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TRACY K. BAKER
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**MASTER DECLARATION
FOR
TALLYN'S REACH**

**A Master-Planned Community
located in the City of Aurora,
Arapahoe County, Colorado**

DN 104219.3 04150-00307

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**MASTER DECLARATION FOR
TALLYN'S REACH**

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THIS MASTER DECLARATION FOR TALLYN'S REACH is made on the date hereinafter set forth by CARMA (COLORADO), INC., a Nevada corporation, with offices at 9110 E. Nichols Ave., Suite 180, Englewood, Colorado 80112 ("Carma").

RECITALS

A. Carma is the owner of certain real property located in the City of Aurora, Arapahoe County, Colorado, which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

B. Carma desires to encumber said real property with the covenants, conditions, restrictions and easements set forth in this Declaration.

C. Carma has caused the Tallyn's Reach Master Association, Inc., a nonprofit corporation, to be incorporated under the laws of the State of Colorado for the purpose of exercising the functions to be exercised by the Association as set forth in this Declaration.

**ARTICLE 1.
SUBMISSION OF REAL ESTATE; DEFINED TERMS**

Section 1.1 Submission of Real Estate. Declarant, as the owner in fee simple of the real estate described on Exhibit A, hereby submits the real estate, together with all appurtenant rights and easements and the buildings and improvements constructed or to be constructed thereon, together with such additional real property as may now or hereafter be made subject to this Declaration (collectively, the "Real Estate") to the terms and provisions of this Declaration, as the same may be amended from time to time. Declarant further declares that all of the Real Estate shall be held, sold, and conveyed subject to the following easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, and their respective heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner.

Section 1.2 Defined Terms. For purposes of this Declaration, the following terms and phrases shall have the definitions indicated in this Section 1.2.

Allocated Interests. The Common Expense liability and votes in the Association allocated to each Unit pursuant to the terms of this Declaration.

Articles of Incorporation. The Articles of Incorporation for the Tallyn's Reach Master Association, Inc., a Colorado nonprofit corporation, as the same may be amended from time to time.

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Assessments. Collectively, Common Expense Assessments and Default Assessments.

Association. The Tallyn's Reach Master Association, Inc., a Colorado non-profit corporation, its successors and assigns.

Bylaws. The Bylaws of the Association as the same may be amended from time to time.

Common Areas. All real and personal property which the Association owns or leases, or in which the Association otherwise holds possessory or use rights for the common use and enjoyment of the Owners, and all areas and facilities within the Community that are intended for the common use and enjoyment of the Owners. The Common Areas may be owned by the Association, the City of Aurora or by one of the Districts. Without limiting the generality of the foregoing, the "Common Areas" shall include all parks and open spaces within the Community which are dedicated for maintenance to the City of Aurora or to one of the Districts, and shall include the clubhouse and any related recreational facilities that may be constructed by Declarant on the Real Estate.

Common Expenses. All expenditures made and all liabilities incurred by or on behalf of the Association, together with any allocation to reserves. Default Assessments shall not be deemed to be Common Expenses for purposes of this Declaration.

Common Expense Assessment(s). Assessments made by the Association to the Owners of Detached Single-Family Residential Units for the Common Expenses, which shall include, without limitation, the following items levied against a particular Owner of Detached Single-Family Residential Unit: (i) each Owner's allocated share of the Common Expenses, and (ii) each Owner's share of any Special Assessments.

Community. The real estate development to be established and developed on the Real Estate, which will be known by the name of Tallyn's Reach, or by such other or additional name or names as Declarant may determine.

Covenants. Collectively, all agreements, restrictions, reservations, conditions, terms, easements, and rights-of-way set forth or referenced in this Declaration or otherwise set forth in the Governing Documents, as the same may be adopted and amended from time to time.

Declarant. Carma (Colorado), Inc., a Nevada corporation ("Carma"), and any Person or group of Persons which succeeds to all or any portion of the rights and/or duties of Carma or of any successor to Carma duly designated in accordance with this definition. Any such successor must be so identified by means of an express written assignment executed and acknowledged by Carma or a duly designated successor Declarant and recorded in the real property records of Arapahoe County, Colorado.

Declaration. This Declaration, and any and all duly executed amendments, supplements, or additions to this Declaration recorded in the real property records of Arapahoe County, Colorado, including any maps or subdivision plats from time to time relating to the Real Estate which are recorded in the real property records of Arapahoe County, Colorado.

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Default Assessments. Collectively, (i) all late charges, fines, and default interest, at a rate or in an amount determined by the Executive Board, and all costs and attorneys' fees charged by the Association against an Owner who fails to pay his or her share of the Common Expenses in a timely manner; and (ii) all charges imposed against a particular Owner and his or her Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation of the Governing Documents by an Owner or his or her Related Users.

Design Guidelines. Collectively, all written design and development guidelines, policies, application and review procedures and fee schedules, and all architectural controls which shall apply to all construction and other improvement activities within the Real Estate, that are enacted by the Design Review Committee in accordance with this Declaration.

Design Review Committee. The Committee created by the Declarant for the purpose of establishing architectural control over the Community to insure the proper, appropriate and harmonious development and improvement of the Community, including enforcing Design Guidelines, Owner's maintenance responsibilities and other provisions of the Governing Documents.

Detached Single-Family Residential Unit. A Unit upon which a home has been or will be constructed which is intended to be owned and occupied by a single family. Multifamily dwellings designed to be occupied by two or more families living independently of each other, which may include, apartment, townhome, and condominium units shall not be deemed to be Detached Single-Family Residential Units.

Districts. Tallyn's Reach Metropolitan Districts Nos. 1, 2 and 3, and any other metropolitan, special improvement or other type of special district organized for the purpose of serving the needs of all or any portion of the Community.

Executive Board. The board of directors of the Association, as the same may be constituted from time to time in accordance with this Declaration, the Articles of Incorporation and the Bylaws.

First Mortgage. A mortgage or deed of trust, or any other form of security instrument affecting title to a Unit (collectively, a "Mortgage"), which is subject only to governmental liens, the lien for real property taxes, and any other liens made senior to such First Mortgage by Colorado law.

First Mortgagee. A bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, mortgage banker, agency of the United States Government, the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other Person, including without limitation Declarant, which holds a First Mortgage.

Governing Documents. Collectively, the documents which govern the operation of the Association and the Community, including without limitation the following: (a) the Articles of Incorporation; (b) the Bylaws; (c) the Rules and Regulations; (d) the Design Guidelines; (e) the Plats; (f) this Declaration, and (g) any other documents adopted by the Association in accordance

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with this Declaration, the Articles of Incorporation and/or the Bylaws to govern the affairs of the Association, as any of the foregoing may be amended from time to time. Each and every provision of the Governing Documents shall be given the force and effect as if set forth in this Declaration. However, if there is any inconsistency between the provisions of this Declaration and the provisions of any of the other Governing Documents, the provisions of this Declaration shall govern and control.

Owner. Any Person or Persons who hold the fee title to any Unit, as determined from the real property records of Arapahoe County, Colorado, at the time in question.

Participating Builder. Any Person which acquires fee title to a portion of the Real Estate for the purpose of constructing improvements thereon for resale to the general public and who or which is designated by Declarant as a Participating Builder in an instrument recorded in the real property records of Arapahoe County, Colorado. All Participating Builders are also Owners, but shall not be subject to Common Expense Assessments or Special Assessments.

Person. A natural person, corporation, partnership, association, trust, or any other entity or combination of entities.

Plats. Collectively, all final subdivision plats or other documents which subdivide any portion of the Real Estate into single family lots, condominium units or which otherwise subdivide a portion of the Real Estate, as the same appear from time to time in the real property records of Arapahoe County, Colorado. The term "Plat" shall mean and refer to any one of such Plats.

Real Estate. The real property described in Exhibit A attached hereto and all additional real property that is now subject to this Declaration or that is hereafter made subject to this Declaration, together with all appurtenant rights and easements and all buildings and improvements constructed or to be constructed thereon.

Related User. Any person who: (a) resides with an Owner within a Unit; (b) is a guest or invitee of an Owner; (c) is an occupant or tenant of a Unit; or (d) is a family member, guest, invitee or cohabitant of the foregoing.

Rules and Regulations. Collectively, all rules, regulations, policies, procedures and guidelines of the Association, as any of said items may be adopted and amended from time to time by the Executive Board pursuant to this Declaration, the Articles of Incorporation and the Bylaws.

Special Assessments. Assessments imposed by the Association in accordance with Section 7.7 below.

Subassociation. An organization that is formed for the purpose of acting as the homeowners association for a portion of the Real Estate.

Turnover Date. The earliest to occur of the following: (i) the date that is sixty days after the date that 100% of all of the maximum number Units that may be created within the Real Estate in accordance with the applicable ordinances and resolutions of the City of Aurora, as

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referenced in Section 3.1 below, have been conveyed to Unit Owners other than Declarant; (ii) the date that is 20 years after the date that this Declaration has been recorded in the real property records of Arapahoe County, Colorado, or (iii) the date the Declarant elects to transfer control of the Association to the Unit Owners as evidenced by an instrument executed by Declarant that has been recorded in the real property records of Arapahoe County, Colorado.

Unit. A portion of the Real Estate designated for separate ownership, together with any improvements thereon, as described by reference to lot, block, parcel, tract or other designation for such land as shown on the applicable Plat. The term "Unit" shall include the Units within the Real Estate initially encumbered by this Declaration and any additional Units that may hereafter be annexed into the Community in accordance with Article 14 below.

ARTICLE 2. GENERAL STATEMENT OF COVENANTS

Section 2.1 Covenants Bind the Real Estate. The Real Estate shall be held, sold, and conveyed subject to the Covenants for the purpose of protecting the value and desirability of the Real Estate and any other purposes incidental thereto, and all Covenants shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof from time to time, and shall inure to the benefit of each Owner thereof and the Association.

Section 2.2 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas, subject to the following provisions:

2.2.1 Any restriction or limitations contained in the Governing Documents;

2.2.2 Any restrictions or limitations contained in any deed conveying Common Areas to the Association;

2.2.3 Any restrictions or limitations imposed by the City of Aurora or the Districts, or any one of them, to the extent that the Common Area(s) in question are owned, operated and/or maintained by the City of Aurora or such District(s);

2.2.4 The right of the Association to exercise all powers and duties pursuant to Article 5 below and pursuant to any other applicable provisions of the Governing Documents;

2.2.5 The right of the Executive Board to adopt and amend, from time to time, Rules and Regulations concerning all or any portion of the Real Estate and any improvements located thereon, as the Association may determine is necessary or prudent;

2.2.6 The right of the Association or of the applicable District(s) to enter into and execute contracts with any party for the purpose of providing management, maintenance or other services for the Common Areas or otherwise governing their use and operation;

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2.2.7 The right of the Association or of the applicable District(s) to grant permits, licenses and easements over the Common Areas for utilities, roads, and other purposes deemed appropriate by the Executive Board or the board(s) of directors of the District(s) in question, as applicable;

2.2.8 The right of the Association or of the applicable District(s) to dedicate or transfer all or any part of the Common Areas;

2.2.9 The right of the Association or the applicable District(s) to mortgage or otherwise encumber any or all of the real or personal property owned by it as security for money borrowed or debts incurred, subject to the approval requirements set forth below; and

2.2.10 The right of the Association or the District(s) in question to close or limit the use of the Common Areas while maintaining, repairing and making replacements to the same, or for such other purpose or purposes as the Association or the District(s) may deem appropriate.

Section 2.3 Authorized Users. The Common Areas may be used and enjoyed by each Owner and each Owner's Related Users.

ARTICLE 3. COMMON AREAS

Section 3.1 References to Declaration. Reference to this Declaration in any document or instrument in the real property records shall be deemed to include any supplements or amendments to this Declaration, without specific reference thereto.

Section 3.2 Common Areas. The Common Areas are shown as "Tracts" on the Plats relating to the Real Estate. Any declaration of annexation pursuant to which any additional property is made a part of the Real Estate in accordance with Article 14 below shall identify any Common Areas to be located therein.

ARTICLE 4. OPERATION OF THE ASSOCIATION

Section 4.1 Formation. The Association has been formed as a Colorado non-profit corporation. The Association shall have the duties, powers and rights set forth in this Declaration, the Articles of Incorporation, the Bylaws and the other Governing Documents. The Association's affairs shall be managed by the Executive Board; provided, however, Declarant shall have the sole right to appoint and to remove a majority of the members of the Executive Board until the Turnover Date.

Section 4.2 Executive Board. The number, term and qualifications of the members of the Executive Board shall be fixed in the Articles of Incorporation and Bylaws. The Executive Board may, by resolution, delegate portions of its authority to an executive committee or to other

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committees, to officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Association. Actions by or on behalf of the Association may be taken by the Executive Board or any duly authorized committee, officer, agent or employee without a vote of the Owners, except as otherwise specifically provided in this Declaration.

Section 4.3 Membership in Association. Each Owner shall be a member of the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Unit, and the membership shall automatically pass with the fee simple title to the Unit. Declarant shall hold one membership in the Association for each Unit owned by it. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit, 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 First Mortgagee, 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 performing his or her obligations under this Declaration. The rights acquired by any such tenant or First Mortgagee shall be extinguished automatically upon termination of the tenancy or First Mortgage in question. An assignment of rights by an Owner pursuant to this Section 4.3 shall not be subject to any present or future statutory time limit for the duration of proxy rights.

ARTICLE 5. THE ASSOCIATION

Section 5.1 General Purposes and Powers. The Association, acting through the Executive Board except as otherwise by this Declaration or the Governing Documents, shall perform such functions and manage the Community as provided in this Declaration so as to further the interests of the Owners. The Association shall not be responsible for the maintenance, repair, replacement, operation, management or control of those Common Areas for which one or more of the Districts is to provide such services. The Association shall have all power necessary or desirable to effectuate its responsibilities in accordance with this Section 5.1, and in doing so shall act in a manner consistent with the Governing Documents. All Owners shall be deemed to have assented to, ratified and approved such designation of rights, duties, and authority.

Section 5.2 Powers; Duties. The Association, acting in all instances by and through the Executive Board unless specifically reserved to its members, shall have the following specific powers and duties:

5.2.1 The Association shall have all of the powers, authority and duties permitted pursuant to the Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 et seq.

5.2.2 The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Community, subject to the terms, requirements and limitations contained in the Governing Documents.

5.2.3 The Association shall have all of the powers, authority and duties necessary and proper to own, operate, manage, lease, encumber, maintain, repair, reconstruct,

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replace, improve, and otherwise deal with the Common Areas for which it is responsible, including the right to acquire additional Common Areas and to construct improvements thereon, and the right to promulgate reasonable Rules and Regulations which do not conflict with any of the provisions of this Declaration or the other Governing Documents.

5.2.4 The Association shall have the right to have access to the Common Areas and, to the extent necessary, to any adjacent Units to the extent necessary for the maintenance, repair or replacement of, or to prevent damage to, the Common Areas.

5.2.5 The Association may undertake any activity, function or service for the benefit or to further the interests of the Owners.

5.2.6 The Association may engage a community association manager as more particularly provided in the Bylaws.

5.2.7 The Association may assign its future income, including its rights to receive Common Expense Assessments, upon the affirmative vote of a majority of the voting interests present at a meeting called for that purpose, in accordance with the Bylaws.

5.2.8 The Association shall enforce the requirements of the Design Guidelines and the Rules and Regulations as it deems necessary to ensure the proper use, development, improvement, repair, maintenance and replacement of real and personal property within the Community, and, subject to the provisions of Article 8 below, to appoint persons to serve on the Design Review Committee.

Section 5.3 Enforcement. The Association shall have the power to enforce the provisions and requirements of the Governing Documents, and shall take such action as the Executive Board deems desirable to cause such compliance by each Owner and each Related User, by any of the following means:

5.3.1 By entry upon any Unit after notice and an opportunity to be heard (unless a bona fide emergency exists), without liability to the Owner thereof, for the purpose of enforcement or causing compliance, including by curing any such violation;

5.3.2 Subject to Section 5.9 below, by commencing and maintaining actions and suits: (i) to recover damages; or (ii) to restrain and enjoin any violation or threatened violation of, or compel compliance with, the provisions of the Governing Documents by mandatory injunction or otherwise;

5.3.3 By exclusion of any Owner or Related User from use of any Common Areas for a period of sixty (60) days following any violation, or so long as the violation continues, whichever is longer;

5.3.4 By suspension of the voting rights of an Owner for up to thirty (30) days following any violation, or so long as the violation continues, whichever is longer;

5.3.5 By levying and collecting, after notice and an opportunity to be heard, fines against any Owner for violation by such Owner or a Related User, as a Default

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Assessment to be secured by a continuing lien, from the date it is levied, and by foreclosure of such lien.

Section 5.4 Association Agreements. The Association shall have the power to execute any agreement for professional management of all or any portion of the Community or any contract providing for services of the Declarant. Any such agreement shall provide for termination by either party without cause and without payment of a termination fee or a penalty upon not more than thirty (30) days written notice.

Section 5.5 Indemnification. To the full extent permitted by law, all of the officers and members of the Executive Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be parties, or in which they may become involved, by reason of being or having been an officer or member of the Executive Board of the Association, or any settlements thereof, whether or not they are officers or members of the Executive Board of the Association at the time such expenses are incurred. Such indemnification shall not apply, however, to any officer or Executive Board member that is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties in connection with the particular case or controversy. In the case of a settlement, the foregoing indemnification shall apply only if the Executive Board approves the settlement and reimbursement as being in the best interests of the Association.

Section 5.6 Governmental Interests. Declarant has reserved the right to designate portions of the Real Estate for fire, police, water, drainage, utility facilities, parks, and other public facilities, as provided below. These sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site if so directed by Declarant. The sites may include other property not owned by the Declarant, provided the owner consents thereto.

Section 5.7 Right to Notice and Comment. Before the Executive Board amends the Bylaws or adopts or amends Rules and Regulations, or whenever the Governing Documents require that an action be taken after "notice and comment," and at any other time the Executive Board determines, the Owner or Owners affected by the action in question shall have the right to receive written notice of the proposed action and the right to comment orally or in writing. Notice shall be given to each affected Owner in writing, delivered either personally or by mail to at their respective addresses as they appears in the records of the Association, and additional notice may be provided in a newsletter or similar publication which is routinely circulated to all Owners. Any required notice shall be given not less than three days before the proposed action is to be taken. The Notice shall invite comment to the Executive Board, orally or in writing, before the scheduled time of any meeting.

Section 5.8 Disclaimer Regarding Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Real Estate that are designed to make occupancy of the Real Estate more secure than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Real Estate, nor shall any of them be held liable for any loss or damage by reason of failure to provide security or by reason of the ineffectiveness of any security measures that might

be undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in any case prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform all Related Users of the terms of this Section 5.8. Further, each Owner and Related User, and every other Person entering upon the Real Estate, expressly agrees that he, she or it assumes all risks for loss or damage to persons and to property resulting from the acts or omissions of third parties.

Section 5.9 Compliance with Declaration. Each Owner shall comply strictly with, and shall cause each of such Owner's Related Users to comply strictly with all of the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and the other Governing Documents. Failure to comply with any of the same shall be grounds for an action or actions to recover sums due, for damages and/or for injunctive relief, along with costs of suit and reasonable attorneys' fees, maintainable by the Executive Board in the name of the Association on behalf of the Owners, or, in a proper case, by an aggrieved Owner. Such failure also may result in the imposition of a Default Assessment. Notwithstanding any contrary provision contained in this Declaration, in no event may the Association or the Executive Board commence any action or proceeding seeking equitable relief, or seeking either an unspecified amount of damages or damages in excess of \$25,000.00, unless the following conditions are satisfied: (a) the decision to commence such action or proceeding shall be taken at an annual or special meeting of the Association; (b) a budget for such litigation, including all fees and costs and assuming trial and applicable appeals, shall have been prepared by the attorneys who will be engaged by the Association for such purpose, and shall have been mailed or delivered to all Owners and posted at the principal office of the Association at least 30 days prior to such meeting; and (c) at such meeting the Owners representing an aggregate of 75% or more of the voting interests of the Units then included within the Real Estate shall approve the decision to commence, and the proposed budget for, such action or proceeding, and shall concurrently approve the imposition of a Special Assessment to fund the costs of such action or proceeding in accordance with the approved budget. The Association shall be authorized to expend funds for such proceeding in excess of the amount contemplated by the approved budget only after an amended budget has been approved in accordance with the procedures specified in the foregoing subparts (a), (b) and (c). The requirements set forth in the preceding two sentences of this Section 5.9, however, shall not apply to any action or proceeding to collect or otherwise enforce Assessments and any related fines, late charges, penalties, interest or costs and expenses, including reasonable attorneys' fees, nor shall said provisions apply to any action to enforce any decision or requirements of the Design Review Committee. All of the costs and expenses of any action or proceeding requiring the approval of the Owners in accordance with this Section 5.9 be funded by means of a Special Assessment, and in no event may the Association use reserve funds or incur any indebtedness in order to pay any costs and expenses incurred for such purpose. Further, if the Association commences any action or proceeding against a particular Owner or particular Owners requiring the approval of the Owners in accordance with this Section 5.9, the Owner or Owners who are being sued shall be exempted from the obligation to pay the Special Assessment levied for the purpose of paying the costs and expenses of such action or proceeding.

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ARTICLE 6. OWNERS' MAINTENANCE RESPONSIBILITIES

Section 6.1 Owner's Responsibility. Each Owner shall be responsible for maintaining his or her Unit and all structures, driveways, sidewalks, parking areas, landscaping, fencing, drainage, and other improvements comprising the Unit, except to the extent that such maintenance responsibility is assigned to and assumed in writing by the Association or the District(s). Each Owner also shall be responsible for: (a) irrigating and re-seeding or sodding of lawn areas within the Owner's Unit, as needed; (b) maintaining and replacing landscaping materials, including flower beds; (c) maintaining, winterizing, repairing and replacing, as necessary, the irrigation and sprinkler system, if any, serving the Unit; (d) repairing or replacing any damage to landscaping located on such Owner's Unit resulting from any repair or maintenance activities conducted on such Unit; (e) maintaining and replacing, as necessary, any of the tree(s) that are located in any landscaped area or parkway within the right-of-way immediately adjacent to the front of such Owner's Unit; and (f) maintaining and replacing fencing. The determination of the Design Review Committee as to an Owner's responsibility in accordance with this Section 6.1 shall be final.

Section 6.2 Standard of Performance. Except as otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility of maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the quality standard from time to time existing within the Community, and in any event in accordance with the applicable standards and requirements as set forth in the Design Guidelines and in the City of Aurora's Design Standards for Tallyn's Reach. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of property which it does not own, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE 7. COVENANT FOR COMMON EXPENSE ASSESSMENT

Section 7.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant and each Owner of a Detached Single Family Residential Unit (other than a Participating Builder), by acceptance of a deed or other document conveying an interest in a Unit, shall be deemed to have covenanted and agreed to pay to the Association the Common Expense Assessments, including without limitation Special Assessments, and the Default Assessments as imposed by the Association pursuant to the Governing Documents, irrespective of whether such covenant shall have been set forth in any such deed or other conveyance. Such Assessments, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association, shall be the personal obligation of the Owner of a Detached Single Family Residential Unit at the time when the Assessment or other charges became due. The Common Expense Assessments and Default Assessments imposed by the Association, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association, shall be a charge on each Detached Single Family Residential Unit and shall be a continuing lien upon such Unit against which each such Assessment or charge is made. The

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personal obligation to pay any past due sums shall pass to a successor in title (other than a First Mortgagee acquiring a Unit as a result of foreclosure or proceedings in lieu of foreclosure), unless otherwise expressly agreed by the Association. No Owner of a Detached Single Family Residential Unit may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Areas or by abandonment of the Unit against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets from or reduction of such Assessments shall be permitted for any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

Section 7.2 Apportionment of Common Expenses. Except as provided below and elsewhere in this Declaration, all Common Expense Assessments shall be assessed against all Detached Single-Family Residential Units in accordance with the formula set forth in Article 16 below:

7.2.1 Any Common Expense Assessment for services provided by the Association to an individual Unit pursuant to the Governing Documents or at the request of the Owner of an individual Unit may be assessed against that Unit.

7.2.2 If any costs or expenses are incurred by the Association due to the misconduct of an Owner or and Owner's Related Users, the Association may assess that expense exclusively against the Owner and that Unit as a Default Assessment.

7.2.3 Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner are enforceable as Default Assessments against the Unit of such Owner.

Section 7.3 Purpose of Assessments. All Common Expense Assessments shall be used for the purposes of promoting the health, safety, and welfare of Owners and Related Users, and in particular for the following purposes:

7.3.1 To enforce the provisions of the Governing Documents;

7.3.2 To exercise all rights and powers and to discharge all duties and obligations pursuant to the Governing Documents;

7.3.3 To fund any operating deficits or reserves the Association deems necessary to meet its financial obligations.

Section 7.4 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense Assessment shall be made on an annual basis against all Detached Single-Family Residential Units and shall be payable as determined by the Executive Board, as provided in this Section 7.4. The Common Expense Assessment shall be based upon the Association's advance budget of the cash requirements estimated by the Association to be required to provide for the administration and performance of its duties during the Assessment year in question. Common Expense Assessments shall be due and payable in a single annual payment on June 1 of each year, or in such other manner, as may be determined by the Executive

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Board. At the Declarant's option, Common Expense Assessments will begin on the first day of the calendar month following the calendar month in which the conveyance of the first Detached Single Family Residential Unit to a person other than Declarant or Participating Builder occurs, or at such later date as Declarant determines. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the same when and as assessed.

Section 7.5 Limitation on Amount of Common Assessments. Notwithstanding any contrary provision contained in this Declaration, the annual average Common Expense liability of each Detached Single-Family Residential Unit restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the Association, shall not exceed \$400.00, as adjusted annually on June 1, 2000, and on June 1 of each succeeding year for increases in the United States Department of Labor Statistics Final Consumer Price Index for the Denver-Boulder Consolidated Metropolitan Statistical Area for the preceding calendar year, in accordance with C.R.S. § 38-33.3-116(2) and (3). The purpose and intent of the foregoing restriction is to satisfy the requirements for exemption of the Community from the Colorado Common Interest Ownership Act in accordance with C.R.S. § 38-33.3-116, and such purpose and intent shall govern and control any contrary provisions of the Governing Documents. If the amount assessed against the Units, as limited by this Section 7.5, is insufficient to pay in full amount of the Common Expense Assessment for the year in question, Declarant will loan the amount of the deficiency to the Association upon such terms as may be acceptable to the Declarant; provided, however, in no event shall the payments required by such loan cause the Common Expense Assessments to exceed the limitation set forth in this Section 7.5.

Section 7.6 Lien Priority. The lien of the Association under this Section shall be prior to all other liens and encumbrances on a Detached Single Family Residential Unit except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a First Mortgage on the Unit; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit by the State of Colorado, Arapahoe County, the City of Aurora or any political subdivision of any such governmental authority. This Section does not affect the priority of mechanics or materialmen's liens. The lien of the Association under this Article is not subject to the provisions of any homestead exemption allowed by state or federal law, and all such homestead exemptions shall be deemed waived by an Owner upon such Owner's acceptance of a deed or other conveyance of fee title to such Owner's Unit. Sale or transfer of any Unit shall not affect the lien for said Assessments, except that the transfer of any Unit as a result of the foreclosure of any First Mortgage, or any proceeding in lieu thereof, shall extinguish the Assessment lien as to any amounts that were due and payable prior to the effective date of transfer resulting from such foreclosure or deed in lieu thereof. No transfer resulting from any such foreclosure or proceeding in lieu thereof, however, will relieve any Unit from continuing liability for any Assessments thereafter becoming due, nor from the lien thereof.

Section 7.7 Special Assessments. Subject to Section 7.5 above, the Executive Board may at any time and from time to time, determine, levy and assess a Special Assessment applicable to that particular assessment year for the purpose of defraying, in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement or maintenance of a capital improvement and any fixtures or personal property related thereto, and any acquisition of real

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property. Any such Special Assessment shall be due and payable as determined by the Executive Board. The term "capital improvements," as used herein, shall mean the acquisition, improvement, development, maintenance, repair or replacement of Common Areas. Notice in writing setting forth the amount of such Special Assessment allocable to any particular Unit and the due date for payment thereof shall be given to the Owners of Detached Single Family Residential Units not less than thirty (30) days prior to such due date.

Section 7.8 Effect of Non-Payment of Assessments. Any Assessment provided for in this Declaration, or any installment thereof, which is not fully paid within ten (10) days after the due date thereof, shall bear interest from the due date at the rate of 18% per annum or at such lesser rate as may be set by the Executive Board from time to time, and the Association may assess a monthly late charge thereon as determined by the Executive Board. Failure to make payment within the sixty (60) days of the due date thereof shall cause the total amount of such Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, or any monthly or other installment thereof, and for any Default Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien therefor. The Association's costs of suit, expenses and reasonable attorneys' fees incurred by virtue of the failure of the Owner to timely pay Assessments when due, including attorneys' fees and costs for preparing and recording any lien notice, and the Association's costs of suit, expenses and reasonable attorneys' fees incurred for any such action and/or foreclosure proceedings, shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Association as a Default Assessment from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Unit. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessments, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage and convey or otherwise deal with the same. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the Unit which accrued prior to the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

Section 7.9 No Waiver or Abandonment. No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Unit against which the Assessments are made.

Section 7.10 Declaration is Notice. Recording of the Declaration constitutes record notice and perfection of the Assessment lien. No further recordation is required. However, the Executive Board may prepare and record in the real property records of Arapahoe County, Colorado, a written notice setting forth the amount of any unpaid indebtedness, the name of the Owner, a description of the Unit, and such other information, if any, as the Association may deem appropriate.

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**ARTICLE 8.
DESIGN REVIEW**

Section 8.1 General. No "Improvement" as defined this Section 8.1, shall be made except in compliance with the architectural review procedures and restrictions set forth in this Declaration and in accordance with the Design Guidelines and the City of Aurora's Design Standards for Tallyn's Reach. No provision in this Article or in the Design Guidelines, however, shall apply to Improvements to the Common Areas made by or on behalf of the Association or to any Improvements constructed by Declarant. For purposes of the foregoing, the term "Improvement" shall mean and include the following: (a) the construction, installation, alteration, demolition in whole or in part, or expansion of any building, structure or other improvements, including utilities; (b) the staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land, including without limitation any change of grade, change of ground level, change of drainage pattern, or change of stream bed or course; (c) all initial planting of and subsequent material modifications to landscaping, and all planting, clearing or removing of trees, shrubs, grass or perennial plants, but in each instance excluding removal of dead or diseased plants and trees and excluding any replacement that is substantially similar to the item being replaced; (d) any change or alteration to the exterior appearance of Improvements previously approved by the Design Review Committee, including any change in finish material, color or texture; (e) the repainting and resurfacing of exterior surfaces of structures, including roofing materials, gutters, downspouts, drainspouts, exterior siding or stucco finish, entry doors, windows, trim around doors and windows, surfaces of garage doors, external vents and flues and glass surfaces, exclusive of any replacement that is substantially identical to the item being repainted or resurfaced; and (f) reconstruction of any structures. Design Review Committee approval shall not be required for any changes to the interior of any structure constructed on a Unit.

Section 8.2 Design Review Responsibility. The administration of the Design Guidelines and the review of all applications for approval construction and modification under this Article and the Design Guidelines shall be the responsibility of the Design Review Committee. The Executive Board may establish and charge fees for review of applications hereunder, and may require such fees to be paid in full prior to review. Additionally, the Executive Board may provide for the employment of such professional consultants as it may deem appropriate to advise and assist the Design Review Committee. The Executive Board may also establish fines and other penalties for failure to comply with the provisions of this Article and the Design Guidelines. In order to expedite that process of review of applications for new construction, the Executive Board may provide for the establishment of a Modifications Committee, which shall have the responsibility for reviewing all applications for modifications to previously constructed Improvements, including material modifications to landscaping. If such a Modifications Committee is established, its members will be appointed by Declarant or the Association, as applicable, to the same extent as Declarant or the Association then has the power to appoint the members of the Design Review Committee. In all other respects the terms of this Article 8 shall apply to the Modifications Committee from and after the date that any such committee is established; provided, however, in no event may the Modifications Committee amend or otherwise alter the Design Guidelines.

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Section 8.3 Design Review Committee. The Design Review Committee shall consist of three (3) persons. Until the Turnover Date, or such earlier date as Declarant may elect in writing to relinquish such power, Declarant shall appoint all members of the Design Review Committee, and may remove and replace any such members as it deems appropriate. Moreover, the Declarant may establish more than one Design Review Committee for purposes of administration of the Design Guidelines as they relate to new Improvements as distinguished from existing Improvements. After expiration or termination of Declarant's appointment rights, the Design Review Committee shall be comprised completely of Owners without regard to special qualifications, and the members of the Design Review Committee shall then be appointed by the Executive Board. Until that date, Declarant, in its sole discretion, may at any time grant all or any portion of its power to appoint the members of the Design Review Committee to any successor Declarant, or to the Association. From and after the Turnover Date, the terms of the members of the Design Review Committee shall be staggered, and shall terminate at different dates, so as to provide reasonable continuity to the design review process.

Section 8.4 Guidelines and Procedures--General. Declarant shall prepare the initial Design Guidelines, which thereafter may be amended in whole or in part by a majority of the Design Review Committee. For so long as Declarant owns any Units, any such amendment shall require the written approval of Declarant. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. The Design Guidelines may contain general provisions applicable to all of the Real Estate, as well as specific provisions which vary from one portion of the Real Estate to another depending upon location, unique characteristics, and intended use. The Design Guidelines may also include the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement. The Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part, and may waive the requirement or exempt Improvements from the requirement for approval if such approval is not reasonably required to carry out the purposes of this Declaration. The Design Guidelines, as the same shall be amended from time to time, need not be recorded, but shall be considered incorporated herein by reference and shall be enforceable as though set forth in full. Additionally, the construction of improvements within the Real Estate shall be subject to and governed by the requirements set forth in the City of Aurora's Design Standards for Tallyn's Reach. Each Owner, by accepting to deed for any Unit, shall be deemed to have agreed to comply with the requirement of said Design Standards, as the same may be interpreted and enforced by the City of Aurora and/or the Design Review Committee.

Section 8.5 Submission of Application. Prior to commencement of work to accomplish any proposed Improvement, the Person proposing to make such Improvement (the "Applicant") shall submit to the Design Review Committee such information, descriptions, surveys, elevations, plans, specifications and samples showing and describing the proposed Improvement (the "Application") as may be required by the Design Guidelines. The Design Review Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement. Until receipt by the Design Review Committee of all required materials in connection with the proposed

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Improvement, the Application shall be deemed incomplete, and the Design Review Committee may postpone review of any materials submitted for approval by the Applicant. At its request, the Applicant shall be entitled to receive a receipt from the Design Review Committee or its authorized agent showing the date the complete Application was received.

Section 8.6 Criteria for Approval. The Design Review Committee will approve any proposed Improvement only if it determines that the Improvement in the location indicated will not be detrimental to the appearance of the surrounding areas of the Real Estate as a whole; that the appearance of the proposed Improvement will be in harmony with the surrounding areas of the Real Estate; that the Improvement will not detract from the beauty, wholesomeness and attractiveness of the Real Estate or the enjoyment thereof by the Owners; and that the upkeep and maintenance of the proposed Improvement will not impose any undue burden on the Association. The Design Review Committee may condition its approval of any proposed Improvement upon the making of such changes as the Design Review Committee may require.

Section 8.7 Decision of Committee. The decision of the Design Review Committee shall be made within 60 days after the date that it receives the complete Application and any additional materials required by it, unless such period of time is extended by mutual agreement of the Design Review Committee and the Applicant. The decision shall be in writing and, if the decision is to disapprove the Application, the reasons shall be stated. The decision of the Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Committee.

Section 8.8 Failure to Act. Any request for approval of a proposed Improvement shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Design Review Committee within 60 days after the date that the Design Review Committee receives the complete Application and any additional materials required by it.

Section 8.9 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 8.10 Prosecution of Work. After approval of any Application, the proposed Improvement shall be constructed with reasonable promptness and diligence in conformity with the Application and any conditions imposed by the Design Review Committee in its approval.

Section 8.11 Notice of Completion. Upon Completion of the Improvement, the Applicant shall give written notice of completion to the Design Review Committee. Until the date of its receipt of such notice, the Design Review Committee shall not be deemed to have received notice that the Improvement has been completed.

Section 8.12 Inspection. The Design Review Committee or its representative shall have the right to inspect any Improvement prior to or after completion. If as a result of its inspections or otherwise the Design Review Committee determines that any Improvement has

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been commenced without obtaining the approval of the Design Review Committee, or if it determines that the Improvement is not being completed or has not been completed in conformity with the Application and any conditions of approval, the Design Review Committee shall notify the Applicant in writing of such determination. The notice shall specify the particulars of the noncompliance, and shall require the Applicant to take such action as may be necessary to remedy the noncompliance and may, at the election of the Executive Board, be recorded in the real property records of Arapahoe County, Colorado. ~~If for any reason other than the Applicant's act or omission the Design Review Committee fails to notify the Applicant of any noncompliance within 30 days after the Design Review Committee's receipt of a written notice of completion from the Applicant, the Improvement shall be deemed to be in compliance, if the Improvement, in fact, was complete as of the date the notice of completion was received by the Design Review Committee.~~

Section 8.13 Enforcement. Any Improvement placed, installed or constructed, in violation of this Article shall be deemed to be nonconforming. Upon written request from the Design Review Committee, the Owner in violation shall, at his or her own cost and expense, remove the Improvement and restore the Unit in question to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as requested, Declarant and the Association, and their respective designees, shall have the right to remove the violation and restore the Unit to substantially the same condition as previously existed, or to pursue all legal and equitable remedies available to enforce the provisions of this Article. All costs and attorneys' fees, together with interest on all sums expended by the Association at such rate as may be charged by it, may be assessed against such Unit and collected as a Default Assessment. Additionally, any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Association from the Real Estate upon notice and an opportunity to be heard.

Section 8.14 Nonliability of the Design Review Committee and Executive Board Members. Neither the Design Review Committee, the Executive Board nor any member thereof nor Declarant shall be liable to the Association or to any Owner or other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Design Review Committee's or Executive Board's respective duties under this Declaration or the other Governing Documents unless arising as a result of an act or omission which is committed in subjective bad faith or which involves intentional misconduct or a knowing violation of law (as defined in C.R.S. § 7-22-101) by the Design Review Committee or Executive Board or individual members thereof. The Design Review Committee or Executive Board shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approval of, structural safety, engineering soundness, or conformance with building codes or any other laws, requirements or standards.

Section 8.15 Variances. The Design Review Committee may authorize variances from compliance with any of the architectural provisions or Design Guidelines when circumstances so warrant. Such variances must be evidenced in writing and must be signed by at least a majority of the members of the Design Review Committee. If such a variance is granted, no violation of this Declaration or the other Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted, provided the Applicant complies with

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the terms of the variance. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Design Guidelines for any purpose except as to the particular property and particular provision in the instance covered by the variance.

Section 8.16 Scope of Judicial Review. The scope of judicial review of any action taken by the Association or the Design Review Committee pursuant to this Article 8, including but not limited to the promulgation, interpretation, and enforcement of the Design Guidelines, shall be limited to cases of fraud, willful misconduct or subjective bad faith.

ARTICLE 9. RESTRICTIVE COVENANTS

Section 9.1 Owners' Acknowledgment. All Owners and Related Users of Units are given notice that use of their Units is limited by provisions of the Governing Documents as they may be amended from time to time. Each Owner, by acceptance of a deed or other instrument of conveyance, acknowledges and agrees that the use, enjoyment and marketability of his or her Unit may be affected by such provisions, and that the covenants, conditions and restrictions affecting the use and occupancy of a Unit may be amended from time to time in accordance with the terms of this Declaration and the other Governing Documents.

Section 9.2 Rights of Owners. The Executive Board shall not adopt any Rule or Regulation in violation of the following provisions:

9.2.1 Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

9.2.2 Speech. The rights of Owners to display political signs and symbols in or on their Units of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and Related Users.

9.2.3 Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

9.2.4 Activities Within Dwelling. No rule shall interfere with the activities carried on within the confines of dwellings on the Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners that may pose a threat to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, or that create an unreasonable source of annoyance.

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9.2.5 Reasonable Rights to Develop. No rule or action by the Association or Executive Board shall unreasonably impede the Declarant's or any Participating Builder's right to develop the Units owned by them in accordance with the Plats and this Declaration.

Section 9.3 Prohibited Activities. The following activities are prohibited within the Community unless expressly authorized (and if authorized, subject to such conditions as may be imposed) by the Executive Board:

9.3.1 Subdivision. Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit, shall be prohibited without the prior written consent of Declarant prior to the Turnover Date, and without the prior written consent of the Association subsequent to the Turnover Date;

9.3.2 Commercial Activities. Any business, profession, trade, or similar activity shall be prohibited, except that an Owner may conduct business activities within a Unit so long as:

(a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit;

(b) the activity conforms to all zoning and other legal requirements for the activity that are applicable to the Unit in questions;

(c) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of Owners or Related Users; and

(d) the activity is consistent with the residential character of the Real Estate and does not constitute a nuisance, hazardous or offensive use, or threaten the security or safety of other Owners or Related Users, as may be determined in the reasonable discretion of the Executive Board.

The provision of subsections 9.3.1 and 9.3.2 shall not be deemed to prohibit or restrict the right of the Owner of any Unit that is zoned for apartments, condominiums or similar uses to construct and operate an apartment or condominium development upon such Unit, or to subdivide all or any portion of such development into individual condominium units, nor shall it restrict the operations of any Subassociation created for any part of the Real Estate.

9.3.3 Leases. The term "lease," as used herein, shall include any agreement for the leasing or rental of a Unit and shall specifically include, without limitation, a month-to-month rental. Owners shall have the right to lease their Units only under the following conditions:

(a) All leases shall be in writing.

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(b) All leases shall provide that the terms of the lease and the tenant's occupancy of the Unit shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, the Bylaws, Rules and Regulations and Design Guidelines, as the same may be amended from time to time, and shall provide that any failure by such tenant to comply with the provisions of these instruments, in any respect, shall be a default under the lease, said default to be enforceable by either the Association or the Owner/landlord, or both.

9.3.4 Nuisances. Any use, activity, or practice which is the source of or unreasonably interferes with the peaceful enjoyment or possession of a Unit or any portion of the Common Areas or any portion of the Community shall be prohibited. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or any portion thereof shall be observed and may be enforced by the Association as if the same were contained in the Governing Documents. In no event shall the activities of the Declarant or a Participating Builder which are reasonably necessary to the exercise of the rights granted to them by this Declaration or under applicable laws be considered a "nuisance" unless such activities unreasonably interfere with any Owner's use and enjoyment of such Owner's Unit.

9.3.5 Vehicles. Parking, storing, servicing or repairing commercial vehicles, recreational vehicles, mobile homes, boats, campers, trailers, watercraft, or other oversized vehicles, or any inoperative vehicles, shall be permitted only if the vehicle is completely enclosed within a garage;

9.3.6 Animals. In no event may any Owner engage in the commercial breeding of animals on any portion of the Real Estate, and in no event will any Owner keep any animals other than common household pets within the Real Estate. The Association may adopt reasonable Rules and Regulations regarding domestic pets designed to minimize damage and disturbance to other Owners and occupants, including Rules and Regulations requiring damage deposits, waste removal, leash controls, noise controls and occupancy limits.

9.3.7 Vegetation. Owners may not engage in any activities that materially disturb or destroy the vegetation, wildlife or air quality within the Community, or which use excessive amounts of water, or which result in unreasonable levels of sound or light. The foregoing shall not prevent an Owner from removing or replacing vegetation on his or her Unit that was installed by the Owner or his or her predecessor in interest as the owner of the Unit in question if the removed landscaping is replaced with a substantially similar item of landscaping, or from removing dead or diseased landscaping on such Owner's Unit, or from taking any similar action with the approval of the Design Review Committee. Notwithstanding any contrary provision contained in this Declaration, each Owner shall strictly comply with the City of Aurora's Black Forest Tree Preservation Ordinance, Aurora City Code Sections 146-2090 through 146-2098, which relates to tree maintenance and preservation program for Tallyn's Reach, including without limitation its requirements and provisions relating to the care of and the manner of engaging in construction around the existing Ponderosa Pines Trees Located on the Real Estate.

9.3.8 Grade. No Owner may obstruct or rechannel drainage flows, or the alter the location or installation of drainage swales, storm sewers or storm drains. Declarant

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and the Association, however, may engage in any of the activities described in this subsection if such activities do not materially diminish the value of, or unreasonably interfere with, the use and enjoyment of any Unit unless the consent of the Owner of such Unit.

Section 9.4 Use Restrictions.

9.4.1 Parking. All parking within the Real Estate shall be subject to any applicable City of Aurora ordinances and to any Rules and Regulations promulgated by the Association, including without limitation any such Rules and Regulations that may be promulgated by the Association for the purpose of governing parking on public streets.

9.4.2 Use. All Units shall be used only for those uses and purposes allowed by applicable City of Aurora zoning ordinances and regulations.

9.4.3 Exterior Lighting. All lighting fixtures installed on or outside the exterior walls of any dwelling or other structure shall be subject to the approval of the Design Review Committee for harmonious development and the prevention of lighting nuisances to other Units and Common Areas in the Community. Such lighting fixtures also shall comply fully with any applicable City of Aurora lighting ordinances, regulations or requirements.

**ARTICLE 10.
EASEMENTS AND RESERVATIONS**

Section 10.1 Easements of Encroachment. Reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, are hereby granted and created between each Unit and any adjacent Common Areas and between adjacent Units due to the unintentional placement or the settling or shifting of any improvements constructed, reconstructed, or altered thereon to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner.

Section 10.2 Easements for Utilities, Etc. Declarant hereby reserves, for itself and the Association, and for any governmental entities or utility companies providing utility services to Units, access and maintenance easements upon, across, over, and under all of the Common Areas to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any cable television systems, security and similar systems, roads, walkways, bicycle pathways, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water and sewer lines and facilities, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing within easements designated for such purposes on the Plat. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any structure or other improvement constructed within any Common Area, and any damage to any such structure or other improvement resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

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Section 10.3 Easements Over Common Areas . The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Areas for the purposes of enjoyment, use, access, and development of all or any portion of the Real Estate. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to by it or its agents or employees to the Common Areas as a result of vehicular traffic connected with development of the Real Estate.

Section 10.4 Right of Entry. In addition to the enforcement rights the Association is granted in Article 8 above, the Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to the Governing Documents, and to inspect for the purpose of ensuring compliance with this Declaration and the other Governing Documents, which right may be exercised by any member of the Executive Board, the Association and its officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and any damage caused by entry shall be repaired by the Association as a Common Expense. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after requested by the Executive Board. In no event will the provisions of this Section authorize entry into any dwelling without the prior consent of the Owner.

ARTICLE 11. MORTGAGEE PROVISIONS

Section 11.1 Notices of Action. A First Mortgagee that provides a written request to the Association stating the name and address of such First Mortgagee and the street address of the Unit to which its First Mortgage relates (any such First Mortgagee is referred to as an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Real Estate or which affects the encumbered by the First Mortgage held, insured, or guaranteed by the Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by the Unit subject to the First Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or Bylaws relating to such Unit or the Owner or occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a First Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of any obligation under the Declaration or Bylaws which is not cured within 60 days; or

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(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

Section 11.2 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least Members representing at least 67% of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Areas which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner (Any action, including contracts, by the Executive Board shall not be subject to this provision if such action is otherwise authorized by this Declaration or the Bylaws);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Areas (the issuance and amendment of architectural standards, procedures, Rules and Regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance as required by this Declaration;
or

(e) use hazard insurance proceeds for any Common Areas losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, may pay overdue premiums on casualty and liability insurance policies or secure new casualty and liability insurance coverage upon the lapse of an Association policy, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 11.3 Other Provisions for First Mortgagees. To the extent permitted under Colorado law:

(a) Any restoration or repair of any of the Common Areas after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of First Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

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(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of First Mortgages on Units to which at least 51% of the votes of Units subject to First Mortgages held by such Eligible Holders are allocated.

Section 11.4 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.

Section 11.5 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the Mortgagees or any other person or entity holding a debt which encumbers such Owner's Unit.

Section 11.6 Amendment by Executive Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements as set forth in this Article, or make any such requirements less stringent, the Executive Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

Section 11.7 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Executive Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Section 11.8 HUD/VA Approval. To the extent required by said agencies, until the Turnover Date the following actions shall require the prior approval of the Federal Housing Administration or the United States Department of Veterans Affairs, if either such agency is insuring or guaranteeing a Mortgage that encumbers any portion of the Real Estate: annexation of additional property, dedication, conveyance or mortgaging of Common Areas, or material amendment of this Declaration.

ARTICLE 12. INSURANCE/CONDEMNATION

Section 12.1 Insurance Coverage. The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth in this Article 12:

12.1.1 The Association shall obtain and maintain, to the extent reasonably available, the insurance coverages referenced in C.R.S. § 38-33.3-313, as from time to time amended.

12.1.2 The Rules and Regulations may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real

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property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. If more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

12.1.3 Any portion of the Common Areas for which insurance is required under this Declaration which is damaged or destroyed must be promptly repaired or replaced substantially in accordance with the plans and specifications for the improvement in question. To the extent the insurance proceeds are insufficient to pay for the restoration, the deficiency shall be assessed as Common Expense.

12.1.4 The Association and the manager or managing agent, if any, shall obtain policies of fidelity insurance in the amounts prescribed by C.R.S. § 38-33.3-313, as amended from time to time.

12.1.5 All insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

12.1.6 All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner, and shall provide that such policies may not be canceled or modified without at least thirty (30) days prior written notice to all of the Owners and the Association.

12.1.7 Any insurance obtained by the Association shall name the Association, the Executive Board, the manager or managing agent, if any, the officers of the Association, Declarant, Participating Builders, and Owners as insureds, as their interests may appear.

12.1.8 All costs and expenses borne by the Association in compliance with this Section, including without limitation insurance premiums, and all costs and expenses borne by the Association in connection with insured and uninsured losses to persons or property within the Community, repairs and replacement of insured and uninsured property, and claims settlement or adjustment shall be considered Common Expenses.

Section 12.2 Condemnation. Condemnation of all or any portion of the Real Estate shall be governed by the provisions of C.R.S. § 38-33.3-107, as if for such purposes only the Community were governed by the Colorado Common Interest Ownership Act.

ARTICLE 13. RESERVATION OF DECLARANT RIGHTS

Section 13.1 Special Declarant Rights. Declarant hereby reserves the power and authority to exercise and engage in the following rights at any time from the effective date of this Declaration until the Turnover Date:

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13.1.1 Conveyance for Governmental Interests. The right to designate sites within any portion of the Real Estate for fire, police, water, drainage, and utility facilities, parks, and other public facilities.

13.1.2 Completion of Improvements. The right to construct and install Improvements on the Common Areas and Units owned by the Declarant.

13.1.3 Exercise of Development Rights. The right to exercise any expansion or other rights reserved in Article 14 of this Declaration.

13.1.4 Sales Management and Marketing. The right of Declarant and each of the Participating Builders to maintain sales and management offices upon any Unit owned by it or, with Declarant's consent, upon any of the Common Areas, the right to maintain advertising and promotional signs and banners approved in writing by Declarant, the right to maintain model homes and sales and management offices on any Unit owned by the Declarant or the Participating Builder, as applicable, and the right of Declarant and each Participating Builder, upon obtaining Declarant's consent, to periodically utilize for marketing purposes on an exclusive basis the recreational facilities, including the pool and clubhouse.

13.1.5 Construction Facilities. The right of the Declarant and Participating Builders and their respective employees, representatives, agents, and contractors to maintain within the Real Estate temporary construction facilities and construction materials, staging yards, and other facilities required during the construction of improvements to, and sale of, the Units. The location of all such facilities shall be subject to Declarant's written approval.

13.1.6 Construction Easements. The right of Declarant and Participating Builders to use easements through the Common Areas for the purpose of making improvements within the Real Estate, and the right to use, and to permit others to use, easements through the Common Areas as may be reasonably necessary for the purpose of discharging Declarant's obligations under this Declaration, all as more particularly described in Section 14.7 below.

13.1.7 Merger. The right to merge or consolidate the Community with another common interest community.

13.1.8 Control of Association and Executive Board. The right to appoint or remove any Officer of the Association or any Executive Board member as provided by this Declaration.

13.1.9 Amendment of Declaration. The right to amend the Declaration and any Plat in connection with the exercise of any right reserved by Declarant in accordance with this Declaration.

13.1.10 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking, utility and drainage facilities, and any other amenities including, without limitation, recreational facilities or areas which may or may not be a part of the Community for the benefit of the Owners and/or the Association.

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13.1.11 Other Rights. The right to exercise any additional right reserved or created by any other provision of this Declaration.

Each of the foregoing rights and activities may be exercised and conducted by Declarant and, as applicable, the Participating Builders, without the requirement of any consent or approval of the Association, the Executive Board, the Design Review Committee, or any other Person whose consent or approval would be required by the terms of this Declaration or the other Governing Documents in the absence of this Article 13.

Section 13.2 Subject Real Estate. The rights reserved by Declarant pursuant to this Article 13 and Article 14 below shall apply to all of the Real Estate, including without limitation any portion of any additional property that is made subject to the terms of this Declaration.

ARTICLE 14. DEVELOPMENT AND WITHDRAWAL RIGHTS

Section 14.1 Development and Withdrawal Rights. Declarant expressly reserves the right, at any time after the effective date of this Declaration until the Turnover Date, to create additional Units and Common Areas, and to subdivide Units, relocate boundaries between Units, convert Units into Common Areas, or to convert Common Areas into Units, on all or any portion of the Real Estate, except those Units sold. Declarant may exercise its rights in accordance with this Section 14.1 on all or any portion of the Real Estate in whatever order or sequence that Declarant, in its sole discretion, determines. Declarant expressly reserves the right to withdraw all or any portion of the property from the Real Estate by recording a document evidencing such withdrawal in the real property records of Arapahoe County, Colorado. The property withdrawn from the Real Estate shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Real Estate remaining subject to this Declaration. Declarant shall prepare and record in the real property records of Arapahoe County, Colorado, whatever documents are necessary to evidence such easements.

Section 14.2 Amendment of the Declaration. If Declarant elects to exercise any other rights referred in this Article 14, Declarant shall record an appropriate amendment to this Declaration which shall, among other matters, reallocate the Allocated Interests, as contemplated by Article 16 below, so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units subject to the

Section 14.3 Interpretation. Recording of amendments to this Declaration in the real property records of Arapahoe County, Colorado, shall automatically:

(a) Vest in each existing Owner the reallocated Allocated Interests appurtenant to his or her Unit; and

(b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Section 14.4 Rights Incidental to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials in secure areas, in Units

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owned by it and in the Common Areas, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or Mortgagee. Declarant reserves an easement through the Common Areas as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on any Plat for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Areas. All rights granted to or reserved by Declarant in this Declaration may be assigned to one or more of the Participating Builders by means of an appropriate instrument recorded in the real property records of Arapahoe County, Colorado.

Section 14.5 Reciprocal Easements. If property is withdrawn from the Real Estate ("Withdrawn Property"):

(a) The Owner(s) of the Withdrawn Property are hereby granted whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Common Areas within the Real Estate; and

(b) The Owner(s) shall have whatever easements are necessary or desirable, if any, for access, utility service repair, maintenance and emergencies over and across the Common Areas within the Withdrawn Property, and if Owner(s) of the Withdrawn Property fail to grant such easement to Owner(s), this Declaration shall continue to burden the Withdrawn Property for the purpose of granting Owner(s) a blanket easement over and across the Common Areas within the Withdrawn Property for access, utility service, repair, maintenance and emergencies.

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Declarant shall prepare and record in the real property records of Arapahoe County, Colorado, whatever documents are necessary to evidence such easements. Such recorded easement(s) shall specify that the owners of the Withdrawn Property and the Owners shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 14.6 Termination of Development Rights. The development rights reserved to Declarant, for itself, its successors and assigns, shall expire on the Turnover Date, unless the development rights sooner relinquished in whole or in part by Declarant pursuant to an instrument confirming such relinquishment, and the terms and conditions applicable to the same, is executed, acknowledged and recorded by Declarant in the real property records of Arapahoe County, Colorado.

ARTICLE 15. AMENDMENT AND TERMINATION

Section 15.1 Technical, Clerical, Typographical or Clarification Amendment. If either the Declarant or the Executive Board shall determine that any amendments to this Declaration or to the map or plat shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section, Declarant shall have the right and power to make and execute any such amendment at any time prior to the Turnover Date, and thereafter the Executive Board shall have the right and power to make and execute any such amendments, in any event without the need for obtaining the approval of any Owners or First Mortgagees.

Section 15.2 Necessary to Exercise Authority of Association Documents. In addition to the rights granted to the Declarant to execute amendments to this Declaration, the Executive Board shall have the authority to execute amendments to this Declaration or to any Plat which are reasonably necessary in order to perform their respective duties as authorized by this Declaration.

Section 15.3 Attorney in Fact. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and the Executive Board to make or consent to an amendment under this Article 15 on behalf of each Owner and holder of a First Mortgage. Each deed, First Mortgage or other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant and the Executive Board to make, execute and record an amendment under this Section.

Section 15.4 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of others, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this

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Declaration at any time and from time to time upon approval of the Executive Board and at least sixty-seven percent (67%) of the votes in the Association. Notwithstanding the foregoing, however, no amendment shall adopted or shall be effective at any time prior to the Turnover Date unless Declarant shall have granted its written approval to the same.

Section 15.5 Amendment Required by Mortgage Agencies. At any time prior to the Turnover Date, Declarant shall have the right to amend this Declaration or any of the other Governing Documents to the extent necessary to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, including without limitation the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association, After the Turnover Date, the Association shall have the right to execute any such amendments to this Declaration. Any amendment executed pursuant to this Section 15.5 shall be effective upon the recordation in the real property records of Arapahoe County, Colorado, of a certificate, setting forth the amendment or repeal in full.

Section 15.6 Recording of Amendments. To be effective, all amendments to this Declaration must be recorded in the real property records of Arapahoe County, Colorado, and must contain evidence of approval thereof. One method of satisfying the requirement of this Section is the recordation of a certificate of the Secretary of the Association certifying that Owners representing the requisite percentage of the Units have given their written consent to the amendment in question. The Secretary must further certify that originals of such written consents of the Owners, along with a copy of the amendment as executed and recorded, are in the corporate records of the Association and available for inspection. No action to challenge the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded.

Section 15.7 Association Certification. Amendments to the Declaration required by this Article to be recorded by the Association shall 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.

Section 15.8 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:

- (a) In the case of an amendment for the purpose of altering boundaries between adjoining Units, and subdivision of Units, the Owners desiring the amendment;
- (b) In the case of an amendment for the purpose of reallocating Allocated Interests, recordation of new plats and maps, and exercise of Development Rights, Declarant; and
- (c) In all other cases, by the Association as a Common Expense.

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Section 15.9 Termination. This Declaration may be terminated upon an affirmative vote of the Owners holding 80% of the Allocated Interests, provided such termination shall not be effective at any time prior to the Turnover Date without the prior written approval of Declarant.

ARTICLE 16. ALLOCATED INTERESTS

Section 16.1 Formula for Determining Allocated Interests. The Common Expenses and the votes in the Association shall be allocated to each Detached Single Family Residential Unit. The interests allocated to each such Unit have been or will be calculated as follows:

(a) the percentage of liability for Common Expenses shall be borne only by the Owners of Detached Single-Family Residential Unit, on the basis of a fraction, the numerator is one and the denominator is the total number of Detached Single Family Residential Units within the Community.

(b) the number of votes in the Association: each Detached Single Family Residential Unit shall have a voting percentage equal to its percentage of liability for Common Expenses, as set forth in the preceding subparagraph (a).

In the Executive Board's discretion, and provided Declarant's consent to such determination is received if such determination is made prior to the Turnover Date, "Improved Units" (i.e., any Detached Single Family Residential Unit which has been improved with a completed dwelling for which a temporary or permanent certificate of occupancy has issued) may be assessed differently than "Unimproved Units" (i.e., Detached Single Family Residential Unit that are not "Improved Units"), to reflect the fact that such Unimproved Units are not using the Common Areas and to reflect the approximate differential in the cost of services provided by the Association to Unimproved Units as compared with Improved Units. In any event, however, (i) all Unimproved Units shall be assessed in a non-discriminatory manner based upon such portion of their respective Allocated Interests as the Executive Board (with Declarant's consent, as required in accordance with the preceding sentence) may determine; and (ii) all Improved Units shall be assessed in a non-discriminatory manner based upon their respective Allocated Interests.

Section 16.2 Reallocation. When Units are withdrawn from, or added to, the Community, pursuant to the provisions of this Declaration, the formula set forth in Section 16.1 above shall be used to reallocate the Allocated Interests.

ARTICLE 17. GENERAL PROVISIONS

Section 17.1 Rights Transferable/Rights Transferred. Any rights created or reserved under this Declaration for the benefit of Declarant or Participating Builders may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of Arapahoe County, Colorado. Such instrument shall be executed by the transferor and

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the transferee. The rights so transferred may be then exercised without the consent of the Association, any Owner or any Mortgagee.

Section 17.2 Attorneys' Fees. If an Owner or Related User fails to comply with any provision of the Governing Documents, the Association or any person or class of persons adversely affected by the failure to comply may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. For each claim, including but not limited to counterclaims, cross-claims, and third-party claims, in any legal proceeding to enforce provisions of the Governing Documents, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorneys' fees and costs incurred in asserting or defending the claim. In all instances, however, the court shall award the Association the fees and costs incurred by it in recovering any assessments, as provided in Section 7.8 above.

Section 17.3 Severability. Should any part or parts of this Declaration be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

Section 17.4 Exemption from Act. It is the intent and purpose of this Declaration to provide for and to maintain an exemption from the provisions and requirements of the Colorado Common Interest Ownership Act pursuant to the exemption granted by Sections 116(2) and (3) of said Act. To the extent that any provision of this Declaration or any action by the Association shall fail to comply with such intent and purpose, the same shall be modified to the extent necessary to maintain the intended exemption. In no event shall this Declaration be made subject to the provisions of said Act unless in compliance with the statutory procedures set forth in Section 118 of the Act.

Section 17.5 Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the provisions contained herein or to limit the contents of any paragraph.

Section 17.6 Notice Addresses. Each Owner shall register his mailing address with the Association. All notices or demands affecting the Community may be served upon an Owner by the Association or by other Owners by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address or by personal service. All notices or demands intended to be served upon the Association or the Design Review Committee shall be sent by certified United States Mail, postage prepaid, return receipt requested, to the address of the Association as designated in the Articles of Incorporation and Bylaws of the Association or served by personal service on the Association's registered agent for service.

Section 17.7 Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 17.8 Jurisdiction and Venue; Applicable Law. This Declaration is filed in the records of Arapahoe County, Colorado and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the

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District Court for Arapahoe County, Colorado. This Declaration shall be governed by, and shall be construed in accordance with, the laws of the State of Colorado.

Section 17.9 Binding Agreement. It is understood and agreed that this Declaration shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of Declarant and each Owner.

Section 17.10 Reference to Ownership Interests. Whenever in this Declaration or in the Articles of Incorporation or Bylaws of the Association reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean such percentage of the total aggregate Allocated Interests of such Owners, unless the context otherwise requires, and shall not be deemed to mean a percentage of Owners by number of individual persons, partnerships, corporations or other entities.

Section 17.11 Non-Dedication of Common Areas. Declarant, in recording the Plats and this Declaration, has designated certain areas of land as Common Areas intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Areas are not, by the terms of this Declaration, dedicated for use by the general public, unless they have been dedicated to, and accepted by, the City of Aurora.

Dated this 19th day of November, 1999.

CARMA (COLORADO), INC., a Nevada
corporation

By 

Thomas P. Morton,
Vice President - Colorado

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STATE OF COLORADO)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 19th day of November, 1999, by Thomas P. Morton, as Vice President - Colorado of CARMA (COLORADO), INC., a Nevada corporation.

Witness my hand and official seal.

My commission expires: April 30, 2002

Carol Dodaro
Notary Public

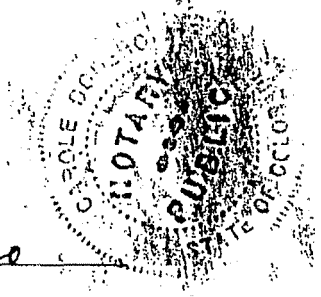


EXHIBIT A

40-114

LEGAL DESCRIPTION -- REAL ESTATE

PARCEL 1:

THE PROPERTY IS LOCATED IN PORTIONS OF SECTIONS 29, 30 AND 32, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

SECTION 29: ALL THAT PART OF SECTION 29 THAT LIES SOUTH AND WEST OF THE SOUTHWEST RIGHT OF WAY LINE OF SMOKEY HILL ROAD;

SECTION 30: THE SOUTHEAST 1/4, AND THE EAST 1/2 OF THE SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, OF SECTION 30.

SECTION 32: THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32,

EXCEPTING THEREFROM A STRIP OF LAND 210 FEET IN WIDTH CONVEYED TO PUBLIC SERVICE COMPANY OF COLORADO IN DEED RECORDED DECEMBER 21, 1961, IN BOOK 1309 AT PAGE 224 OF THE RECORDS IN THE OFFICE OF THE RECORDER OF ARAPAHOE COUNTY, COLORADO;

AND EXCEPTING THEREFROM THOSE PORTIONS OF THE PROPERTY CONVEYED TO INCOME MANAGEMENT, INC., IN DEEDS RECORDED DECEMBER 12, 1985, IN BOOK 4621, AT PAGE 497 AND PAGE 501 OF THE RECORDS IN THE OFFICE OF THE RECORDER OF ARAPAHOE COUNTY, COLORADO;

PARCEL 1A:

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE EAST HALF OF THE SOUTHWEST QUARTER, SECTION 30, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 30;
THENCE S 00°26'54" W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, 1324.23 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30;
THENCE S 89°31'12" E, ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, 1319.75 FEET TO THE

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SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE
SOUTHWEST QUARTER OF SAID SECTION 30;
THENCE S 00°21'10" W, ALONG THE WEST LINE OF THE EAST HALF OF
THE SOUTHWEST QUARTER OF SAID SECTION 30, 1320.37 FEET TO THE
SOUTH LINE OF SAID SECTION 30;
THENCE S 89°41'15" E, ALONG SAID SOUTH LINE, 1314.72 FEET TO THE
SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION
30;
THENCE N 00°26'33" E ALONG THE EAST LINE OF THE SOUTHWEST
QUARTER OF SAID SECTION 30, 2633.05 FEET TO THE NORTHEAST
CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 30;
THENCE N 89°21'09" W ALONG THE NORTH LINE OF THE SOUTHWEST
QUARTER OF SAID SECTION 30, 2636.42 FEET TO THE POINT OF
BEGINNING.

PARCEL 1B:

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF
SECTION 30 AND THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP
5 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF
ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST
QUARTER OF SAID SECTION 30;
THENCE N 89°21'35" W ALONG THE NORTH LINE OF THE SOUTHEAST
QUARTER OF SAID SECTION 30, 484.32 FEET; TO THE POINT OF
BEGINNING;
THENCE CONTINUING N 89°31'35" W ALONG THE NORTH LINE OF THE
SOUTHEAST QUARTER OF SAID SECTION 30, 1948.99 FEET TO THE EAST
LINE OF A 210 FOOT RIGHT-OF-WAY AS DESCRIBED IN BOOK 1309 AT
PAGE 224 OF THE ARAPAHOE COUNTY RECORDS, SAID POINT BEING ON
A LINE 210 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE
SOUTHEAST QUARTER OF SAID SECTION 30;
THENCE S 00°26'33" W ALONG SAID LINE, 2632.22 FEET TO THE NORTH
LINE OF THE NORTHEAST QUARTER OF SAID SECTION 31;
THENCE S 00°30'48" W ALONG A LINE 210 FEET EAST OF AND PARALLEL
WITH THE WEST LINE OF THE NORTHWEST QUARTER OF THE
NORTHEAST QUARTER OF SAID SECTION 31, 1319.98 FEET TO THE
SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST
QUARTER OF SAID SECTION 31;
THENCE S 89°43'43" E ALONG SAID LINE 1110.46 FEET TO THE
SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE
NORTHEAST QUARTER OF SAID SECTION 31;

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THENCE N 00°32'26" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31, 1317.18 FEET TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 30;

THENCE S 89°35'46" E ALONG SAID LINE, 837.78 FEET;

THENCE N 00°26'43" E, 2624.42 FEET TO THE POINT OF BEGINNING.

EXCEPT ANY PORTION AS DEEDED TO THE CITY OF AURORA IN WARRANTY DEED RECORDED SEPTEMBER 24, 1999 UNDER RECEPTION NUMBER A9156589 IN THE RECORDS OF ARAPAHOE COUNTY.

PARCEL 2:

NW 1/4 NW 1/4, SECTION 30, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EXCEPT THAT PART CONVEYED BY SPECIAL WARRANTY DEED RECORDED FEBRUARY 12, 1997 AT RECEPTION NO. A7016304, EXCEPT THAT PART CONVEYED BY ACCESS DEED RECORDED FEBRUARY 12, 1997 AT RECEPTION NO A7016305, COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL 3:

WEST ONE-HALF (W 1/2) OF THE SOUTH ONE-HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 30, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EXCEPT THAT PART CONVEYED IN DEED TO PUBLIC SERVICE RECORDED JANUARY 17, 1961 IN BOOK 1236 AT PAGE 391, AND EXCEPT ANY PORTION AS CONTAINED IN SPECIAL WARRANTY DEED TO THE CITY OF AURORA RECORDED SEPTEMBER 24, 1999 UNDER RECEPTION NO. A9156589, COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL 4:

EAST ONE-HALF (E 1/2) OF THE SOUTH ONE-HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 30, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EXCEPT ANY PORTION AS CONTAINED IN SPECIAL WARRANTY DEED TO THE CITY OF AURORA RECORDED SEPTEMBER 24, 1999 UNDER RECEPTION NO. A9156589, COUNTY OF ARAPAHOE, STATE OF COLORADO.

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PARCEL 5:

THE NORTHWEST 1/4 AND THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 5 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EXCEPT THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 AND EXCEPT THE WEST 210 FEET OF THE NORTHEAST 1/4 AND EXCEPT ANY PORTION AS CONTAINED IN SPECIAL WARRANTY DEED RECORDED OCTOBER 7, 1999 UNDER RECEPTION NO. A9164331, AND EXCEPT ANY PORTION AS CONTAINED IN WARRANTY DEED TO THE CITY OF AURORA RECORDED SEPTEMBER 24, 1999 UNDER RECEPTION NO. A9156589, COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL 6:

THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EXCEPT THOSE PORTIONS SET FORTH IN THE DEEDS RECORDED AUGUST 6, 1997 AT RECEPTION NOS. A7096769, A7096770, A7096771 AND A7096772, AND EXCEPT ANY PORTION AS CONTAINED IN SPECIAL WARRANTY DEED TO THE CITY OF AURORA RECORDED SEPTEMBER 24, 1999 UNDER RECEPTION NO. A9156589, COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL 7:

THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EXCEPT THOSE PORTIONS SET FORTH IN THE DEEDS RECORDED AUGUST 6, 1997 AT RECEPTION NOS. A7096769, A7096770, A7096771 AND A7096772, COUNTY OF ARAPAHOE, STATE OF COLORADO, AND EXCEPT THAT PORTION AS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 25 AND CONSIDERING THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER OF SECTION 25 TO BEAR N 89°58'56" W WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE N 89°58'56" W ALONG SAID SOUTHERLY LINE A DISTANCE OF 707.89 FEET; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF THE E-470 PUBLIC HIGHWAY AUTHORITY THE FOLLOWING FOUR (4) COURSES:

1. N 26°01'59" E, A DISTANCE OF 307.52 FEET;

2. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL
ANGLE OF $22^{\circ}25'59''$, A RADIUS OF 3015.00 FEET AND AN ARC
LENGTH OF 1180.47 FEET;
3. N $03^{\circ}36'00''$ E A DISTANCE OF 106.53 FEET;
4. N $00^{\circ}36'00''$ E A DISTANCE OF 407.40 FEET;
THENCE S $89^{\circ}23'53''$ E A DISTANCE OF 280.37 FEET; THENCE
S $00^{\circ}32'51''$ W ALONG THE EASTERLY LINE OF THE NORTHEAST
QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 25 A DISTANCE
OF 597.16 FEET; THENCE S $00^{\circ}32'47''$ W ALONG THE EASTERLY LINE OF
THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION
25 A DISTANCE OF 1324.16 FEET TO THE POINT OF BEGINNING.