborhood Limited Common Elements” means a portion of the Common Elements designated for the use of all of the Owners within a Neighborhood as established in this Declaration or any Supplemental Declaration and the costs of operation, management, and Maintenance and Repair of which shall be a Neighborhood Common Expense.

“Neighborhood Roads” means any private streets, alleys, curbs, gutters, sidewalks, driveways, driveway aprons and parking areas located within a Neighborhood.

“Neighborhood Roofs” means all of the surface roofing area on Buildings within a Townhome Neighborhood or Dwellings in a Single Family Lot Neighborhood and roofs of Improvements located within the Neighborhood Limited Common Elements of a Neighborhood, and any other similar structures within a Neighborhood, including downspouts and gutters, but not including the roof structural components, such as trusses, joists and sub-roof.

“Neighborhood Special Assessment” means a Special Assessment for the benefit of the Owners within a specific Neighborhood and charged against the Owners and such Owners’ Privately Owned Sites located within such Neighborhood on the basis as the Allocated Interest for Neighborhood Common Expenses.

“Owner” means the Declarant, a Builder, or other Person who owns a Privately Owned Site, but does not include (1) a Person having an interest in a Privately Owned Site solely as security for an obligation or (2) the owner of a Publicly Owned Site.

“Party Wall” means a wall which is part of the original construction of the Townhomes (as such wall may be repaired or reconstructed from time to time) and which separates two Townhomes as a common wall. To the extent not inconsistent with the specific provisions of this Declaration, the general rules of law regarding party walls shall apply to Party Walls within the Community.

“Period of Declarant Control” means the time period commencing on the date this Declaration is recorded in the Records and terminating twenty (20) years later; provided, that the Period of Declarant Control shall terminate no later than the earlier of (1) sixty (60) days after conveyance of seventy-five percent (75%) of the Total Privately Owned Sites to Owners other than Declarant; (2) two (2) years after the last conveyance of a Privately Owned Site by

Declarant in the ordinary course of business; or (3) two (2) years after any right to add new Privately Owned Sites to the Community was last exercised.

“Permitted Townhome Alteration” is defined in Section 7.3.

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

“Pioneer Hills Townhomes” means the initial Townhome Neighborhood in the Community. The initial Townhome Neighborhood may be re-named in the future.

“Plat” means a subdivision plat for any portion of the Community which may be recorded in the Records, as the same may be amended or supplemented from time to time.

“Privately Owned Site” or “Lot,” see definition of “Lot.”

“Property” means the real property described in Exhibit A attached hereto and incorporated herein by this reference, which is part of Pioneer Hills Townhomes.

“Publicly Owned Site” means any lot, tract or parcel of land within the Community which at any time is dedicated by Declarant or the Association to any Governmental Authority or special district. Publicly Owned Sites shall be subject to the provisions of Article X, Article XI and Article XIII hereof but shall not be subject to Assessments, nor shall the owners thereof be Members of the Association.

“Records” means the real estate records maintained in the office of the Clerk and Recorder of the County.

“Reimbursement Assessment” is defined in Section 6.5.

“Related Party” means (a) any person who resides with an Owner within a Dwelling or Townhome; (b) a guest, licensee or invitee of an Owner or of a person described in (a) above; (c) an occupant or tenant of a Dwelling or Townhome and any members of his or her household, or guest, licensee, invitee or cohabitant of any such person; or (d) a contract purchaser of a Privately Owned Site.

“Rules and Regulations” means rules and regulations adopted from time to time by the Board of Directors as amended.

“Security Interest” means an interest in a Privately Owned Site created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of this Declaration and, with respect to

notice of cancellation or substantial modification of certain insurance policies, "Security Interest" shall also mean and refer to any executory land sales contract wherein the administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the administrator or has been assigned by the administrator and is owned by the administrator's assignee, or a remote assignee, and the Records show the administrator as having the record title to the Privately Owned Site.

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any First Security Interest including, for purposes of this Declaration, and, with respect to notice of cancellation or substantial modification of certain insurance policies, the administrator of Veterans Affairs, an Officer of the United States of America, and his assigns under any executory land sales contract wherein the said administrator is identified as the seller, whether such contract is recorded or not and the Records show the said administrator as having the record title to the Privately Owned Site, or any successor to the interest of any such Person under such Security Interest.

"Single Family Lot" means a Privately Owned Site improved or to be improved with a Dwelling.

"Special Assessment" means a charge against an Owner and such Owner's Privately Owned Site representing a portion of the costs of the Association for the purpose of funding such functions as the Association may determine, including without limitation, major capital repairs, Maintenance and Repair, correction of Budget deficits, and construction, re-construction, renovation or replacement of Common Elements and Improvements.

"Special Declarant Rights" means rights hereby reserved for the benefit of Declarant to perform the following acts during the Development Period: to build and complete Improvements in the Community; to exercise any Development Rights; to maintain sales offices, construction offices, management offices, and signs advertising the Community and sale of Privately Owned Sites; to use easements through the Common Elements for the purpose of making Improvements within the Community or within real property which may be added to the Community, and to grant or create easements for access, utilities, drainage, water, parks and open space, and other purposes incidental to development and sale of the Community located in or across Privately Owned Sites owned by Declarant or Common Elements whether or not owned by Declarant and without the need for consent or approval of the Association, provided that such easements do not create a permanent, unreasonable interference with the rights of any Owners at the time such easement is created; to appoint or remove any officer of the Association or any Board of Directors member during any Period of Declarant Control; to allocate any of the Common Elements or portions thereof as Limited Common Elements and to allocate such Limited Common Elements among particular Neighborhoods or Privately Owned Sites; or to perform any other Special Declarant Right set forth in this Declaration or in the Act. Declarant also reserves the Special Declarant Right to convert any Privately Owned Site or other portion of the Community which is owned by Declarant into Common Elements. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter included within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time in any order that Declarant deems



appropriate. Notwithstanding the foregoing, Special Declarant Rights with respect to the appointment of officers and directors, may only be exercised in accordance with Article III hereof.

“Supplemental Declaration” means a written recorded instrument amending or supplementing this Declaration, containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, annexations, or any combination thereof, which affects any portion of the Property, the Community Annexable Area or other property made subject to this Declaration.

“Total Privately Owned Sites” means Three Hundred (300) Privately Owned Sites, which shall be the maximum number of Privately Owned Sites that may be subject to this Declaration. However, the number of Total Privately Owned Sites is not a representation or a guarantee as to the actual number of Privately Owned Sites that will ultimately be included in the Community.

“Townhome” means a residential dwelling unit together with any attached garage, porch, deck or patio constructed on a Lot within a Townhome Neighborhood and which includes one or more Party Walls, but excluding the land on which it sits.

“Townhome Lot” means a Privately Owned Site improved or to be improved with a Townhome.

“Townhome Neighborhood” means a Neighborhood in which the Lots are to be improved with Townhomes. Initially, the Community includes one Townhome Neighborhood, Pioneer Hills Townhomes. Declarant reserves the right to establish additional Townhome Neighborhoods by Supplemental Declaration.

## ARTICLE II ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

2.1. Association. The Association has or will be formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration, in its Articles of Incorporation and Bylaws and as provided in the Act or otherwise by Colorado law.

2.2. Membership in the Association. Each Owner of a Privately Owned Site shall be a Member of the Association, including Declarant and Builders, but excluding the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Privately Owned Site, and the membership shall automatically pass with fee simple title to the Privately Owned Site. Declarant and Builders shall hold one membership in the Association for each Privately Owned Site owned by Declarant or Builders during their ownership of such Privately Owned Site. Membership in the Association shall not be assignable separate and apart from fee simple title to a Privately Owned Site, except that an Owner may assign some or all of the Owner's rights as an Owner and as a Member of the Association to a tenant or Security Interest Holder, and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but no such delegation or assignment shall relieve an Owner

from the responsibility for fulfillment of the obligations of Owners under this Declaration, nor shall a tenant exercise an Owner's right to attend Association meetings or to exercise an Owner's right to vote (except by valid proxy) or exercise an Owner's right to be elected to the Board. The rights acquired by any such tenant or Security Interest Holder shall be extinguished automatically upon termination of the tenancy or Security Interest. The assignment of rights by an Owner pursuant to this Section shall not be subject to any present or future statutory time limit for the duration of proxy rights.

2.3 One Class of Membership. The Association shall have one class of voting membership. Each Owner shall be entitled to one (1) vote for each Privately Owned Site owned, except that no vote allocated to a Privately Owned Site owned by the Association may be cast. The total number of votes which may be cast in connection with any matter that comes before the Owners shall be equal to the total number of Privately Owned Sites then existing within the Community, less the votes of Privately Owned Sites owned by the Association. Except as otherwise provided in Article III of this Declaration, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control; but, in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. Except as provided during the Period of Declarant Control, the Owners shall elect the members of the Board of Directors of the Association.

### ARTICLE III BOARD OF DIRECTORS, MEMBERS AND OFFICERS

3.1. Authority of Board of Directors. The affairs of the Association shall be managed by its Board of Directors. Except as specifically provided in the Governing Documents, the Board of Directors may act in all instances on behalf of the Association.

3.2. Election of Part of Board of Directors During Period of Declarant Control. No later than sixty (60) days after conveyance of twenty-five percent (25%) of the Total Privately Owned Sites to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Total Privately Owned Sites to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by Owners other than the Declarant.

3.3. Authority of Declarant During Period of Declarant Control. Except as otherwise provided in this Article, during the Period of Declarant Control, the Declarant or Persons appointed by the Declarant may appoint all officers and directors and may remove all officers and directors of the Board of Directors appointed by it.

3.4. Termination of Period of Declarant Control. Not later than the termination of the Period of Declarant Control, the Owners including Declarant and Builders, shall elect a Board of Directors (with the exact number of members of the Board of Directors to be set forth in the Bylaws of the Association), at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers. Such Board of Directors and officers shall take office upon election.

3.5. Delivery of Documents by Declarant. After the termination of the Period of Declarant Control, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by the Act.

3.6. Budget.

3.6.1 Community Budget. The Declarant shall establish the first Community Budget and Neighborhood Budget. Thereafter, within thirty (30) days after adoption of any proposed budget for the Common Expenses of the Community ("Community Budget"), the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Community Budget to all of the Owners and shall set a date for a meeting of the Owners to consider ratification of the Community Budget not less than fourteen (14) days nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting the Community Budget is rejected by the vote or agreement of Owners of at least seventy-five percent (75%) of the Privately Owned Sites, then the Community Budget is ratified, whether or not a quorum is present. In the event that the proposed Community Budget is rejected, the periodic Community Budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent Community Budget proposed by the Board of Directors.

3.6.2 Neighborhood Budget. With the Community Budget, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the proposed budget for the Neighborhood Common Expenses for each Neighborhood in the Community ("Neighborhood Budget") to all the Owners in the affected Neighborhood. At the Owner's meeting to consider ratification of the Community Budget pursuant to Section 3.6.1 above, the Neighborhood Budget shall be ratified, unless at that meeting the Neighborhood Budget is rejected by the vote or agreement of Owners of at least seventy-five percent (75%) of the Privately Owned Sites in such Neighborhood. If the Owners of Privately Owned Sites in a specific Neighborhood reject their Neighborhood Budget, then the periodic Neighborhood Budget for such Neighborhood Expenses last ratified by such Owners shall be continued until such time as the Neighborhood Owners ratify a subsequent Neighborhood Budget proposed by the Board of Directors for their Neighborhood Common Expenses.

3.7. Notice and Comment. Notice of a matter affecting the Community may be given by the Association to each Owner in writing delivered personally or by mail to all Owners at such address as appears in the records of the Association, or notice may be published in a newsletter or similar publication which is routinely circulated to all Owners or in any manner permitted by law.

ARTICLE IV  
DUTIES AND POWERS OF ASSOCIATION

4.1. General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or Persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to Maintain and Repair the Common Elements (except as otherwise provided in this Declaration); and to improve and enhance the attractiveness, desirability and safety of the Community.

4.2. Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to any real property, including any Improvements thereon, and personal property transferred to the Association by Declarant and equipment related thereto, together with the responsibility to operate and Maintain and Repair such property and to perform any and all functions associated therewith. Property interests transferred to the Association by Declarant and which the Association shall accept may include fee simple interest, easements, leasehold interests and contractual rights or licenses to use property. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and any Supplemental Declarations. The Improvements on property conveyed to the Association shall be constructed generally in accordance with any plans and specifications for such Improvements; a certificate of occupancy issued by any Governmental Authority, or certification from an independent inspecting architect shall be conclusive evidence that an Improvement was constructed generally in accordance with its plans and specifications.

4.3. Duty to Manage and Care For Property.

(a) The Association shall Maintain and Repair all Common Elements, Improvements located thereon, and any drainage structure or facilities, or other public Improvements or publicly dedicated property required by a Governmental Authority as a condition of development of the Community or any part thereof, unless such Improvements or property have been dedicated to and accepted by a Governmental Authority for the purpose of such Maintenance and Repair or unless such Maintenance and Repair has been authorized by law to be performed and has been accepted by a special district or other municipal or quasi-municipal entity, or unless an Owner shall have the duty to Maintain and Repair Limited Common Elements located on his or her Privately Owned Site.

Further, the Association may provide such other Maintenance and Repair as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated property and the Improvements located thereon. The costs, expenses, fees and other amounts to be expended for the Maintenance and Repair provided for in this subsection shall be collected by the Association as Assessments.

(b) The Association may also manage, operate, care for, and Maintain and Repair certain Neighborhood Limited Common Elements, Neighborhood Roofs, Neighborhood Exteriors, Neighborhood Landscaping and Neighborhood Roads, the responsibility for which has been assumed by the Association in accordance with this Declaration or a Supplemental Declaration approved by the Association and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Owners within a Neighborhood entitled to use such facilities. The costs, expenses, fees and other amounts to be expended for the obligations provided for in this subsection shall be collected by the Association as a Neighborhood Assessment. In the case of the Pioneer Hills Townhome Neighborhood, the Association shall manage, operate, care for, and Maintain and Repair the Neighborhood Limited Common Elements, if any, Neighborhood Roofs, Neighborhood Exteriors, Neighborhood Landscaping (which includes landscaping on the Townhome Lots within the Pioneer Hills Townhome Neighborhood) and the Neighborhood Roads.

(c) Notwithstanding the foregoing, the Association shall have the right, but not the obligation, to delegate its powers and duties to manage, operate, care for, and Maintain and Repair any General Common Elements, Limited Common Elements, or portions thereof, or any other property to a special district.

4.4. Duty to Pay Taxes. To the extent not assessed with the taxes and assessments for Privately Owned Sites as provided in the Act, the Association shall pay all taxes and assessments levied upon the Common Elements and any other real property owned by the Association and all other taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments payable by it, provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful. The Association may maintain a tax reserve fund for payment of any taxes, including additional taxes which could be incurred as a result of an adverse ruling on any reporting position taken by the Association.

4.5. Duty to Prepare Budgets. The Association shall prepare budgets for the Association as required by and provided for in this Declaration.

4.6. Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration.

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

4.8. Duty to Provide Annual Report. At any time after the Community has been expanded pursuant to Article XIII of this Declaration to include 50 or more Privately Owned Sites that have been conveyed to purchasers other than a Builder, the Association shall provide an audited financial statement for the immediately preceding fiscal year within a reasonable time after written request by, and free of charge to, any Security Interest Holder or insurer or

guarantor of a First Security Interest. So long as there are fewer than 50 Privately Owned Sites in the Association that have been conveyed to purchasers other than a Builder, then Security Interest Holders shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available.

4.9. Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Architectural Review Committee.

4.10. Power to Acquire and Maintain Property and Construct Improvements. The Association may acquire property or interests in property as a Common Element for the common benefit of Owners, including Improvements and personal property. The Association may construct Improvements on property and may demolish existing Improvements. The Association shall have the power to maintain public rights of way if permitted by Governmental Authority and private rights of way and to perform Maintenance and Repair work on any portion of the Community as provided in this Declaration, whether or not owned by the Association.

4.11. Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Common Elements and the use of any other property within the Community, including Privately Owned Sites. Any such Rules and Regulations shall be reasonable and uniformly applied and enforced. Certain Rules and Regulations may apply to a single Neighborhood; provided that any Rules and Regulations applicable to a single Neighborhood shall be subject to the same procedures and rejection rights as for consideration of the Community Budget under Section 3.6.1. Rules and Regulations that affect a single Neighborhood shall be adopted by majority vote of the Board of Directors and unanimous vote of the Board members elected by the Owners of Privately Owned Sites in such Neighborhood. Rules and Regulations that affect the entire Community shall be adopted by vote of at least 67% of the Board members.

Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors and following the same procedures and rejection rights as for consideration of the Community Budget under Section 3.6.1, if the Rules affect only one Neighborhood. Copies of the currently effective Rules and Regulations shall be made available to each Owner upon request and payment of the reasonable expense of copying the same. Each Owner shall comply with the Rules and Regulations and shall see that Related Parties of such Owner comply with the Rules and Regulations. The Board of Directors may establish and enforce penalties for the infraction thereof, including, and without limitation, the levying and collecting of fines. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of a conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

4.12. Power to Enforce Declaration and Governing Documents. The Association shall have the power to enforce the provisions of this Declaration and of the other Governing Documents, and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and the Related Parties of each Member. Without limiting the

generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of the other Governing Documents, by any one or more of the following means: (a) by entry upon any property within the Community after Notice and Hearing as defined in the Bylaws ("Notice and Hearing") (unless a bona fide emergency exists), without liability to the Owner or occupants thereof, for the purpose of enforcement of or causing compliance with this Declaration or the other Governing Documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the other Governing Documents, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the other Governing Documents; (d) by exclusion, after Notice and Hearing, of any Member or Related Party of such Member from use of any Community facilities for a reasonable period as a penalty for any breach of this Declaration or other Governing Documents by a Member or Related Party; (e) by suspension, after Notice and Hearing, of the voting rights of a Member during and for up to 60 days following any breach of such Member or a Related Party or of such Member of this Declaration or the other Governing Documents, unless the breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after Notice and Hearing (unless the violation consists of failure to pay any Assessment, in which case Notice and Hearing shall not be required), a Reimbursement Assessment against any Member for breach by a Member or Related Party of such Member of this Declaration or the other Governing Documents; and (g) by levying and collecting, after Notice and Hearing, reasonable and uniformly applied fines and penalties, established in the other Governing Documents from any Member, for breach by such Member or such Member's Related Party of this Declaration or of the other Governing Documents.

4.13. Power to Provide Public Functions. The Association shall have the power to acquire, construct, operate, manage, and Maintain and Repair public facilities and to provide public functions, including without limitation, central telecommunication, cable TV; trash collection and recycling; and snow removal.

4.14. Power to Provide Services to Metropolitan Districts. Metropolitan Districts, if any, or the Association may use the services of the other in furtherance of their respective obligations, and they may contract with each other to better provide for such cooperation.

4.15. Power to Provide Special Services for Members. The Association shall have the power to provide services to a Member or group of Members, including without limitation, the Neighborhoods. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Association by such Member or group of Members of the costs and expenses which the Association incurs in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members, and that the payment for such services shall be secured by a lien on the Privately Owned Site or Sites of the Member or group of Members and may be collected in the same manner as a Reimbursement Assessment, or, if the written agreement or Supplemental Declaration so provides, in installments as part of the Annual Assessments.

4.16. Power to Operate and Charge for Facilities and Services. The Association shall have the power to acquire, create, construct, own and operate any and all such facilities and services as it deems appropriate, including without limitation, landscape maintenance and refuse collection, or any other similar or dissimilar function, and to establish charges for the use of facilities and services. The charges may include admission, rental or other fees and charges for any use of property, facilities or services of the Association. Such charges or fees shall be determined from time to time by the Board of Directors.

4.17. Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility, park and open space and any other easements in, on, over or under the Community for any lawful purpose, including without limitation, the provision of emergency services, utilities, telephone, television or other uses or services to some or all of the Members.

4.18. Power to Convey and Dedicate Property. The Association, with the approval of the Owners of at least sixty-seven percent (67%) of the Privately Owned Sites in the Community, shall have the power to grant, convey, dedicate or transfer any Common Elements or facilities owned by the Association to any Governmental Authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate, subject to the provisions located elsewhere in this Declaration for approval of the same by the Agencies, by Security Interest Holders and by Declarant.

4.19. Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money, and, with the approval of the Owners of at least sixty-seven percent (67%) of the Privately Owned Sites in the Community, to encumber Common Elements as security for such borrowing, subject to provisions located elsewhere in this Declaration with respect to required approvals and consents to such action by Declarant, Security Interest Holders, and the Agencies. Notwithstanding the foregoing approval requirement, the Association shall be authorized to borrow money for the acquisition of a Privately Owned Site to be used by a resident Managing Agent, if any, and may encumber any such Privately Owned Site with a First Security Interest without Member, Agency or First Mortgagee approval. An agreement to convey or subject the Common Elements to a Security Interest in accordance with this Section, shall be evidenced by the execution or ratification of an agreement by the requisite number of Owners described herein, subject to the provisions elsewhere contained in this Declaration requiring approval of the same by First Security Interest Holders, by the Agencies, or by Declarant. The agreement shall specify a date after which the agreement will be void unless it has by that time been recorded in the Records. The agreement shall be effective upon recordation.

4.20. Power to Employ Managing Agents. The Association shall have the power to retain and pay for the services of a Managing Agent or Managing Agents to undertake any of the management or functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the Managing Agent. Any contract or agreement with a Managing Agent shall be terminable by the Association for cause on no more than 30 days' prior written notice, and shall



be terminable by the Association without cause and without payment of a termination fee on no more than 90 days' prior written notice. No such contract or agreement shall be for a term of more than one year and may be renewable in succeeding terms of no more than one year each. Notwithstanding any delegation to a Managing Agent of any duties, powers or functions of the Association, the Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, powers and functions.

4.21. Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for such legal, accounting and other professional services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

4.22. Powers as to Trash Collection. The Association shall have the power to regulate the days and hours during which trash, solid waste and recyclables may be collected or put out for collection in any portion of the Community. The Association shall also have the power to provide services for the collection of trash and solid waste within one or any portions of the Community. Each Owner within any area served by such services shall, whether or not such Owner utilizes the service, be obligated to pay Assessments levied by the Association to cover the cost for providing such function. The areas to be served and the amount of Assessments shall be determined by the Board of Directors as part of the Budget. The amount of the Assessments shall be reasonable and shall represent a fair allocation of the costs of providing such services, including a fair allocation of administration and overhead costs of the Association.

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

4.24. General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Revised Nonprofit Corporation Act.

## ARTICLE V COMMON ELEMENTS

5.1. Owner's Rights of Use and Enjoyment Generally. Subject to the right of the Association to regulate, manage, convey and encumber the Common Elements, all Owners may use the General Common Elements for the purpose of such General Common Elements. In addition, all Owners in a Neighborhood may use the Neighborhood Limited Common Elements for the purpose of such Neighborhood Limited Common Elements.

5.2. Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate use of Common Elements by Members to enhance further the overall rights of use and enjoyment of all Members, including without limitation imposing reasonable limits on the times of use and numbers of guests permitted to use Common Elements.

5.3. No Partition of Common Elements. No Owner shall have the right to partition or seek partition of the Common Elements or any part thereof.

5.4. Liability of Owners for Damage. Each Owner shall be liable to the Association for any damage to Common Elements or for any expense or liability incurred by the Association which may be sustained by reason of the negligence or willful misconduct of such Owner or a Related Party of the Owner, and for any violation by such Owner or Related Party of this Declaration or any other Governing Document. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Reimbursement Assessment against a Member to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of this Declaration or of any other Governing Document, including interest and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

5.5. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Elements to family members residing with such Owner on the Privately Owned site or to tenant(s) and family members residing with such tenant(s) or contract purchaser(s) and family members residing with such contract purchaser(s) of such Owner who reside on the Privately Owned Site.

5.6. Conveyance or Encumbrance of Common Elements. Portions of the Common Elements may be conveyed or subjected to a Security Interest by the Association only in accordance with the Act and this Declaration.

ARTICLE VI  
COVENANT FOR ASSESSMENTS

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

6.2. Annual Assessments. The Annual Assessments levied by the Association shall be used to pay the Common Expenses, including without limitation for Maintenance and Repair of the Common Elements, as provided in this Declaration; to promote the recreation, health, safety and welfare of the residents of the Community; to provide Neighborhood services (if not separately assessed as Neighborhood Assessments) and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or other Governing Documents, or by law, further including without limitation, operation and Maintenance and Repair of drainage facilities, publicly dedicated property, and easements, insurance, taxes, trash removal, and management fees; provided, however, that such Annual Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

Annual Assessments shall be fixed at a uniform rate for all Privately Owned Sites sufficient to meet the expected Common Expense needs of the Association. The Annual Assessments shall include an adequate reserve fund for the Maintenance and Repair of those items that must be Maintained and Repaired on a periodic basis (including without limitation, any drainage facilities owned or maintained by the Association), and for the payment of insurance deductibles. All Annual Assessments shall be assessed against all the Privately Owned Sites in accordance with the Allocated Interests, except as specifically elsewhere provided in

this Declaration. Any portion of the Annual Assessments attributable to Neighborhood Common Expenses shall be assessed only against the Privately Owned Sites in the applicable Neighborhood and allocated on the basis of the Neighborhood Allocated Interests. If the Common Expense Liability is reallocated, Annual Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense Liability.

6.3. Date of Commencement of Assessments. Prior to the date on which the Declarant transfers title to a Privately Owned Site to a third party, the Declarant shall pay all Common Expenses. The obligation to pay Assessments shall commence as to each Privately Owned Site in the Property on the date on which Declarant transfers title to a Privately Owned Site to a third party. The obligation to pay Assessments as to any other Privately Owned Site shall commence on the date such Privately Owned Site is made subject to this Declaration by the terms of a Supplemental Declaration that is recorded in the Records; Annual Assessments shall be based on a Community Budget adopted by the Association as provided in this Declaration. A Community Budget shall be so adopted by the Association no less frequently than annually. The Annual Assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time; provided that the first Annual Assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Privately Owned Site between installment due dates shall pay a pro rata share of the last payment due.

6.4. Special Assessments. In addition to the Annual Assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, a Special Assessment. Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements. Any such Special Assessment shall be levied against each Privately Owned Site in accordance with the Allocated Interests set forth in this Declaration; provided that any Special Assessment benefiting a Neighborhood shall be a Neighborhood Special Assessment and shall be assessed only against such Privately Owned Sites within such Neighborhood and allocated on the basis of the Allocated Interest for Neighborhood Common Expenses.

6.5. Reimbursement Assessment. Any Common Expenses or portion thereof benefiting fewer than all of the Privately Owned Sites in the Community may be assessed by the Board exclusively against the Privately Owned Sites benefited as a "Reimbursement Assessment." Additionally, the Board may assess as a Reimbursement Assessment the cost of insurance to be allocated in proportion to risk. The Board of Directors shall also have the right to levy a Reimbursement Assessment against any individual Owner to reimburse the Association for any Common Expense arising from the negligence, misconduct or failure to comply with this Declaration by such Owner or such Owner's Related Parties. The Board in its sole and reasonable discretion shall make the determination if an Assessment shall be a Reimbursement Assessment levied against fewer than all of the Owners.

6.6. Neighborhood Assessments. Neighborhood Assessments shall be calculated for all Privately Owned Sites within a Neighborhood sufficient to meet the expected Neighborhood Common Expense needs of the Association. The Neighborhood Assessments shall include an

adequate reserve fund for the Maintenance and Repair of Neighborhood Limited Common Elements and those items that must be Maintained and Repaired on a periodic basis, such as Neighborhood Exteriors, Neighborhood Roofs, Neighborhood Roads, and Neighborhood Landscaping, as applicable. All Neighborhood Assessments shall be assessed against all the Privately Owned Sites in the Neighborhood in accordance with the Allocated Interests for Neighborhood Common Expenses.

6.7. Lien for Assessments.

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

(b) Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments is required. However, the Board of Directors or Managing Agent of the Association may prepare, and record in the Records, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Privately Owned Site, and a description of the Privately Owned Site. If a lien is filed, the costs and expenses thereof shall be added to the Assessment for the Privately Owned Site against which it is filed and collected. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

6.8. Priority of Association Lien.

(a) A lien under this Article VI is prior to all other liens and encumbrances on a Privately Owned Site except:

(i) Liens and encumbrances recorded before the recordation of the Declaration;

(ii) A First Security Interest on the Privately Owned Site, which was recorded or perfected before the date on which the Assessment sought to be enforced became delinquent; and

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

(b) A lien under this Section is also prior to the First Security Interests described in the preceding subsection (a) (ii) to the extent, if any, provided in the Act.

6.9. Receiver. In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments and if the Privately Owned Site is leased, the court may appoint a

receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments.

6.10. Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent (or to such other party as the Board may establish by rule), a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Privately Owned Site. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or Security Interest Holder or their designee, delivered personally by certified mail, first class postage prepaid, return receipt requested, or in any other manner as the Board may establish by rule, to the inquiring party, then the Association shall have no right to assert a lien upon the Privately Owned Site for unpaid Assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

6.11. Effect of Non-Payment of Assessments: Remedies of the Association. Any Assessment not paid within thirty days (30) days after the due date thereof may bear interest from the due date until the date payment is received at the rate of eighteen percent (18%) per annum, or at such other lawful rate as may be set from time to time by the Board of Directors, and the Board of Directors may charge a late charge thereon in an amount the Board determines from time to time to be sufficient to cover the extra costs and expenses involved in handling such delinquent payment. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Privately Owned Site. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include a reasonable attorney's fee to be fixed by the court, together with the costs of the action, and shall include interest and late charges as above provided. No Owner may be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Privately Owned Site against which the Assessments are made. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

6.12. Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves may be retained by the Association as reserves or in other such funds as the Board may direct or may be, but need not be, paid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments.

6.13. Working Capital Fund. The Association or Declarant shall require the first Owner (other than Declarant) of any Privately Owned Site who purchases that Privately Owned Site from Declarant to make a non-refundable contribution to the Association in an amount equal to \$350 for each Townhome Lot and \$100 for each Single Family Lot. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each

Privately Owned Site and shall, until used, be maintained in a segregated account with other such working capital funds for the use and 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. Upon each successive transfer of a Privately Owned Site, the transferee shall pay the non-refundable contribution to the Working Capital Fund, and the Owner shall not be entitled to a credit from his transferee or from the Association for such Owner's original contribution to Working Capital Fund. The Board by resolution may change the amount of the Working Capital Fee, and the new amount shall take effect for transfers of title occurring after the date of such Board resolution.

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

## ARTICLE VII ARCHITECTURAL REVIEW COMMITTEE

7.1. Composition of Committees. The initial Architectural Review Committee shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until the termination of the Development Period, Declarant may appoint the Architectural Review Committee. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor. The Declarant and Board of Directors may appoint separate committees for each Neighborhood as may be established in one or more Supplemental Declarations.

7.2. Review by Committee; Requirement for Approval by Governmental Authorities.

(a) No Building or other Improvements shall be constructed, erected, placed, planted, applied, installed, removed, destroyed or re-constructed upon any Townhome Lots, and no Dwellings or other Improvements shall be constructed, erected, placed, planted, applied, installed, removed, destroyed or re-constructed upon any Single Family Lot unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, fencing, walls, windbreaks and

grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee; provided, however, that the Declarant and Builders whose plans and specifications have received Declarant's prior written approval shall be exempt from seeking or obtaining Architectural Review Committee approval during such party's development of, construction on, or sales of any Buildings on a Townhome Lot or any Single Family Lot or Dwellings on any Single Family Lot. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements comply with the Design Guidelines promulgated and adopted by the Committee (as the same may be amended or supplemented from time to time) and conform to and harmonize with the existing surroundings, residences, landscaping and structures. The Architectural Review Committee may require that the applicant(s) of each submission pay a fee(s) to the Committee for the review and approval process, with such fee(s) to be in such amount(s) as may be set by the Committee in its discretion from time to time; provided that such fee(s) shall be uniform for submissions of a similar nature or cost. Such amounts, if any, shall be levied in addition to the Assessments against the Privately Owned Site for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for Assessments and subject to all other rights of the Association for the collection of such Assessments, as more fully provided in this Declaration.

(b) In addition to the required approvals by the Architectural Review Committee, as provided in this Article, the construction, erection, addition, deletion, change or installation of any Dwelling or other Improvements on any Single Family Lot shall also require the applicant to obtain the approval of all Governmental Authorities with jurisdiction over such matters, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permits by the Governmental Authority having jurisdiction shall be a precondition to commencement of any construction or alteration of any structure(s) on each Single Family Lot.

7.3. Permitted Townhome Alterations. Following its initial construction, an Owner may thereafter, subject to the terms and conditions of this Article VII, construct an Improvement within his or her Townhome (hereinafter referred to as a "Permitted Townhome Alteration") that:

(a) does not, either during construction or after completion, impair the structural integrity, electrical systems, building systems, or mechanical systems, or lessen the support of any portion of the Building in which such Townhome is located; and

(b) does not, during construction, substantially and unreasonably impair the use of any of the Common Elements by any Owner or other Person entitled to such use; and

(c) does not, after completion, change the appearance of or otherwise adversely affect the Common Elements or Building exterior; and

(d) does not, after completion, affect the appearance of the Property when viewed from any area outside the altered Townhome; and



(e) does not, either during construction or after completion, impair or adversely affect any easement or right granted pursuant to this Declaration; and

(f) does not involve the painting or alteration, in any manner, of the exterior of the Townhome, including doors and windows, or the painting or alteration of the exterior of the Building;

(g) does not impair in any way the Party Wall; and

(h) does not otherwise conflict with or constitute a violation of this Declaration.

Addition of any gross floor area to a Townhome beyond the exterior walls or usable area under the horizontal projections or expansion of decks, patios, porches, or other similar exterior Improvements is not permitted. The boundaries between Townhomes shall not be re-located.

At least thirty (30) days prior to the commencement of construction of a Permitted Unit Alteration, an Owner intending to perform a Permitted Unit Alteration shall provide plans and specifications for such Permitted Townhome Alteration to the Committee. Any Improvement to a Townhome that does not constitute a Permitted Townhome Alteration is prohibited (unless otherwise approved pursuant to this Article VII) and may be enjoined by the Association or any aggrieved Owner. Interior painting or other surface wall finish that does not require the removal of drywall, and replacing flooring with the same type of flooring (for example, re-carpeting a carpeted area) is permitted without Committee approval.

#### 7.4. Permitted Improvements to Common Elements.

(a) Improvements by the Association. The Association shall have the right to make Improvements to the General Common Elements. Ownership of any such Improvements shall be vested in the Association for the benefit of the Members. The Assessment liability for any such Improvement to the General Common Elements shall be apportioned among all Privately Owned Sites according to the Allocated Interests. The Association shall have the right to make Improvements to the Neighborhood Limited Common Elements. Ownership of any such Improvements shall be vested in the Association for the benefit of the Members within the Neighborhood. The Neighborhood Assessment liability for any such Improvement to Neighborhood Limited Common Elements shall be apportioned among all Privately Owned Sites in the Neighborhood according to the Allocated Interest for Neighborhood Common Expenses.

(b) No Improvements by Owners. Except as provided in this Article VI, no Owner shall have the right to make any Improvement to the Common Elements. If an Owner desires to make an Improvement to the Common Elements, the Owner shall make an application to the Committee for approval of such Improvement, signed by such Owner, which must include:

(i) the plans and specifications for the proposed Improvement in such level of detail as may be required by the Board of Directors;

- (ii) evidence to the Board of Directors that the proposed Improvement will comply with all applicable laws (including without limitation, zoning and building codes);
- (iii) a review fee in an amount established by the Board; and
- (iv) such other documentation and information as may be reasonably requested by the Board.

7.5. Procedures. The Architectural Review Committee shall approve, approve with conditions or disapprove all requests for approval within thirty (30) days after the complete submission of the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within thirty (30) days after the complete submission to the Committee of the plans, specifications, materials and other information with respect thereto, the submission shall be deemed denied.

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

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

7.8. Records. The Architectural Review Committee shall maintain for at least a period of three (3) years written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

7.9. Liability. Neither the Board of Directors, nor the Architectural Review Committee, nor any members thereof, nor any representative of the Committee appointed to act on its behalf, shall be liable in damages to any Owner or other Person by reason of any action,

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

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

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

## ARTICLE VIII INSURANCE

8.1. Insurance for Common Elements. The Association shall maintain insurance as required by the Act and other applicable law, including the following types of insurance on the Common Elements, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a Common Expense, unless such coverage is for Neighborhood Limited Common Elements charged to the Owners in a particular Neighborhood. In addition, the Association may maintain such insurance on such other property as the Board of Directors may determine in its discretion from time to time, or as may be hereinafter required. Notwithstanding any of the specific insurance requirements specified in this Article, the Association shall also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of the Agencies with respect to their insurance, guaranty, or purchase of Security Interests.

(a) Property insurance for broad form covered causes of loss; except that the total amount of insurance must not be less than the full insurable replacement costs of all the insured property less applicable deductibles at the time the insurance is purchased and at such renewal date, exclusive of land, foundations, excavations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) (adjusted in the future as reasonably prudent) per occurrence, insuring the Board of Directors, the Association, any Managing Agent, and their respective employees, agents and

all Persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and member of the Board of Directors. The Owners shall also be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and/or any independent contractor employed by the Association for the purpose of managing the Community and/or any Owner who disburses funds of the Association, in an amount at least equal to the estimated maximum of funds, including maintenance reserves, in the custody of the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two (2) months aggregate Annual Assessments on the Privately Owned Sites, plus such reserve funds as calculated from the current Budget of the Association. The Association may carry fidelity insurance in amounts greater than required hereinabove and may require any independent contractor employed for the purposes of managing the Community to carry more fidelity insurance coverage than required hereinabove. In the event the Association has delegated some or all of its responsibility for the handling of funds to a Managing Agent, the Association may require the Managing Agent to purchase, at its own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this subsection (c).

(d) If any Common Elements are located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then such a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

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

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

(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including, but not limited to, personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

## 8.2. Insurance for Pioneer Hills Townhome Neighborhoods.

(a) The Association shall maintain property insurance insuring the Neighborhood Limited Common Elements within any Townhome Neighborhood and the Townhomes within any Townhome Neighborhood, including windows and doors, electrical and

plumbing fixtures and connections, cabinets, countertops, interior wall surfaces all as originally installed by the Declarant, together with all of the structural components of the Townhome building envelope such as load bearing walls, firewalls and roof structure components, but not including appliances, carpeting and other floor covering, an Owner's personal property and any Owner added Improvements or betterments to a Townhome. Such insurance shall be written on an "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, and such other insurance as the Board may deem necessary or prudent from time to time for the risks associated with the Neighborhood Limited Common Elements within any Townhome Neighborhood and the Townhomes. The total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Neighborhood Limited Common Elements within any Townhome Neighborhood in an amount deemed sufficient in the judgment of the Board, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Townhome Owner and Board member. The Townhome Owners within any Townhome Neighborhood shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Neighborhood Limited Common Elements within any Townhome Neighborhood. The insurance shall cover claims of one or more insured parties against other insured parties.

(c) Flood insurance if the area where the Townhomes are located has been identified by the Secretary of Housing and urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area. Flood insurance for the Townhomes shall be maintained providing coverage equivalent to that provided under the National Flood Insurance Program in an amount of one hundred percent of the current replacement cost of all the insurable improvements located within the flood hazard area, to the extent available.

8.3. General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder of a Security Interest encumbering the Common Elements, if any, and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest encumbering the Common Elements or Townhomes, as applicable. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party

in interest, including such Security Interest Holders, upon request. Any such Owner's policy shall also contain waivers of subrogation. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

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

(a) To the extent the Association settles a claim for damages, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association.

(b) Any loss to any Common Elements which the Association has the duty to maintain, repair and/or reconstruct, which falls within the deductible portion of such policy, shall be borne by the Person who is responsible for the Maintenance and Repair of the property which is damaged or destroyed. In the event of a joint duty of Maintenance and Repair of the damaged or destroyed property, then the deductible may be apportioned among the Persons sharing in such joint duty or may be partly or wholly borne by the Association, at the election of the Board of Directors. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, his tenants, family members, guests or invitees. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner in questions and the Association may collect the amount from said Owner in the same manner as any Assessment. In other cases, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

8.5. Payment of Insurance Proceeds. Any loss covered by an insurance policy described in this Article must be adjusted with the Association (except as otherwise required by law), but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder, beneficiary or mortgagee under a Security Interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 5.5 of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.

8.6. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, the Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of

insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any Assessment. Any such Owner's policy shall also contain waivers of subrogation.

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

8.8. Insurance to be Maintained by Owners. Owners shall obtain insurance for their own benefit. Insurance coverage on each Single Family Lot and the Dwelling and other Improvements thereon, including but not limited to flood insurance, and the furnishings and other items of personal property belonging to an Owner, and public liability insurance coverage on each Single Family Lot, shall be the responsibility of the Owner of such Single Family Lot.

Insurance coverage on the furnishings, appliances and other items of personal property belonging to an Owner of a Townhome, carpeting and other floor coverings, Improvements or betterments added to a Townhome by an Owner and public liability insurance coverage on each Townhome Lot, shall be the obligation and responsibility of the Owner of the Townhome Lot. Upon request by the Association, each Owner of a Townhome Lot shall provide evidence of the existence of the foregoing insurance coverage. The Association may (but shall not be required) to obtain such insurance coverage on behalf of any Owner of a Townhome Lot not providing such evidence of insurance within ten (10) days of the Association's request, and the cost thereof shall be assessed to such Owner as a Reimbursement Assessment.

8.9. Annual Review of Insurance Policies. All insurance policies carried by the Association should be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies reasonably covers those risks intended to be insured by the Association. In making the aforesaid determination, the Board of Directors or the Managing Agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or seek other advice or assistance. Any Security Interest Holder shall be furnished with a copy of such appraisal upon request.

8.10. Notice of Cancellation. If the insurance described in this Article is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, or sent prepaid by United States mail, to all Owners.

8.11. Builder's Insurance. Each Builder shall maintain Builder's Risk, including Commercial general liability insurance, worker's compensation insurance and other coverages in such amounts with such deductibles as may be required by the Board from time to time.

ARTICLE IX  
DAMAGE OR DESTRUCTION

9.1. Damage or Destruction of Common Elements.

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

- (i) The Community is terminated;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Owners of sixty-seven percent (67%) of the Privately Owned Sites, vote not to repair or replace; or
- (iv) Prior to the conveyance of any Privately Owned Site to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

(b) The cost of repair or replacement of General Common Elements or Neighborhood Limited Common Elements that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, shall be a Common Expense or Neighborhood Common Expense as applicable. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds may be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Allocated Interests or Allocated Interests for Neighborhood Common Expenses, as applicable, or applied as provided in Section 6.12.

9.2. Single Family Lots. Any damage to or destruction of any Dwelling or other Improvement located on a Single Family Lot shall be promptly repaired and reconstructed by the Owner thereof using such Owner's insurance policy proceeds and personal funds of such Owner. "Repaired and reconstructed," as used in this Section 9.2, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. However, if a Dwelling located on a Single Family Lot shall be destroyed or so damaged that the Dwelling is no longer habitable, then the Owner of such Single Family Lot shall, within a reasonable time not to exceed 120 days after the event resulting in such damage or destruction, either commence and diligently pursue



repair or reconstruction of the Dwelling or demolish the same. Demolition of a Dwelling shall include removal of any foundation slab, basement walls and floors, re-grading of the Single Family Lot to a level condition, and the installation of such landscaping as may be required by the Architectural Review Committee pursuant to a plan submitted to said Committee by the Owner of said Single Family Lot. If the Owner of a Single Family Lot does not commence repair, reconstruction or demolition activities within a reasonable time, as provided above and diligently pursue the same in conformance with the plans approved by the Architectural Review Committee, then the Association may, in its reasonable discretion, after Notice and Hearing, enter upon the Single Family Lot for the purpose of demolishing the Dwelling and then landscaping the Single Family Lot in conformance with approved plans. The cost related to such demolition and landscaping shall be the personal obligation of the Owner of the Single Family Lot on which such work is performed as a Reimbursement Assessment and shall be subject to all the terms and provisions applicable to Assessments.

9.3. Townhome Lots. Any damage or destruction of Townhomes in a Townhome Neighborhood for which insurance is required under this Article must be repaired or replaced promptly by the Association unless:

- (i) The Community is terminated, in which case Section 38-33.3-218 applies;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Eighty percent of the Owners of Townhomes in the Townhome Neighborhood, including every Owner of a Townhome that will not be repaired or replaced, vote not to rebuild; or
- (iv) Prior to the conveyance of any Townhome in the Townhome Neighborhood to a Person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Townhome Neighborhood rightfully demands all or a substantial part of the insurance proceeds.

The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Neighborhood Common Expense. Such excess cost shall be assessed against all Owners in the Townhome Neighborhood in the same proportion as the Allocated Interest for Neighborhood Common Expenses. Further Neighborhood Assessments may be made in a like manner if the amounts collected prove insufficient to complete the repair and/or reconstruction. If all Townhomes in the Townhome Neighborhood are not repaired or replaced, the insurance proceeds attributable to the Townhomes that are not rebuilt must be distributed to the Owners of those Townhomes or to lienholders, as their interests may appear. Deductibles shall be assessed against the Owners receiving the benefit of the insurance claim proceeds.

ARTICLE X  
MAINTENANCE OBLIGATIONS

10.1. Association Maintenance Responsibilities. Following conveyance of title by Declarant, the Association shall provide for the Maintenance and Repair of the Common Elements and the Improvements thereon, including but not limited to the following:

(i) all landscaping and other flora, irrigation systems, parks, open space, ditches and gullies and other Improvements, including any private streets and bike and pedestrian pathways trails, situated upon the General Common Elements;

(ii) landscaping within public rights-of-way that abut or provide access to the Property;

(iii) all ponds, streams and wetlands which serve as part of the drainage and storm water retention system for the Property, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits and similar equipment installed therein or used in connection therewith;

(iv) the sanitary sewer and water lines and other utility lines from the point such lines enter the Community to the point such lines enter a Lot;

(v) the private roadways, including curbs and gutters, cross pans, parking areas, sidewalks, and street lights within the boundaries of the Community;

(vi) fencing, if any, located on or adjacent to the Property for which the Association undertakes maintenance responsibility from time to time;

(vii) the trail system in the Community;

(viii) entry signage and associated landscaped areas; and

(ix) other Maintenance and Repair work on the Common Elements as deemed appropriate or necessary by the Board for the benefit of the Owners.

The Association shall keep the Common Elements attractive, clean, functional, in good repair, and may construct and thereafter Maintain and Repair necessary or desirable alterations or Improvements thereon. At least annually, the Association shall inspect and perform such Maintenance and Repair work as may be necessary to keep all asphalt parking or driveway areas and all concrete cross pans in good condition. The Association shall have the right to recover

costs from an Owner for Maintenance and Repair work which is required due to damage to the Common Elements caused or permitted by an Owner or such Owner's Related Party. The Association may collect such costs as a Reimbursement Assessment.

In connection with the Pioneer Hills Townhome Neighborhood, the Association shall manage, operate, care for and Maintain and Repair the Neighborhood Limited Common Elements, if any, the Neighborhood Roads, the Neighborhood Landscaping, the Neighborhood Roofs, and the Neighborhood Exteriors located in the Pioneer Hills Townhome Neighborhood.

The determination of when and the magnitude and the manner of the above described Maintenance and Repair shall be determined solely at the discretion of the Board.

This Association obligation for regular repair and scheduled replacement does not include reconstruction following condemnation or casualty which is covered in Article IX.

10.2. Owner Maintenance of Townhomes. Other than the Association duties set out in Section 10.1, each Owner shall be responsible for the Maintenance and Repair of such Owner's Townhome and Townhome Lot, including without limitation interior courtyards and patios; balconies; doorsteps, stoops, porches and other fixtures designed to serve a single Townhome, but located outside of the boundary of a Townhome Lot; water and sewer service laterals; driveways; antennas/dishes and other Improvements in the Townhome Neighborhood Limited Common Elements permitted in writing by the Board of Directors and installed by an Owner; and the air conditioning compressor for each Townhome wherever located. No Owner may change the landscaping on a Townhome Lot, roof, gutters, windows, exterior doors, exterior light fixtures or any portion of the exterior facade of a Townhome without the prior written approval of the Board.

The Board shall have the authority to develop objective criteria for the purpose of defining when exterior Maintenance and Repair of any Dwelling, Townhome or structure within the Community is needed. Such criteria may be amended or expanded from time to time, as provided in the Rules. By way of example only, the Board may determine when all of the driveways in the Community shall be re-surfaced or replaced, and all Owners shall complete such re-surfacing or replacement work in the manner, using such materials, and within the time frame established by the Board.

In the event that any Owner fails to perform its Maintenance and Repair obligations in a manner satisfactory to the Association, the Board shall notify such Owner of such failure or that an unsightly condition exists which represents a violation of the Declaration. In such notice, the Board shall direct corrective action, to be performed by the Owner within 10 days after the date of the notice, or, at the discretion of the Board, a timetable for corrective action to be performed by the Owner as directed by the Board. If the Owner fails to comply with the Board's directives, the Association may pursue its remedies under this Declaration.

10.3. Owner's Maintenance of Single Family Lots. The Maintenance and Repair of each Single Family Lot and the Dwelling and other Improvements thereon shall be the

responsibility of the Owner of such Single Family Lot except as may be provided in any Supplemental Declaration.

10.4. Association's Right to Maintain and Repair and Demolish. In the event any Owner shall fail to perform his Maintenance and Repair obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Privately Owned Site subsequent to the expiration of said thirty (30) day time period and after Notice and Hearing as provided in the Bylaws to perform any or all of such Maintenance and Repair. The cost of such Maintenance and Repair shall be the personal obligation of the Owner of the Privately Owned Site on which such work is performed as a Reimbursement Assessment. The Board shall have the authority to develop objective criteria for the purpose of defining an unsightly condition as it pertains to the exterior maintenance of any Dwelling, Townhome or other structure within the Community. Such criteria may be amended or expanded from time to time, as provided in the Rules.

10.5. Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for Maintenance and Repair of or within: (a) any property for which the Association has an obligation to Maintain and Repair; (b) any Privately Owned Site; or (c) any Improvements located thereon, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any Related Party of such Owner, the cost of such Maintenance and Repair shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such Maintenance and Repair shall be added to the Assessment to which such Owner's Privately Owned Site is subject and shall be subject to all of the terms and provisions of Article VI of this Declaration. A determination of the negligence or willful act or omission of any Owner or Related Party of any Owner and the amount of the Owner's liability therefor, shall be determined by the Association after Notice and Hearing as provided in the Bylaws, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

10.6. Homebuyer's Warranty. The Declarant is not furnishing any construction warranty for the Dwellings or Townhomes. Any construction warranty provided will be furnished by the Builder.

10.7. Inspection. On a schedule to be provided by Declarant, the Association shall engage, as a Common Expense, the services of an engineer acceptable to both Declarant and the Association to inspect each Townhome Building (but not the interior of a Townhome) to determine whether or not any original structural construction defects exist in each Townhome Building. Each Owner of a Townhome hereby agrees to permit a Declarant representative, an Association representative, a Builder representative and such engineer to enter such Owner's Townhome Building and Townhome as necessary during reasonable business hours for the purposes of such inspection. The Owner may also be present at the inspection. At the time of the inspection, the engineer shall develop a list of any original structural construction defects which should be corrected by Declarant or Builder. Each Owner of a Townhome hereby agrees

to permit any contractors of Declarant or Builder access to his or her Townhome and Townhome Building during reasonable business hours for the purpose of correcting any construction defects noted by the engineer. The costs of such construction shall be paid by Declarant or Builder. Upon completion of the correction of the construction defects, the engineer shall re-inspect the Townhome Building to confirm completion of the work needed. If such work is completed to the engineer's satisfaction, then the engineer, the Declarant representative, the Builder representative and the Association representative shall execute a certificate that the construction defects have been cured.

On a schedule to be provided by Declarant, the Association shall engage, as a Common Expense, the services of an engineer acceptable to both Declarant and the Association to inspect the Common Elements Improvements to determine whether or not any original structural construction defects exist in such Improvements. A Declarant representative, an Association representative, and such engineer shall conduct the inspection. At the time of the inspection, the engineer shall develop a list of any original construction defects which should be corrected by Declarant. Declarant and its contractors shall have access to the Common Elements during reasonable business hours for the purpose of correcting any construction defects noted by the engineer. The costs of such construction shall be paid by Declarant. Upon completion of the correction of the construction defects, the engineer shall re-inspect the Common Elements to confirm completion of the work needed. If such work is completed to the engineer's satisfaction, then the engineer, the Declarant representative and the Association representative shall execute a certificate that the construction defects have been cured.

## ARTICLE XI RESTRICTIONS

11.1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Privately Owned Sites, all in order to enhance the value and attractiveness of the Privately Owned Sites and serve and promote the sale thereof.

11.2. Restrictions Imposed. This Community is subject to the recorded easements, licenses and other matters listed on Exhibit D attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Privately Owned Sites shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and mortgaged, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

11.3. Residential Use. Privately Owned Sites shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes; provided, however, that an Owner may use his Privately Owned Sites for professional or home occupation(s) so long as the applicable zoning permits such use, there is no external evidence thereof, and no unreasonable inconvenience to other residents of the Privately Owned Sites is created thereby. This section shall not apply to any activity conducted by Declarant with respect to the development or sale of Privately Owned

Sites, nor to the Declarant or Association as it relates to the performance of its rights or obligations under this Declaration.

11.4. Household Pets. No animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Privately Owned Sites; provided, however, that the Owners of each Privately Owned Site may keep a reasonable number of dogs, cats or other domestic animals which are bona fide household pets, 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 Privately Owned Sites. A reasonable number shall mean an aggregate of not more than three (3) dogs, cats, or other domestic animals within a Single Family Lot or two (2) dogs, cats or other domestic animals within a Townhome Lot, unless a greater number is approved in writing by the Board. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action(s) as it may deem appropriate to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets as a Reimbursement Assessment and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments. Any Owner who owns a pet shall obtain liability insurance specifically providing personal liability coverage for his or her pet's vicious acts and shall provide to the Association a certificate of insurance or other evidence that this coverage is in place upon request by the Association.

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

11.6. Miscellaneous Improvements.

(a) Except as otherwise provided by law, no advertising or signs of any character shall be erected, placed, permitted, or maintained on any Privately Owned Site except for the following: (i) a name plate of the occupant and a street number; (ii) a "For Sale," "Open House" or "For Rent" sign of not more than six (6) square feet; (iii) two (2) security system signs

no larger than one hundred (100) square inches each; or (iv) political signs subject to the limitations set out in the Act. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant or a Builder in connection with the sale or rental of the Privately Owned Sites, or otherwise in connection with development of the Community or construction on the Privately Owned Sites, shall be permissible.

(b) No chain-linked (or other) dog runs (unless approved by the Architectural Review Committee prior to the construction of such Improvements on a Single Family Lot), drying yards, service yards, wood piles or storage areas shall be so located on any Privately Owned Site as to be visible from a street or from the ground level of any other Privately Owned Site or Common Elements.

(c) No types of refrigerating, cooling or heating apparatus shall be permitted on a roof of a Townhome or Dwelling and no such apparatus shall be permitted elsewhere on a Privately Owned Site, except when appropriately screened from view, and except for residential solar systems approved by the Architectural Review Committee or as otherwise permitted in guidelines, rules or regulations promulgated by the Association.

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

(e) The Architectural Review Committee may at any time and from time to time, promulgate and publish guidelines, rules or regulations regarding the permitted types, locations, materials, and other matters having to do with fences or other Improvements.

(f) No wind generators of any kind shall be constructed, installed, erected or maintained on the Privately Owned Sites.

(g) All exterior lighting shall be of a down lit or low wattage design, minimizing light spill onto adjacent properties. The use of "flood lights" is prohibited unless specifically activated by a security monitoring system. Such fixtures, used for illumination of driveways, walks, address signage, and general landscape purposes, shall be compatible with the architecture of the structure(s). A minimum of one driveway light per driveway access point and one standard address light shall be required in the road corridor, both of which must be activated by electric photocells. These may be the same light. Exterior light fixtures are required to have

either frosted bulbs or frosted lenses. Non-glare landscape lighting is strongly encouraged, if applicable. However, the Architectural Review Committee reserves the right to prohibit any lighting it deems a nuisance to adjacent properties.

(h) No artificial vegetation, exterior sculpture or similar items shall be permitted outside of any structure on a Privately Owned Site, except as may be approved in advance by The Architectural Review Committee.

#### 11.7. Vehicular Parking, Storage and Repairs.

(a) Vehicles shall be parked only in the garages and in the driveways, if any, serving the Privately Owned Sites or in appropriate spaces or areas designated by the Board. Vehicle parking shall be subject to such reasonable Rules and Regulations as the Board may adopt. Declarant and/or the Association may designate certain parking areas for visitors or guests or handicap parking and may adopt reasonable rules governing the use of such areas. With the exception of Crestline Avenue, all roads and alleys within the Property are private roads, and parking on such roads shall be under the control of the Association which may limit or restrict on-street parking by adoption of rule. No parking shall be permitted in the alleys.

(b) No house trailer, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than 1 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, or limousine may be parked or stored in the Community unless such parking or storage is within the garage area of any Privately Owned Site, except that any such vehicle may be otherwise parked as a temporary expedient for loading and unloading and making deliveries or pickups.

(c) Except as hereinabove provided, no abandoned, stored or inoperable automobiles or vehicles of any kind shall be stored or parked on a Privately Owned Site within the Community in such a manner as to be visible from any other Privately Owned Site or Common Elements. An "abandoned, stored or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seven consecutive days or which does not have an operable propulsion system installed therein, or which is not then registered with current plates; provided, however, that otherwise drivable vehicles with current plates parked by Owners while on vacation (for a maximum of six (6) weeks) or during a period of illness shall not be deemed to be abandoned.

(d) In the event the Association shall determine that a vehicle is parked, abandoned or stored on a Privately Owned Site or the Common Elements in violation of subsections (a) or (b) of this Section, then a written notice describing said vehicle shall be delivered personally or by certified mail to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.



(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent, on a Privately Owned Site, washing and polishing of any motor vehicle otherwise permitted in the Community. Garage doors shall be closed when not in use.

(f) Parking is extremely limited in the Pioneer Hills Townhome Neighborhood. The provisions of this subsection (f) shall apply to this Townhome Neighborhood. Each Townhome shall be served by two garage spaces, and vehicles shall be parked in the garages. No Owner and persons residing in a Townhome may keep at the Property more vehicles than available garage spaces. To the extent an Owner or other person residing in a Townhome uses a garage space for purposes other than parking a vehicle, the number of vehicles allowed at the Townhome shall be reduced accordingly.

(g) The parking policies set out herein shall not be enforced in a manner contrary to the Act which provides special parking privileges for certain classes of individuals such as emergency first responders.

11.8. Nuisances. No nuisance shall be permitted in the Community or any portion thereof, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of the Community or any portion thereof. As used herein, the term "nuisance" shall not include any activities of Declarant or a Builder which are reasonably necessary to the development and construction of, and sales activities in, the Community; provided, however, that such activities shall not unreasonably interfere with any Owner's ingress and egress to or from his Privately Owned Site and a public right of way.

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

11.10. Restrictions on Trash and Materials; Trash Collection.

(a) No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the Dwelling or Townhome on any Privately Owned Site nor shall any such items be deposited on a street, unless placed in a suitable, tightly-covered container that is

suitably located solely for the purpose of garbage pickup. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

(b) The Board of Directors shall have the right to contract with a private trash collection company to provide regular residential trash service to the Privately Owned Sites within the Community and to pay the cost of such trash collection services as part of the Common Expenses.

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

11.12. Privately Owned Sites to be Maintained. Each Privately Owned Site, including the landscaping thereon, shall at all times be kept in a clean and slightly condition. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Privately Owned Site except as necessary during the period of construction.

11.13. Landscape. All portions of each Single Family Lot not used for structural improvements shall be landscaped utilizing primarily perennial and similarly "long-lived" ground cover, sod, shrubs, trees, gardens, xeriscape, and similar plantings and rock, bark, mulch and similar materials. Annual and other short lived plantings and landscape materials may be used to supplement long-lived elements. The landscaping of each Single Family Lot shall be maintained in a neat and well kept condition. Minimum landscape maintenance requirements include adequate watering (subject to municipal water use restrictions), periodic lawn mowing, periodic edging and pruning, removal and replacement of dead or dying plant material and elimination of weeds and undesirable grasses. Subject to any governmental requirements or restrictions, the landscaping of each Single Family Lot shall be completed by the later of six months after the date of the Single Family Lot's annexation into the Community, or the end of the next growing season after the date of the Single Family Lot's annexation into the Community. Landscaping plans must be approved in advance by the Committee. All landscaping on the Townhome Lots shall be installed by the Association and shall be Maintained and Repaired by the Association as a Neighborhood Common Expense for Pioneer Hills Townhome Neighborhood.

11.14. Bodies of Water. All wetlands, lakes, ponds and streams located on or within the Common Elements, if any, shall be aesthetic amenities to be used for irrigation and water storage only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing or use of personal flotation devices, shall be permitted without the prior approval of the Board.

The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of any lakes, ponds or streams on the Property.

11.15. Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Privately Owned Site, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Privately Owned Site, but all leases shall be in writing and all leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration and the other Governing Documents. All leases shall be for a term of at least six (6) months.

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

## ARTICLE XII EASEMENTS

12.1. Owner Easements. Declarant hereby establishes and grants to each Owner a nonexclusive easement of use, access and enjoyment in and to the Common Elements. Any Owner may extend its right of use and enjoyment to its Related Parties subject to reasonable regulation by the Board. Without limiting the generality of the foregoing, Declarant hereby grants to each Owner a nonexclusive easement over and across all walkways and other pedestrian access-ways and all streets, roadways, and/or driveways designated as Common Elements for the purpose of gaining pedestrian or vehicular access to and from any of: the public streets, roadways, and sidewalks adjoining the Property; the Common Elements; other tracts, Lots, or areas within any Neighborhood, or such Owner's Privately Owned Site. The easement granted by this Section shall be appurtenant to and pass with the title to the Lots.

In addition, each Owner shall afford to the Association and the other Owners, and to their agents or employees, access through such Owner's Privately Owned Site reasonably necessary for Maintenance and Repair of any Privately Owned Site and the Common Elements and any other property or Improvements Maintained or Repaired by the Association. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Privately Owned Site, the Owner responsible for the damage, or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair.

Further, each Privately Owned Site shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing Maintenance and Repair as provided in this Article during reasonable hours after reasonable notice to the Owners or occupants of any affected Privately Owned Site, except that no such notice shall be required in connection with any exterior, non-intrusive maintenance (for example boundary fence work), and except that in emergency situations entry upon a Privately Owned Site may be made at any time provided that the Owner or occupants of each affected Privately Owned Site shall be warned of impending emergency entry as early as is reasonably possible. The interior of any Dwelling or Townhome located on a Privately Owned Site shall not be subject to such easements as provided for in this Section 12.1.

During the Development Period, Declarant may construct and install boundary fences along certain rear and side Lot lines of the Privately Owned Sites, as Declarant deems appropriate. Declarant hereby reserves a five (5) foot non-exclusive easement along all rear and side boundaries of Lots in the Community for this construction and installation purpose and thereafter for the benefit of Declarant during the Development Period and for the benefit of the Association thereafter, for the purpose of Maintaining and Repairing, such boundary fences. Unless the Association elects to undertake the Maintenance and Repair of such boundary fences, each Owner shall Maintain and Repair the boundary fence located on such Owner's Lot.

12.2. Declarant's Use of Common Elements. An easement is hereby granted to the Declarant and to its agents or employees through the Common Elements as may be reasonably necessary for the purpose of discharging any of Declarant's or Builder's obligations or exercising any Special Declarant Rights or showing the Property to prospective purchasers. Subject to the immediately preceding sentence:

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

(b) The use of the Common Elements shall be subject to such Rules and Regulations as may be adopted from time to time by the Board of Directors.

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

12.3. Easement for Minor Encroachments. To the extent that any Privately Owned Site or Common Element as originally developed by Declarant encroaches on any other Privately Owned Site or Common Element, a valid easement for the encroachment exists; a "minor encroachment" for the purposes of this Section 12.3 is an encroachment of not more than one (1) foot beyond lot lines. This provision shall apply only to the original structures installed by Declarant or Builders and shall not apply to any alterations or repairs to or replacement of such structures. To the extent any utility service extension line providing service to an individual

Privately Owned Site encroaches on any other Privately Owned Site or Common Element, a valid perpetual easement for the encroachment exists.

12.4. Easements for Drainage. Easements for the installation and maintenance of drainage facilities are reserved as shown on the recorded Plats affecting the Privately Owned Sites and any amendments to such Plats or as established by any other instrument of record. Declarant creates and reserves to itself until the expiration of the Development Period, and thereafter to the Association, a blanket non-exclusive easement upon, over and across the Common Elements for the construction, installation, operation, maintenance, repair and replacement of drainage facilities and other appurtenances thereto.

12.5. Easement for Unannexed Property. The Declarant hereby reserves, for the use and benefit of the Community Annexable Area described on Exhibit B a non-exclusive, perpetual easement and right of way for: (a) pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Elements, now or hereafter constructed, erected, installed or located in or on the Community; (b) on, over, across and under the Common Elements for utilities and drainage and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Community Annexable Area or any portion thereof; (herein collectively the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services to those portion(s) of the Community Annexable Area which have not been included, from time to time, in the Community. Hence, the Annexable Area Easement shall be in effect for each portion of the Community Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Community Annexable Area at such time as both of the following have occurred with respect to such portion of the Community Annexable Area: annexation of such portion of the Community Annexable Area to the Community; and expiration of the Declarant's right to withdraw such portion of the Community Annexable Area from this Declaration.

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

(a) The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations contained in this Declaration; and

(b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and to mortgage said property as security for any such loan; and

(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure; and

(d) The right of the Association to promulgate, amend, repeal, re-enact and publish Rules and Regulations with which each Owner and Related Party shall strictly comply,

including, but not limited to, the right of the Association to regulate and/or restrict vehicular parking and Improvements; and

(e) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection (e), and Declarant reserves and shall retain the right to convey or dedicate property for public use as required by any subdivision Plat of the Community or Development Agreement pertaining thereto during the Development Period without the necessity of consent from the Association or Owners; and

(f) The right of the Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners or such Owners' Related Parties, for any purpose(s) the Board of Directors may deem to be useful, beneficial or otherwise appropriate; and

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

(h) The right of the Board to impose membership requirements and charge admission or other use fees for the use of any recreational facility situated within or on the Common Elements;

(i) The right of the Board to permit use of any recreational facility situated within or on the Common Elements by persons other than Owners and their Related Parties upon payment of use fees established by the Board, which fees the Board shall include as Association revenue in calculating the amount of Common Assessments necessary to satisfy the Common Expenses of the Association;

12.7. Certain Easements for the Association. Declarant hereby establishes and grants to the Association a non-exclusive easement over each Lot, at reasonable times and upon reasonable prior notice, and other portions of the Property (but excluding in any case the interior of any building Improvements that do not constitute Common Elements) for the purpose of: (a) permitting the Association reasonable and necessary access to any of the Common Elements for the purpose of Maintaining and Repairing, replacing and improving any such Common Elements and the Improvements thereon; and (b) installing, Maintaining and Repairing, replacing and improving landscaping, fencing, monumentation, signage, sidewalks, irrigation and water distribution systems, and utilities servicing any Common Elements; provided, however, that in using such easement, the Association shall not unreasonably interfere with any Owner's quiet use and enjoyment of such Owner's Lot.

12.8. Easements for Utilities. Declarant reserves for itself and its successors, assigns and designees, (including, without limitation and if so designated by Declarant, the Association and its successors, assigns and designees), perpetual non-exclusive easements upon, across, over

and under all of the Common Elements to the extent reasonably necessary for the purpose of exercising Special Declarant Rights, including without limitation installing, monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals, and all utilities, including, without limitation, water, sewer, telephone, gas and electricity, and for installing any of the foregoing on property which Declarant or the Association owns or within easements designated for such purposes on the Plat. This reserved blanket, non-exclusive right must be exercised, and specific, exclusive easements established pursuant hereto by Recorded Easement signed by Declarant, or by the Association following the Development Period. No Owner consent shall be required. The designees of Declarant and the Association may include, without limitation, any governmental or quasi-governmental entity, utility company, or other utility or service provider. The easements provided for in this Section shall in no way affect, avoid, extinguish or modify any other Recorded easement on the Property. Any damage to the Common Elements resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of such easements shall not extend to permitting entry onto any Lot, nor shall it unreasonably interfere with the use of any Lot.

12.9. Right of Entry. Declarant reserves for the Association and other Persons described below an easement for the right, but not the obligation, to enter upon any Lot: (a) for emergency, security and safety reasons; (b) to inspect any Lot for the purpose of ensuring compliance with this Declaration, the Bylaws and the Rules; and (c) to remove nonconforming Improvements as provided herein. Such right may be exercised by any member of the Board and the Association's officers, agents, employees and managers, the members of the Architectural Review Committee pursuant to Article VII hereof, and, for emergency, security and safety purposes, by all police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure such condition within a reasonable time after requested by the Board, but shall not authorize entry into any Dwelling or Townhome without permission of the occupant, except by emergency personnel acting in their official capacities.

12.10. Easements for Water Use and Development and Flood Control. Declarant reserves for itself and its successors, assigns and designees, for the duration of the Development Period, and Declarant hereby establishes and grants to the Association in perpetuity, as Common Elements, the nonexclusive right of ingress and egress and easement, but not the obligation, to enter upon any lakes, reservoirs, ponds, streams, drainage ditches, irrigation ditches and wetlands located within the Common Elements: (a) to provide water for the irrigation of any of the Common Elements and/or Lots; (b) to alter drainage and water flow; (c) to construct, maintain, operate and repair any bulkhead, wall, dam or other structure retaining water; (d) to develop, maintain, rehabilitate, restore, repair and protect wetlands, shorelines, beaches, waterways and other lakefront and reservoir-front areas; and (e) to remove trash and other debris therefrom. Such easement shall include an access easement over and across the Property, to the extent reasonably necessary to exercise rights granted under this Section, and in order to maintain and landscape the slopes and banks pertaining to such lakes, reservoirs, ponds, streams, drainage

ditches and wetlands. To the extent the exercise of such easement is anticipated to materially diminish the value of or unreasonably interfere with the use of any Lot potentially affected thereby, the prior written consent of the Owner of such Lot shall be obtained before such exercise. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

12.11. Additional Easements.

(a) Declarant's Right to Grant Easements. Declarant hereby reserves the non-exclusive right and power to grant, during the Development Period, such additional specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any of the Property or the Community Annexable Area.

(b) Association's Right to Grant Easements. Notwithstanding anything to the contrary in this Declaration, the Association, acting through the Board and without the approval of the Members of the Association, may grant easements on, over, or across the Common Elements for installation and maintenance of utilities, drainage facilities and roads and for other purposes not inconsistent with the intended use of the Common Elements.

12.12. Easements Run with Land. Except as otherwise provided in this Article XII, all easements established and granted pursuant to this Article XII are appurtenant to and run with the Property and will be perpetually in full force and effect so long as this Declaration is in force and will inure to the benefit of and be binding upon Declarant, the Association, Owners, Related Parties and any other Persons having any interest in the Property or any part thereof. The Lots and the Common Elements will be conveyed and encumbered subject to all applicable easements set forth in this Article XII, whether or not specifically mentioned in such conveyance or encumbrance.

12.13. Central Telecommunication, Receiving, and Distribution System. Declarant reserves for itself; its affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within Pioneer Hills, and to service the Privately Owned Sites with a central telecommunication (including telephone, cable television, electronic data, and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, computers, and other related apparatus and equipment ("Community Systems") as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right shall include, without limitation, Declarant's right to select and contract with companies licensed and/or authorized to provide telecommunications and cable television service in the State of Colorado, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Declarant may require that the Board enter into a bulk rate service agreement for the provision of Community Systems to all Lots as a Common Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Reimbursement Assessment, as appropriate.



12.14. Notices and Disclaimer as to Community Systems. In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, neither Declarant nor any of Declarant's successors or assigns shall in any manner be liable for, and no Community System user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not such interruption is caused by reasons within the service provider's control.

12.15. Disclaimer and Limitation of Liability. Neither the Declarant or the Association shall not be liable for any loss, damage or injury resulting from: (a) any virus or contamination of any data, computer, or computer system arising from access to the Community Systems; (b) any delays, interruptions, or inconveniences in accessing or using any functions of the Community Systems, or inability to access or download information, software or other materials through the Community Systems; (c) the quality, validity, completeness of; or (d) any inaccuracies, errors or omissions in, any information, software or other materials accessible through the Community Systems. The Association does not endorse and makes no representations or warranties regarding the quality, safety, suitability, or usefulness of any software or other materials accessible through the Community Systems. All users assume the entire risk associated with use of and access to the Community Systems and any information, software or other materials available through the Community Systems.

The Community Systems, and all Information and materials accessible to users of the Community Systems, are made available "as is" without warranties of any kind, either express or implied, including, without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose.

12.16. Community Intranet. The Property may be equipped with Community intranet system. Declarant shall have the sole discretion and authority to determine and select the appropriate system or systems, and may change, modify, or terminate the systems from time to time. There is no guarantee or representation that any particular type of community intranet system(s) will be utilized or provided.

Declarant shall have the sole authority to select the provider(s) of the components and services (including, but not limited to, hardware, software, programming, infrastructure, management and administration) constituting the community intranet system. Declarant shall have no obligation to utilize any particular provider or providers. Declarant also shall have the sole authority to control the content and the operation of the community intranet system during the Development Period.

Declarant may enter into contracts with providers for different components of the community intranet system and with other Persons for the maintenance, management, administration, upgrading, modification, and operation of such systems. The terms of the applicable contract(s) may, obligate individual Owners or occupants to execute contracts or agreements directly with the Persons providing intranet services or components prior to gaining access to such systems. Such contracts or agreements may contain terms and conditions relating to use and access to the community intranet system in addition to those contained in this Section.

Declarant may, from time to time, but shall not be obligated to, delegate or assign, all or a portion of its reserved rights under this Section to the Association.

12.17. Party Walls. No Owner shall materially alter or change a Party Wall, it being the intention of the Declarant that the Party Wall shall at all times remain in the same position as when constructed. The cost of maintaining a Party Wall and any necessary costs of repairing or rebuilding a Party Wall shall be the joint and equal obligation of the Owners of the Residences on each side of such Party Wall. Should a Party Wall be damaged or caused to be exposed to the elements as a result of the negligent acts or omissions of an Owner, or parties claiming under such Owner, the Party Wall shall be repaired or rebuilt at that Owner's expense. In the event that a Party Wall or any portion thereof must be rebuilt, it shall be erected in the same location and dimensions and of substantially similar material to the Party Wall as originally constructed. Each Owner shall have the sole responsibility of maintaining the finished surface of a Party Wall within that Owner's Townhome.

Mutual reciprocal easements and rights of access are hereby granted to each Owner of a Townhome in which a Party Wall is located as it presently exists or exists in the future, as it encroaches onto the other Townhome and for the purpose of making necessary Maintenance and Repairs to the Party Wall. Each Owner of a Townhome in which a Party Wall is located shall have the right to enter the Party Wall to maintain any utility installations located therein so long as such Owner restores the Party Wall to its original condition.

### ARTICLE XIII

#### ANNEXATION AND DECLARANT'S DEVELOPMENT OF THE COMMUNITY

13.1. Special Declarant Rights; Right to Annex an Annexable Area. Declarant shall have and hereby reserves Special Declarant Rights, including without limitation, the unilateral right, but not the obligation, to annex to the Community all or any portion of the Community Annexable Area. In accordance therewith, each Owner hereby grants to Declarant the right to annex the Community Annexable Area to the Community and to modify such Owner's rights in and to the Community accordingly. Further, any purchaser of a Lot within the Community Annexable Area understands that if such annexation fails to occur for any reason, Declarant shall have the right to annex such Lot even after the conveyance to such purchaser without prior approval of such purchaser. Any real property this Declaration does not designate as part of the Community Annexable Area, and which is subsequently added to the Community, shall be subject to the limitations of C.R.S. §38-33.3-222.

13.2. Property Which May Be Annexed. During the Development Period, Declarant may, but shall in no way be required to, from time to time, unilaterally, add to the Community all or any portion of the Community Annexable Area while Declarant owns an interest in any portion of the Community. Upon the consent of the Board of Directors, any other real property may be added to the Community at any time.

### 13.3. Manner of Annexation.

(a) Except as provided in Section 13.5 herein, property within the Community Annexable Area shall become part of the Community and subject to this Declaration ("Annexed Property"), effective upon the recordation in the records of a Supplemental Declaration meeting the requirements hereafter set forth, together with any supplemental Plat(s) applicable thereto. A Supplemental Declaration may provide for phased annexation so that Annexed Property may be made subject to the Supplemental Declaration and this Declaration at different times. A Supplemental Declaration: i) shall be executed and acknowledged by Declarant and by the owner of the Annexed Property described therein, if other than Declarant; ii) shall contain an adequate land description of the Annexed Property, including legal descriptions of Privately Owned Sites and general descriptions of General Common Elements and any Limited Common Elements; iii) shall contain a reference to this Declaration which shall state its date, its date of Recordation, and the book and page or reception number of the Records where this Declaration is recorded; iv) shall contain a statement that the Annexed Property is declared to be part of the Community under this Declaration and that the Annexed Property shall be subject to this Declaration; v) shall state if the Owners of any Privately Owned Sites therein or other Persons shall be authorized to use any Limited Common Element; vi) shall designate in which Neighborhood, if applicable, the Annexed Property is located; and vii) may include such other provisions as Declarant deems necessary or appropriate. A format of Supplemental Declaration is attached hereto as Exhibit E and incorporated herein by this reference. In addition, a deed by which Declarant conveys a parcel of property to another Person may constitute a Supplemental Declaration if it meets the foregoing requirements. A Supplemental Declaration may impose on the Annexed Property described therein covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, taking into account the unique and particular aspects of the proposed development of the Annexed Property covered thereby. Upon recordation of a Supplemental Declaration, the Annexed Property shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration.

(b) Improvements installed within Annexed Property shall be consistent in quality with the overall development plan for the Community and shall be of such comparable quality and character as will serve the purposes and objectives for which this Declaration has been established, as determined by Declarant in its sole discretion. Any lien arising from ownership or construction upon land added to this Declaration shall encumber only such land and Improvements located thereon and shall not affect the rights of existing Owners or the priority of Security Interests on Privately Owned Sites or Common Elements within the Community previously made subject to this Declaration.

13.4. Government Mortgage Agency Approval of Annexations. A condition precedent to any annexation hereunder shall be written approval of VA, HUD or other Agencies, as determined by Declarant to be necessary and appropriate, but only to the extent such Agencies' regulations require such approval. No consent of the Association, other Owners, or Security Interest Holders shall be required.

13.5. Effect of Annexation. In the event any real property is annexed into the Community as provided herein, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Community as expanded; for example, "Community" shall mean the real property described herein plus any additional real property annexed thereto; similarly, "Common Elements" and "Privately Owned Sites" shall include those areas as described herein as well as those that may be so designated on any Supplemental Declaration or supplemental Plat relating to any real property which is annexed pursuant to this Article. Every Owner of a Private Owned Site in the Annexable Area annexed to the Community shall, by virtue of ownership of a Private Owned Site within such Annexed Property and upon recordation of the Supplemental Declaration and Plat, be a Member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Member. The Recordation of the Supplemental Declaration shall operate automatically to grant, transfer, and convey to all Owners of Privately Owned Sites located within the Community, and Owners of Privately Owned Sites within the Annexed Property, the respective appurtenant, undivided rights, titles, interests, privileges, duties and obligations in and to both the existing, appurtenant Common Elements and any additional Common Elements added to the existing Common Elements by virtue of such annexation, if any. Annual Assessments for Private Owned Sites within the Annexed Property shall commence as of the date determined in accordance with Section 6.3. The Allocated Interests shall be recalculated as provided in the definition of "Allocated Interests."

13.6. Withdrawal of Annexed Property by Declarant. Declarant has, and hereby reserves the unilateral right, but not the obligation, to withdraw from the Community any separately described parcel of the Property and any Annexed Property made subject to this Declaration as applicable, in accordance with the terms and conditions of this Section. Declarant may withdraw property pursuant to this Section for any reason, including, but not limited to, correction of a surveyor error or other technical or clerical error. Declarant may accomplish withdrawal of property from the Community or subsequently Annexed Property ("Withdrawn Property") by the execution, acknowledgment and recordation of a Notice of Withdrawal. The Notice of Withdrawal (a) shall be executed and acknowledged by the Owner or Owners of the Withdrawn Property; (b) shall, if the Withdrawn Property is not then owned by Declarant, contain the executed and acknowledged written consent of Declarant for so long as Declarant owns any property in the Community and has the power to annex additional property to the Community; (c) shall contain an adequate legal description of the Withdrawn Property; (d) shall contain a reference to the appropriate Supplemental Declaration in the case of Withdrawn Property, which reference shall state the date hereof, the date of Recordation thereof and the book and page or reception number of the Records where the Supplemental Declaration was recorded; and (e) shall contain a statement and declaration that the Withdrawn Property is withdrawn from the Community. The withdrawal shall be effective upon recording the Notice of Withdrawal. Nothing herein shall be interpreted to prohibit later annexation of Withdrawn Property so withdrawn.

13.7. Expansion of Annexable Area. Subject to any limitations contained in the Act, Declarant has the unilateral right, but not the obligation, to expand the Community Annexable Area to add real property, effective upon the Recordation of a written instrument, executed by

Declarant, describing such real property and declaring that such real property shall thereafter be added to the Community Annexable Area.

13.8. Subdivision of Privately Owned Sites or Privately Owned Site Line Adjustments. The Declarant reserves as a Special Declarant Right, the right to subdivide, combine or replat any Privately Owned Site(s) owned by Declarant. The Declarant hereby reserves, as a Special Declarant Right in order to build and complete Improvements in the Community, the right to move any Privately Owned Site line(s) with the consent of the Owner(s) of each Privately Owned Site whose Privately Owned Site line is being moved. Such Privately Owned Site line adjustments may be done by the Declarant, if at all, for the purpose of accommodating Improvements which are constructed or are to be constructed, and shall not change the number of Privately Owned Sites in the Community at the time such Privately Owned Site line adjustment is approved by the applicable Governmental Authority.

13.9. Laws and Regulations. Every Owner and Related Party shall comply with all laws, statutes, resolutions and rules of federal, state and county governments applicable to the Property. Any violation thereof may be considered a violation of this Declaration by the Board. However, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules. All provisions of this Declaration, the Bylaws and the Rules shall also apply to all occupants of any Lot and to Related Parties of any Owner or occupant. Every Owner shall cause all occupants of its Lot and its Related Parties to comply with this Declaration, the Bylaws and the Rules.

13.10. Designation for Public Purposes. Declarant reserves the right to designate or dedicate one or more sites within the Property as a Publicly Owned Site.

13.11. Subdivision and Replating. Declarant reserves the unilateral right to seek approval from the County to subdivide into additional Lots, change the boundary line of or replat any Lots or other portions of the Property owned by Declarant, including the right to increase density of the Property thereby increasing the maximum number of Lots, so long as the Total Privately Owned Sites is not exceeded.

13.12. Use of the Name "Pioneer Hills." No Person shall use the name "Pioneer Hills" or any derivative in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Pioneer Hills" in printed or promotional matter where such term is used solely to specify that a particular property is located within Pioneer Hills, and the Association shall be entitled to use the name "Pioneer Hills" in its name.

13.13. Right to Construct Additional Improvements on Common Elements. During the Development Period, Declarant shall have and hereby reserves the right, but shall not be obligated to, construct additional Improvements on the Common Elements at any time and from time to time in accordance with this Declaration for the improvement and enhancement of the Common Elements and for the benefit of the Association and the Owners without the need of obtaining consent from the Association, other Owners or Security Interest Holders.

13.14. Miscellaneous Declarant Development Rights Within Community. Declarant shall have and hereby reserves the unilateral right, but not the obligation, to construct or create additional Privately Owned Sites or Common Elements (subject to the maximum number of Total Privately Owned Sites), to subdivide or combine Privately Owned Sites, to convert Privately Owned Sites into Common Elements and to allocate portions of the Common Elements as Limited Common Elements on all or any portion of the Community. In the event of a conversion of a Privately Owned Site into a Common Element, the Board shall reallocate the Allocated Interests as if the converted property were taken by eminent domain and shall set forth the reallocation in a Supplemental Declaration prepared, executed and recorded by the Association. In the event of a subdivision of a Privately Owned Site, the Board shall reallocate the Allocated Interests in any reasonable manner prescribed by the Declarant by a Supplemental Declaration prepared, executed and recorded by the Declarant. Declarant's rights under this Section 13.14 as to any Privately Owned Site shall terminate upon the sale by Declarant of such Privately Owned site to a third party.

13.15. Exercise of Development Rights Within the Property. During the Development Period, Declarant may from time to time, in its sole discretion, exercise any of the Development Rights, on all, any or no portion of the Property in whatever order Declarant determines. Declarant makes no assurances as to the boundaries, extent or order of the Property upon which Declarant shall exercise any of its Development Rights. The exercise of a Development Right with respect to one portion of the Property shall not require the exercise of such Development Right or any other Development Right with respect to such portion or any other portion of the Property. All Development Rights as to a Privately Owned Site shall terminate when Declarant transfers such Lot to a third party, other than a successor Declarant. All Development Rights (but not the remainder of the Special Declarant Rights) as to the Common Elements or a portion thereof shall terminate when such Common Elements are transferred to the Association.

13.16. Reservation and Exercise of Development Rights on Community Annexable Area. During the Development Period, Declarant may from time to time, in its sole discretion, exercise any of the Development Rights on all, any or no portion of the Community Annexable Area, in whatever order the Declarant determines. Declarant makes no assurances as to the boundaries, extent or order of the Community Annexable Area upon which the Declarant may exercise any of its Development Rights. The exercise of a Development Right with respect to one portion of Community Annexable Area shall not require the exercise of any other Development Right with respect to such portion. The exercise of a Development Right with respect to one portion of the Community Annexable Area shall not require the exercise of such Development Right or any other Development Right with respect to any other portion of the Community Annexable Area or the Community.

13.17. Expiration of the Declarant's Rights Period. Upon the expiration or other termination of the Development Period, any Privately Owned Site then subject to the Development Rights shall continue as a Privately Owned Site, unless the Declarant and the Association agree otherwise.

13.18. Declarant's Rights to Use Common Elements in Promotion and Marketing of the Community. During the Development Period, Declarant shall have and hereby reserves the right

to use the Common Elements in connection with the promotion and marketing of property within the boundaries of the Community and Community Annexable Property. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Common Elements such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of real property within the Community and Community Annexable Property; may use vehicles and equipment on the Common Elements for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Community to use the Common Elements.

13.19. Declarant's Rights to Complete Development of Community. No provision of this Declaration shall be construed to prevent or limit Declarant's right to complete the development of property within the boundaries of the Community; to construct or alter Improvements on any property owned by Declarant within the Community; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within the Community; or to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the boundaries of the Community and Community Annexable Property. Nothing contained in this Declaration shall require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure on any property owned by Declarant as a construction, model homes or real estate sales or leasing office in connection with the sale of any property within the boundaries of the Community, nor shall anything herein be deemed to require Declarant to seek or obtain the approval of the Architectural Committee or of the Association for any such activity or improvement or Property by Declarant on any property owned by Declarant or by the Association. Nothing in this Section shall limit or impair the reserved rights of Declarant as may be elsewhere provided in this Declaration. Notwithstanding the foregoing, Declarant and Builders shall not perform any activity or maintain any facility on any portion of the Privately Owned Sites owned by them in such a way as to unreasonably interfere with the use, enjoyment or access of an Owner, to and from his Privately Owned Site and to a public right-of-way. Any real estate used as a sales office, management office, construction office or a model, shall be a Privately Owned Site or Common Elements.

13.20. Declarant's Approval of Conveyances or Changes in Use of Common Elements. Until Declarant no longer has the right to appoint the members of the Architectural Committee, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change or alter the use of Common Elements, mortgage the Common Elements, or use Common Elements other than for the benefit of Members.

13.21. Declarant's Rights to Grant, Create and Use Easements. Declarant shall have and hereby reserves the right to grant, create and use temporary or permanent easements in, on, under, over and across any Privately Owned Site owned by Declarant and any Common Elements whether owned by the Declarant or the Association for the benefit of any portion of the Community, for access, utilities, drainage, water, open space and any other purposes incident to development and sale of the Community or incident to the exercise by Declarant of any of its

Special Declarant Rights without the necessity of obtaining consent or approval of the Association, the Owners or the Security Interest Holders.

13.22. Declarant's Rights to Convey Additional Property to Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey additional real property interests and Improvements thereon to the Association at any time and from time to time in accordance with this Declaration or any Supplemental Declaration. The Association shall accept title to all such conveyances.

13.23. Limitations Imposed by Government Mortgage Agencies. The exercise of the Special Declarant's Rights shall be subject to such reasonable requirements and limitations as may be imposed by Agencies or other governmental authorities having jurisdiction, including any requirements for consent, approval or modifications of this Declaration, the Articles of Incorporation, or the Bylaws by such Agencies or Governmental Authorities.

13.24. Other Covenants and Subassociation Declarations. During the Development Period, no Person shall Record any declaration of covenants, conditions and restrictions, declaration of condominium or similar instrument affecting any portion of the Property without Declarant's prior review and written consent as to the form and content of such instrument.

#### ARTICLE XIV DEVELOPMENT GUIDELINES

14.1. Subdivision of Privately Owned Sites. No Lot shall be subdivided or its boundary lines changed except pursuant to the terms and limitations herein, or pursuant to the exercise of Development Rights by Declarant. No Lot shall be made subject to any type of time-sharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among, or is allocated to, members of a program on a fixed or floating time schedule over a period of years.

14.2. Water and Mineral Operations. No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on the Property except by Declarant or by a party acting pursuant to written authorization of Declarant or by the Association.

14.3. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, trees, or hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

14.4. Development Subject to the Development Guide Agreement. The development of the Community shall be subject to the Pioneer Hills Use Areas 3, 4 and 5 GDP/PDP Development Standards and Guidelines ("Development Guide"). The Development Guide is incorporated herein by this reference.



ARTICLE XV  
GENERAL PROVISIONS

15.1. Enforcement and Arbitration.

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

(b) Any claim, controversy or dispute over or related to the design, construction or physical condition of the Common Elements, or Improvements related thereto, (including without limitation a Dwelling or Townhome) and made against the Declarant or the Association, shall be deemed a "Construction Dispute" and shall be resolved by binding arbitration in accordance with the Uniform Arbitration Act of 1975, C.R.S. §13-22-201, et seq., as amended (or if such Act is repealed, then such other uniform state arbitration law enacted in its place). Any such arbitration proceeding may be required by an aggrieved Person upon written notice delivered to the Association, the Declarant or other Person(s), as the case may be, before the date when commencement of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitations. No such demand for arbitration shall be made after the date when such proceedings would be barred by the applicable statute of limitations. An arbitrator (such as the Judicial Arbitrator Group or similar arbitration organization) mutually agreed upon by the parties shall administer all aspects of arbitrations conducted hereunder, including the selection of arbitrators, pursuant to the American Arbitration Association (AAA) Commercial Arbitration Rules. Arbitration hereunder shall be before a three-person panel of arbitrators for any dispute involving claims and counterclaims in the aggregate of One Hundred Thousand Dollars (\$100,000.00) or more, and shall be resolved before a single arbitrator for such disputes involving claims and counterclaims, in the aggregate, of less than One Hundred Thousand Dollars (\$100,000.00). Each arbitrator shall possess the requisite experience and expertise in respect to matters to which the controversy relates to enable him or her to perform his or her arbitral duties competently. The cost of the arbitrator(s) and of any hearing transcript shall be divided equally between the parties. Any and all discovery in conjunction with such arbitration shall be limited to information directly relevant to the controversy or claim in arbitration and shall be concluded within forty-five (45) days after the appointment of the arbitrator or arbitration panel.

(c) No party shall be entitled to receive any award of damages in connection with the arbitration of a dispute other than such party's actual damages, and Declarant, the Association and any Owner shall be deemed to have waived their right to receive any damages in a dispute other than direct damages, including without limitation, the right to receive indirect damages such as special damages and consequential damages, and the right to receive punitive or exemplary damages. BY TAKING TITLE TO A PRIVATELY OWNED SITE, EACH OWNER ACKNOWLEDGES AND AGREES THAT SUCH OWNER HAS WAIVED AND SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO ANY AWARD OF DAMAGES IN CONNECTION WITH THE ARBITRATION OF A CONSTRUCTION DISPUTE OTHER THAN SUCH OWNER'S ACTUAL DAMAGES. Judgment upon the arbitrator's determination shall be entered and enforced by the district court for the County in which the Community is located. In the event that any judicial proceeding is allowed or had herein, in order to expedite final resolution of the dispute, each party to the dispute waives any right to a jury trial for claims and counterclaims relating to the dispute.

(d) This Declaration and the provisions of this Section 15.1 hereof shall be governed by and construed in accordance with the laws of the State of Colorado.

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

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

15.4. Conflict with Act. In the event that any of the terms or provisions of this Declaration are in conflict or inconsistent with the Act or other state law, the terms or provisions of the Act or other state law shall control and govern. In case of any such conflict or inconsistency, the applicable terms and provisions contained in this Declaration shall, to the extent possible, be construed in accordance with the Act or other state law, and any conflict with or violation of the Act by any terms or provisions of this Declaration shall not affect, void, or render unenforceable any other term or provision of this Declaration (which shall be in full force and effect in accordance with their terms).

15.5. Duration, Revocation, and Amendment.

(a) Each and every provision of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date of recording of this Declaration in the Records, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided in this Declaration, this Declaration may be amended or expanded during the first twenty (20) year period, and during subsequent extensions

thereof, by a vote or agreement of Owners of at least sixty-seven percent (67%) of the Townhome Lots and at least sixty-seven percent (67%) of the Single Family Lots.

(b) Declarant reserves the right and is granted the power to make amendments to this Declaration or a Plat at any time prior to the expiration of the Development Period to correct clerical, typographical or technical errors, or to comply with the lending requirements of any Agency without the necessity of obtaining the consent or approval of the Association, the Owners or the Security Interest Holders.

(c) No action to challenge the validity of an amendment adopted by the Association or Declarant pursuant to this Section may be brought more than one (1) year after the amendment is recorded in the Records.

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

(e) Except to the extent expressly permitted or required by other provisions of this Declaration, no amendment may create, increase or decrease Special Declarant Rights, increase the number of Total Privately Owned Sites, or change the boundaries of any Privately Owned Site or the Allocated Interests of a Privately Owned Site, or the uses to which any Privately Owned Site is restricted, in the absence of a vote or agreement of Owners of at least sixty-seven percent (67%) of the Townhome Lots not owned by Declarant and at least sixty-seven percent (67%) of the Single Family Lots not owned by Declarant.

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

15.6. Registration of Mailing Address. Each Owner and each Security Interest Holder shall register its mailing address with the Association, and, unless a another method of delivery is expressly required by this Declaration, all notices or demands intended to be served upon an Owner, or upon a Security Interest Holder shall be sent by first class mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Privately Owned Site. Routine notices, billing statements, annual statements and documents sent to all Owners may be mailed by regular first class mail or as otherwise permitted by law. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the Period of Declarant Control shall be sent by registered or certified mail, postage prepaid to the registered agent of Declarant until such address is changed by the Association subsequent to the termination of the Declarant Control Period, when the Association shall notify the Owners of a different address for notices.

15.7. HUD or VA Approval.

(a) During the Development Period, the following actions may require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more Security Interests and requires such approval: annexation of additional real property, other than as set forth on Exhibit B attached hereto; amendment of this Declaration; termination of this Community; or merger or consolidation of the Association.

(b) Notwithstanding the provisions hereof, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which any Agency requires to be amended or repealed as a condition to making, purchasing, insuring or guaranteeing Security Interests, or is required in order to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, HUD, FHA or other Agency, may be amended or repealed solely by Declarant and no approval, consent or vote of any other person or entity shall be required. Any such amendment or repeal shall be effective upon the recordation of a Supplemental Declaration in the Records, executed by Declarant, setting forth the amendment or repeal in full.

15.8. Termination of Community. The Community may be terminated only in accordance with the provisions of the Act.

15.9. Eminent Domain. The taking by eminent domain of a Privately Owned Site(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation the Act.

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

15.11. Limitation on Liability. The Association, the Board of Directors, the Architectural Review Committee, the Declarant, and any member, agent or employee of any of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was not in good faith and was done or withheld with malice.

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

15.13. Disclaimer Regarding Safety. DECLARANT AND THE ASSOCIATION HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY

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

15.14. Dedication of Common Elements. Declarant, in recording this Declaration, has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners as provided in this Declaration. The Common Elements owned by the Association are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Owners as more fully provided in this Declaration.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS.]

IN WITNESS WHEREOF, the undersigned has hereunto set its hand effective the date first above written.

Pioneer Hills, LLC,  
a Colorado limited liability company

By: Walter A Koebel Jr

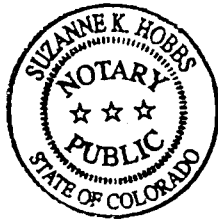
STATE OF COLORADO )  
County of Denver ) ss.  
)

The foregoing Community Declaration for Pioneer Hills was acknowledged before me this 4<sup>th</sup> day of October, 2006, by Walter A Koebel Jr as Manager of Pioneer Hills, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 09/12/08

(SEAL)



Suzanne K Hobbs  
Notary Public

LENDER CERTIFICATION

The undersigned holder of one or more Deeds of Trust recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado, modified and supplemented from time to time (the "Deed of Trust"), hereby consents to the recording of this Declaration, and agrees and acknowledges that any foreclosure, enforcement or other remedy available to the undersigned under the Deed of Trust shall not void or otherwise impair the validity of the Declaration and the covenants running with the land described therein.

EXECUTED by the undersigned on the 3<sup>rd</sup> day of October, 2006.

FIRST NATIONAL BANK OF FORT COLLINS

By: James H. Trupp  
James H. Trupp, Vice President

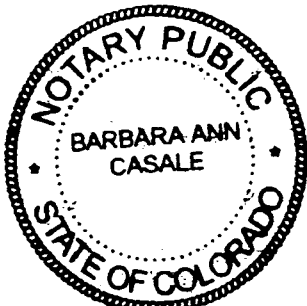
STATE OF COLORADO )  
 )ss.  
COUNTY OF Garfield )

The foregoing instrument was acknowledged before me this 3 day of October, 2006, by James H. Trupp as Vice President of First National Bank of Fort Collins.

Witness my hand and official seal.

My commission expires: 06/23/07

Barbara Ann Casale  
Notary Public



My Commission Expires Jun. 23, 2007

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EXHIBIT A

LEGAL DESCRIPTION  
PHASE I PIONEER HILLS

A PARCEL OF LAND SITUATED IN THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING A PART OF PIONEER HILLS SUBDIVISION FILING NO. 5, AS RECORDED UNDER RECEPTION NO. B5188090 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 18;  
THENCE NORTH 13°57'43" WEST A DISTANCE OF 917.94 FEET TO A POINT OF NON-TANGENT CURVATURE SITUATED ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH CHAMBERS ROAD AND THE POINT OF BEGINNING;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH CHAMBERS ROAD THE FOLLOWING FOUR (4) COURSES:

1. ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°48'11", A RADIUS OF 570.00 FEET AND AN ARC A LENGTH OF 107.47 FEET (CHORD BEARS SOUTH 51°10'37" WEST, 107.31 FEET) TO A POINT;
2. SOUTH 33°25'17" EAST A DISTANCE OF 3.09 FEET TO A POINT;
3. SOUTH 50°37'42" WEST A DISTANCE OF 169.16 FEET TO A POINT OF CURVATURE;
4. ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 34°45'14", A RADIUS OF 1,010.00 FEET AND AN ARC A LENGTH OF 612.63 FEET (CHORD BEARS SOUTH 33°15'05" WEST, 603.28 FEET) TO A POINT, SAID POINT IS THE SOUTHEAST CORNER OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;

THENCE ALONG THE SOUTHERLY LINE OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5 THE FOLLOWING TWENTY (20) COURSES:

1. SOUTH 87°34'08" WEST A DISTANCE OF 60.26 FEET TO A POINT;
2. SOUTH 18°48'25" EAST A DISTANCE OF 40.47 FEET TO A POINT;
3. NORTH 74°47'21" WEST A DISTANCE OF 13.23 FEET TO A POINT;
4. SOUTH 86°44'58" WEST A DISTANCE OF 41.35 FEET TO A POINT;
5. SOUTH 47°44'08" WEST A DISTANCE OF 25.08 FEET TO A POINT;

6. SOUTH 59°42'18" WEST A DISTANCE OF 51.04 FEET TO A POINT;
7. SOUTH 76°16'43" WEST A DISTANCE OF 32.10 FEET TO A POINT;
8. NORTH 61°53'04" WEST A DISTANCE OF 147.14 FEET TO A POINT;
9. NORTH 33°35'41" WEST A DISTANCE OF 63.29 FEET TO A POINT;
10. SOUTH 71°36'51" WEST A DISTANCE OF 90.26 FEET TO A POINT;
11. SOUTH 35°17'49" WEST A DISTANCE OF 18.37 FEET TO A POINT;
12. SOUTH 20°32'45" WEST A DISTANCE OF 34.90 FEET TO A POINT;
13. SOUTH 08°14'31" WEST A DISTANCE OF 56.96 FEET TO A POINT;
14. NORTH 78°03'52" WEST A DISTANCE OF 59.26 FEET TO A POINT;
15. NORTH 81°01'21" WEST A DISTANCE OF 62.83 FEET TO A POINT;
16. NORTH 89°29'17" WEST A DISTANCE OF 91.46 FEET TO A POINT;
17. SOUTH 82°31'53" WEST A DISTANCE OF 56.57 FEET TO A POINT;
18. NORTH 54°26'51" WEST A DISTANCE OF 28.10 FEET TO A POINT;
19. SOUTH 47°20'16" WEST A DISTANCE OF 42.19 FEET TO A POINT;
20. SOUTH 89°12'53" WEST A DISTANCE OF 20.25 FEET TO A POINT;

THENCE NORTH 08°06'58" EAST A DISTANCE OF 240.70 FEET TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11°40'09", A RADIUS OF 151.00 FEET AND AN ARC A LENGTH OF 30.75 FEET (CHORD BEARS NORTH 81°33'49" WEST, 30.70 FEET) TO A POINT;

THENCE NORTH 87°23'53" WEST A DISTANCE OF 40.08 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 131°38'32", A RADIUS OF 34.00 FEET AND AN ARC A LENGTH OF 78.12 FEET (CHORD BEARS NORTH 21°34'37" WEST, 62.03 FEET) TO A POINT;

THENCE NORTH 44°14'39" EAST A DISTANCE OF 17.27 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 36°20'13", A RADIUS OF 81.00 FEET AND AN ARC A LENGTH OF 51.37 FEET (CHORD BEARS NORTH 26°04'33" EAST,

50.51 FEET) TO A POINT;

THENCE NORTH 07°54'26" EAST A DISTANCE OF 66.95 FEET TO A POINT, SAID POINT IS THE SOUTHWEST CORNER OF LOT 123, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;

THENCE SOUTH 57°16'35" EAST, ALONG THE SOUTHERLY LINE AND EASTERLY EXTENSION OF LOTS 123-133, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5, A DISTANCE OF 394.00 FEET TO A POINT, SAID POINT IS THE SOUTHEAST CORNER OF LOT 133, BLOCK 2;

THENCE SOUTH 49°56'18" EAST A DISTANCE OF 43.38 FEET TO A POINT, SAID POINT IS THE SOUTHWEST CORNER OF LOT 134, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;

THENCE SOUTH 82°15'00" EAST, ALONG THE SOUTHERLY LINE AND EASTERLY EXTENSION OF LOTS 134-139, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5, A DISTANCE OF 190.15 FEET TO A POINT;

THENCE SOUTH 87°15'22" EAST, CONTINUING ALONG THE SOUTHERLY LINE OF SAID LOT 139, BLOCK 2, A DISTANCE OF 7.54 FEET TO A POINT, SAID POINT IS THE SOUTHEASTERLY CORNER OF SAID LOT 139, BLOCK 2;

THENCE NORTH 07°45'05" EAST, ALONG THE EASTERLY LINE OF SAID LOT 139, BLOCK 2 AND THE NORTHERLY EXTENSION THEREOF, A DISTANCE OF 98.84 FEET TO A POINT;

THENCE SOUTH 82°14'55" EAST A DISTANCE OF 48.92 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 90°00'00", A RADIUS OF 28.00 FEET AND AN ARC A LENGTH OF 43.98 FEET (CHORD BEARS NORTH 52°45'05" EAST, 39.60 FEET) TO A POINT;

THENCE NORTH 07°45'05" EAST A DISTANCE OF 246.23 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 08°18'48", A RADIUS OF 137.50 FEET AND AN ARC A LENGTH OF 19.95 FEET (CHORD BEARS NORTH 03°35'41" EAST, 19.93 FEET) TO A POINT OF COMPOUND CURVE;

THENCE ALONG THE ARC OF SAID COMPOUND CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 37°31'29", A RADIUS OF 28.00 FEET AND AN ARC A LENGTH OF 18.34 FEET (CHORD BEARS NORTH 19°19'27" WEST, 18.01 FEET) TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 04°48'37", A RADIUS OF 282.00 FEET AND AN ARC A LENGTH OF 23.68 FEET (CHORD BEARS SOUTH 81°53'04" WEST, 23.67 FEET) TO A POINT;

THENCE NORTH 05°42'38" WEST A DISTANCE OF 64.00 FEET TO A POINT OF NON-TANGENT CURVATURE, SAID POINT LIES ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST CRESTLINE DRIVE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF EAST CRESTLINE

DRIVE THE FOLLOWING FIVE (5) COURSES:

1. ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF  $45^{\circ}23'41''$ , A RADIUS OF 218.00 FEET AND AN ARC A LENGTH OF 172.72 FEET (CHORD BEARS NORTH  $61^{\circ}35'31''$  EAST, 168.24 FEET) TO A POINT;
2. NORTH  $38^{\circ}53'41''$  EAST A DISTANCE OF 135.51 FEET TO A POINT OF CURVATURE;
3. ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF  $102^{\circ}53'24''$ , A RADIUS OF 282.00 FEET AND AN ARC A LENGTH OF 506.41 FEET (CHORD BEARS SOUTH  $89^{\circ}39'37''$  EAST, 441.05 FEET) TO A POINT;
4. SOUTH  $38^{\circ}12'55''$  EAST A DISTANCE OF 22.01 FEET TO A POINT OF CURVATURE;
5. ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF  $96^{\circ}00'33''$ , A RADIUS OF 25.00 FEET AND AN ARC A LENGTH OF 41.89 FEET (CHORD BEARS SOUTH  $86^{\circ}13'11''$  EAST, 37.16 FEET) TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM: EAST CRESTLINE DRIVE, A PUBLIC RIGHT-OF-WAY.

CONTAINING 371,982 SQUARE FEET OR 8.539 ACRES, MORE OR LESS.

BASIS OF BEARINGS: THE BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 18 AS MONUMENTED BY A 3" CITY OF AURORA BRASS CAP IN MONUMENT BOX, P.L.S. #16419 AT THE NORTHEAST CORNER AND A 2" CITY OF AURORA ALUMINUM CAP IN MONUMENT BOX, P.L.S. #16419 AT THE NORTH QUARTER CORNER AND BEARS SOUTH  $89^{\circ}57'10''$  EAST.

PREPARED BY: GEORGE G. SMITH JR., P.L.S.  
P.L.S. 19003

ON BEHALF OF: HARRIS KOCHER SMITH  
1391 SPEER BLVD., SUITE 390  
DENVER, COLORADO 80204  
(303) 623-6300

The Property includes the following Privately Owned Sites:

Lots 1-27, inclusive; Lots 100-110, inclusive; and Lots 140-144, inclusive, Block 2, Pioneer Hills Subdivision Filing No. 5

EXHIBIT B

COMMUNITY ANNEXABLE AREA

LEGAL DESCRIPTION  
PIONEER HILLS REMAINDER PHASE

A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING A PART OF PIONEER HILLS SUBDIVISION FILING NO. 5, AS RECORDED UNDER RECEPTION NO. B5188090 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PIONEER HILLS SUBDIVISION FILING NO. 5;

EXCEPTING THEREFROM LOT 1, BLOCK 1 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;

AND EXCEPTING THEREFROM, EAST CRESTLINE DRIVE, A PUBLIC RIGHT-OF-WAY;

AND EXCEPTING THEREFROM, PHASE I OF PIONEER HILLS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND SITUATED IN THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING A PART OF PIONEER HILLS SUBDIVISION FILING NO. 5, AS RECORDED UNDER RECEPTION NO. B5188090 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 18;  
THENCE NORTH 13°57'43" WEST A DISTANCE OF 917.94 FEET TO A POINT OF NON-TANGENT CURVATURE SITUATED ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH CHAMBERS ROAD AND THE POINT OF BEGINNING;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF SOUTH CHAMBERS ROAD THE FOLLOWING FOUR (4) COURSES:

5. ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°48'11", A RADIUS OF 570.00 FEET AND AN ARC A LENGTH OF 107.47 FEET (CHORD BEARS SOUTH 51°10'37" WEST, 107.31 FEET) TO A POINT;
6. SOUTH 33°25'17" EAST A DISTANCE OF 3.09 FEET TO A POINT;



7. SOUTH 50°37'42" WEST A DISTANCE OF 169.16 FEET TO A POINT OF CURVATURE;
8. ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 34°45'14", A RADIUS OF 1,010.00 FEET AND AN ARC A LENGTH OF 612.63 FEET (CHORD BEARS SOUTH 33°15'05" WEST, 603.28 FEET) TO A POINT, SAID POINT IS THE SOUTHEAST CORNER OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;

THENCE ALONG THE SOUTHERLY LINE OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5 THE FOLLOWING TWENTY (20) COURSES:

21. SOUTH 87°34'08" WEST A DISTANCE OF 60.26 FEET TO A POINT;
22. SOUTH 18°48'25" EAST A DISTANCE OF 40.47 FEET TO A POINT;
23. NORTH 74°47'21" WEST A DISTANCE OF 13.23 FEET TO A POINT;
24. SOUTH 86°44'58" WEST A DISTANCE OF 41.35 FEET TO A POINT;
25. SOUTH 47°44'08" WEST A DISTANCE OF 25.08 FEET TO A POINT;
26. SOUTH 59°42'18" WEST A DISTANCE OF 51.04 FEET TO A POINT;
27. SOUTH 76°16'43" WEST A DISTANCE OF 32.10 FEET TO A POINT;
28. NORTH 61°53'04" WEST A DISTANCE OF 147.14 FEET TO A POINT;
29. NORTH 33°35'41" WEST A DISTANCE OF 63.29 FEET TO A POINT;
30. SOUTH 71°36'51" WEST A DISTANCE OF 90.26 FEET TO A POINT;
31. SOUTH 35°17'49" WEST A DISTANCE OF 18.37 FEET TO A POINT;
32. SOUTH 20°32'45" WEST A DISTANCE OF 34.90 FEET TO A POINT;
33. SOUTH 08°14'31" WEST A DISTANCE OF 56.96 FEET TO A POINT;
34. NORTH 78°03'52" WEST A DISTANCE OF 59.26 FEET TO A POINT;
35. NORTH 81°01'21" WEST A DISTANCE OF 62.83 FEET TO A POINT;
36. NORTH 89°29'17" WEST A DISTANCE OF 91.46 FEET TO A POINT;
37. SOUTH 82°31'53" WEST A DISTANCE OF 56.57 FEET TO A POINT;
38. NORTH 54°26'51" WEST A DISTANCE OF 28.10 FEET TO A POINT;

39. SOUTH 47°20'16" WEST A DISTANCE OF 42.19 FEET TO A POINT;  
40. SOUTH 89°12'53" WEST A DISTANCE OF 20.25 FEET TO A POINT;  
THENCE NORTH 08°06'58" EAST A DISTANCE OF 240.70 FEET TO A POINT  
OF NON-TANGENT CURVATURE;  
THENCE ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11°40'09", A RADIUS OF 151.00 FEET AND AN ARC LENGTH OF 30.75 FEET (CHORD BEARS NORTH 81°33'49" WEST, 30.70 FEET) TO A POINT;  
THENCE NORTH 87°23'53" WEST A DISTANCE OF 40.08 FEET TO A POINT OF CURVATURE;  
THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 131°38'32", A RADIUS OF 34.00 FEET AND AN ARC LENGTH OF 78.12 FEET (CHORD BEARS NORTH 21°34'37" WEST, 62.03 FEET) TO A POINT;  
THENCE NORTH 44°14'39" EAST A DISTANCE OF 17.27 FEET TO A POINT OF CURVATURE;  
THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 36°20'13", A RADIUS OF 81.00 FEET AND AN ARC LENGTH OF 51.37 FEET (CHORD BEARS NORTH 26°04'33" EAST, 50.51 FEET) TO A POINT;  
THENCE NORTH 07°54'26" EAST A DISTANCE OF 66.95 FEET TO A POINT, SAID POINT IS THE SOUTHWEST CORNER OF LOT 123, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;  
THENCE SOUTH 57°16'35" EAST, ALONG THE SOUTHERLY LINE AND EASTERLY EXTENSION OF LOTS 123-133, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5, A DISTANCE OF 394.00 FEET TO A POINT, SAID POINT IS THE SOUTHEAST CORNER OF LOT 133, BLOCK 2; SOUTH 49°56'18" EAST A DISTANCE OF 43.38 FEET TO A POINT, SAID POINT IS THE SOUTHWEST CORNER OF LOT 134, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5;  
THENCE SOUTH 82°15'00" EAST, ALONG THE SOUTHERLY LINE AND EASTERLY EXTENSION OF LOTS 134-139, BLOCK 2 OF SAID PIONEER HILLS SUBDIVISION FILING NO. 5, A DISTANCE OF 190.15 FEET TO A POINT;  
THENCE SOUTH 87°15'22" EAST, CONTINUING ALONG THE SOUTHERLY LINE OF SAID LOT 139, BLOCK 2, A DISTANCE OF 7.54 FEET TO A POINT, SAID POINT IS THE SOUTHEASTERNLY CORNER OF SAID LOT 139, BLOCK 2; 139, BLOCK 2; 139, BLOCK 2 AND THE NORTHERLY EXTENSION THEREOF, A DISTANCE OF 98.84 FEET TO A POINT;  
THENCE SOUTH 82°14'55" EAST A DISTANCE OF 48.92 FEET TO A POINT OF CURVATURE;  
THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL

ANGLE OF 90°00'00", A RADIUS OF 28.00 FEET AND AN ARC A LENGTH OF 43.98 FEET (CHORD BEARS NORTH 52°45'05" EAST, 39.60 FEET) TO A POINT;

THENCE NORTH 07°45'05" EAST A DISTANCE OF 246.23 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 08°18'48", A RADIUS OF 137.50 FEET AND AN ARC A LENGTH OF 19.95 FEET (CHORD BEARS NORTH 03°35'41" EAST, 19.93 FEET) TO A POINT OF COMPOUND CURVE;

THENCE ALONG THE ARC OF SAID COMPOUND CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 37°31'29", A RADIUS OF 28.00 FEET AND AN ARC A LENGTH OF 18.34 FEET (CHORD BEARS NORTH 19°19'27" WEST, 18.01 FEET) TO A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 04°48'37", A RADIUS OF 282.00 FEET AND AN ARC A LENGTH OF 23.68 FEET (CHORD BEARS SOUTH 81°53'04" WEST, 23.67 FEET) TO A POINT;

THENCE NORTH 05°42'38" WEST A DISTANCE OF 64.00 FEET TO A POINT OF NON-TANGENT CURVATURE, SAID POINT LIES ON THE NORTHERLY RIGHT-OF-WAY LINE OF EAST CRESTLINE DRIVE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF EAST CRESTLINE DRIVE THE FOLLOWING FIVE (5) COURSES:

6. ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 45°23'41", A RADIUS OF 218.00 FEET AND AN ARC A LENGTH OF 172.72 FEET (CHORD BEARS NORTH 61°35'31" EAST, 168.24 FEET) TO A POINT;
7. NORTH 38°53'41" EAST A DISTANCE OF 135.51 FEET TO A POINT OF CURVATURE;
8. ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 102°53'24", A RADIUS OF 282.00 FEET AND AN ARC A LENGTH OF 506.41 FEET (CHORD BEARS SOUTH 89°39'37" EAST, 441.05 FEET) TO A POINT;
9. SOUTH 38°12'55" EAST A DISTANCE OF 22.01 FEET TO A POINT OF CURVATURE;
10. ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 96°00'33", A RADIUS OF 25.00 FEET AND AN ARC A LENGTH OF 41.89 FEET (CHORD BEARS SOUTH 86°13'11" EAST, 37.16 FEET) TO THE POINT OF BEGINNING.

CONTAINING 1,351,233 SQUARE FEET OR 31.020 ACRES, MORE OR LESS.

BASIS OF BEARINGS: THE BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 18 AS MONUMENTED BY A 3" CITY OF AURORA BRASS CAP IN MONUMENT BOX, P.L.S. #16419 AT THE NORTHEAST CORNER AND A 2" CITY OF AURORA ALUMINUM CAP IN

MONUMENT BOX, P.L.S. #16419 AT THE NORTH QUARTER CORNER AND  
BEARS SOUTH 89°57'10" EAST.

PREPARED BY: GEORGE G. SMITH JR., P.L.S.  
P.L.S. 19003

ON BEHALF OF: HARRIS KOCHER SMITH  
1391 SPEER BLVD., SUITE 390  
DENVER, COLORADO 80204  
(303) 623-6300

EXHIBIT C

ALLOCATED INTERESTS FOR NEIGHBORHOOD COMMON EXPENSES  
FOR PIONEER HILLS TOWNHOMES

<u>Townhome Lot No.</u>	<u>Allocated Interest for Neighborhood Common Expense</u>
1	2.5974%
2	2.1645%
3	2.1645%
4	2.1645%
5	2.5974%
6	2.5974%
7	2.1645%
8	2.1645%
9	2.1645%
10	2.1645%
11	2.5974%
12	2.5974%
13	2.1645%
14	2.1645%
15	2.1645%
16	2.1645%
17	2.5974%
18	2.5974%
19	2.1645%
20	2.1645%
21	2.1645%
22	2.1645%
23	2.5974%
24	2.5974%
25	2.1645%
26	2.1645%
27	2.5974%
100	2.5974%
101	2.1645%
102	2.1645%
103	2.1645%
104	2.1645%
105	2.5974%
106	2.5974%
107	2.1645%
108	2.1645%
109	2.1645%
110	2.5974%
140	2.5974%
141	2.1645%
142	2.1645%
143	2.1645%
144	2.5975%
	Total 100%

## **GENERAL COMMON ELEMENTS**

All of the Property described in Exhibit A except the Privately Owned Sites, including without limitation any tot lots, open space, trails, detention facility, pool and cabana, private roads, alleys, curbs, sidewalks, gutters, driveways and aprons, landscaping, irrigation systems, street lights, mail kiosks, fencing and entry monumentation located on such Property.

## **LIMITED COMMON ELEMENTS**

None.

## **TOWNHOME LIMITED COMMON ELEMENTS**

None.

## EXHIBIT D

### RECORDED TITLE MATTERS

RESERVATION BY THE UNITED STATES OF AMERICA IN DEED RECORDED JULY 15, 1957 IN BOOK 1023 AT PAGE 101 WHICH STATES AS FOLLOWS:

EXCEPTING AND RESERVING UNTO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS, THE OWNERSHIP IN FEE OF ALL OIL, GAS OR OTHER HYDROCARBONS, IN OR UNDER THE ABOVE DESCRIBED PREMISES, TOGETHER WITH THE EXCLUSIVE RIGHT TO ENTER UPON SAID LAND TO MINE, EXPLORE, DRILL FOR, EXTRACT AND PRODUCE ANY AND ALL OF SAID MINERALS BY ALL REASONABLE MEANS CONSISTENT WITH THE EDUCATIONAL, PUBLIC HEALTH AND RESEARCH UTILIZATION OF SAID LAND BY THE GRANTEE HEREUNDER.

EASEMENT GRANTED TO SHALOM PARK, A COLORADO NON-PROFIT CORPORATION BY INSTRUMENT RECORDED NOVEMBER 05, 1991, IN BOOK 6291 AT PAGE 564.

GENERAL DEVELOPMENT PLAN/PRELIMINARY DEVELOPMENT PLAN, AN AMENDMENT TO THE "SOUTHEAST PLAZA" GDP RECORDED SEPTEMBER 11, 2000 AT RECEPTION NO. B0115718.

ACCESS AND UTILITY EASEMENT GRANTED TO THE CITY OF AURORA RECORDED APRIL 10, 1984 IN BOOK 4130.

TERMS, CONDITIONS AND PROVISIONS AS CONTAINED IN WARRANTY DEED BETWEEN MDC/WOOD INC. AND SHALOM PARK, RECORDED JANUARY 5, 1988 IN BOOK 5343.

TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT RECORDED MAY 18, 1988 IN BOOK 5436 AT PAGE 59.

TERMS, CONDITIONS AND PROVISIONS OF DEVELOPMENT PLAN RECORDED MAY 9, 1988 UNDER RECEPTION NO. 2967192.

TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE NO. 85-102 RECORDED APRIL 20, 1988 IN BOOK 5414 AT PAGE 331 AND ORDINANCE NO. 2003-45 RECORDED AUGUST 4, 2003 UNDER RECEPTION NO. B3168594.

TERMS, CONDITIONS AND PROVISIONS OF AIR RIGHT COVENANTS RECORDED MAY 10, 1988 IN BOOK 5385 AT PAGE 352.

EASEMENTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS ON THE RECORDED PLAT OF SHALOM PARK SUBDIVISION FILING NO. 1.

EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE RECORDED PLAT OF SHALOM PARK SUBDIVISION FILING NO. 2.

UTILITY EASEMENT AS GRANTED TO THE CITY OF AURORA, COLORADO IN INSTRUMENT RECORDED JUNE 07, 1995, IN BOOK 7981 AT PAGE 406.

DRAINAGE EASEMENT GRANTED TO THE CITY OF AURORA, COLORADO IN INSTRUMENT RECORDED JUNE 7, 1995 IN BOOK 7981 AT PAGE 417.

UTILITY EASEMENT AS GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO IN INSTRUMENT RECORDED DECEMBER 04, 1995, UNDER RECEPTION NO. A5127746.

PLAT OF PIONEER HILLS SUBDIVISION FILING NO. 1 RECORDED NOVEMBER 19, 2001 UNDER RECEPTION NO. B1198264.

INCLUSION OF SUBJECT PROPERTY IN THE CUNNINGHAM FIRE PROTECTION DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED JULY 11, 1969, IN BOOK 1822 AT PAGE 529.

RESTRICTIVE COVENANTS AS CONTAINED IN INSTRUMENT RECORDED NOVEMBER 19, 2001, UNDER RECEPTION NO. B1198267 AND AS AMENDED IN INSTRUMENT RECORDED JUNE 17, 2005 UNDER RECEPTION NO. B5089787.

EASEMENT GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO, FOR UTILITIES, AND INCIDENTAL PURPOSES, BY INSTRUMENT RECORDED MAY 06, 2002, UNDER RECEPTION NO. 2084155.

A 20 FOOT DRAINAGE EASEMENT AND ALL EXISTING DRAINAGE IMPROVEMENTS AS RESERVED BY SHALOM PARK, A COLORADO NON-PROFIT CORPORATION IN DEED RECORDED AUGUST 22, 2003 UNDER RECEPTION NO. B3186068.

PLAT OF PIONEER HILLS SUBDIVISION FILING NO. 2.

MASTER LICENSE AGREEMENT RECORDED JULY 18, 2005 UNDER RECEPTION NO. B5105653.

THE PLAT OF PIONEER HILLS SUBDIVISION FILING NO. 5 RECORDED DECEMBER, 2005 UNDER RECEPTION NO. B5188090.

ORCHARD VILLAGE AT PIONEER HILLS SITE PLAN RECORDED JANUARY 17, 2006 UNDER RECEPTION NO. B6006454.



EXHIBIT E

FORM OF SUPPLEMENTAL DECLARATION  
FOR PIONEER HILLS ANNEXATION

[Name of Declarant] (the "Declarant") executes this Supplemental Declaration of Pioneer Hills (the "Supplemental Declaration"), this \_\_\_ day of \_\_\_\_\_, 200\_\_.

RECITALS

A. Declarant executed and caused to be recorded that certain Community Declaration of Pioneer Hills (the "Declaration") on \_\_\_\_\_, 200\_\_, in Book \_\_\_ at Page \_\_\_ under Reception No. \_\_\_\_\_ of the records of the Office of the Clerk and Recorder of Arapahoe County, Colorado.

B. Article XIII of the Declaration reserves to the Declarant the right to annex land to the Community by recordation of one or more supplements to the Declaration.

C. The purpose of this Supplemental Declaration is to annex certain land described below into the Community and to make such land subject to the Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares that the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to all of the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration and shall be binding on all persons having or acquiring any right, title or interest in the property described herein, their heirs, successors, and assigns, and shall inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest, each Owner and his successors in interest, and the Pioneer Hills Owners Association, and its successors in interest.

All captioned terms used herein have the same meaning as set forth in the Declaration.

1. Legal Description of the Property Being Annexed. The property being annexed to the Declaration and the Community by this Supplemental Declaration is described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). Declarant is the owner of the Property [OR \_\_\_\_\_ is the owner of the Property and joins in this Supplemental Declaration.]

2. Annexation. The Property described in Exhibit A hereof is being annexed to the Declaration and the Common Interest Community pursuant to the provisions of Article XIII of the Declaration.

3. Re-Allocation of Allocated Interests. (If Pioneer Townhomes, must revise Exhibit C to the Declaration)

4. Designation of Neighborhood.
5. Limited Common Elements. [Describe, if any.]
6. Additional Covenants, Conditions, Restrictions, and Easements. [If any.]

7. Effect of Annexation. The Property, the Privately Owned Sites and any Common Elements therein, shall be deemed to be included within the Community and subject to all of the terms, provisions, covenants, conditions, reservations, charges, and liens set forth in the Declaration, including all Assessment obligations set forth in the Declaration. The Property described in Exhibit A and the Privately Owned Sites and any Common Elements located therein are also expressly subject to all of the provisions of the Articles of Incorporation and the Bylaws of the Pioneer Hills Owners Association, as more particularly described in the Declaration, the Articles of Incorporation, and the Bylaws.

IN WITNESS WHEREOF, the Declarant [and Owner] has(ve) executed this Supplemental Declaration the date and year first above written.

DECLARANT:  
[Name of Declarant]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

[ADD OWNER SIGNATURE BLOCK, IF APPLICABLE]

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal.

My commission expires:

\_\_\_\_\_  
Notary Public

ADD OWNER ACKNOWLEDGEMENT, IF APPLICABLE

EXHIBIT A  
TO  
SUPPLEMENTAL DECLARATION  
OF PIONEER HILLS

DESCRIPTIONS OF

Privately Owned Sites

Common Elements

Limited Common Elements