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ARAPAHOE COUNTY

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MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE FARM AT ARAPAHOE COUNTY



ABR 607361

#253450v.8

ORGANIZATIONAL DOCUMENTS

THE FARM AT ARAPAHOE COUNTY HOME OWNER'S ASSOCIATION INC.

1. Master Declaration of Covenants, Conditions and Restrictions
2. Articles of Incorporation
3. Appointment of Officers and Directors
4. Organizational Consent of Directors
5. Bylaws (Design Guidelines and Construction Rules attached)

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MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE FARM AT ARAPAHOE COUNTY

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE FARM AT ARAPAHOE COUNTY is made as of March 11, 1998 by THE FARM DEVELOPMENT COMPANY, a Colorado corporation (together with its successors and assigns as herein provided, "Declarant").

RECITALS

A. Declarant owns the real property located in the County of Arapahoe, State of Colorado, that is more particularly described on Exhibit A attached hereto and made a part hereof (together with any other real property later made subject to this Declaration as provided herein, the "Property").

B. Declarant desires to create a planned community on the Property pursuant to the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-319 (as it may be amended from time to time, the "Act"). In that regard, Declarant deems it necessary and desirable to subject the Property to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration, which shall run with the Property.

C. Declarant may acquire additional real property located in the County of Arapahoe, State of Colorado, that is more particularly described on Exhibit B attached hereto and made a part hereof (the "Expansion Property"). The Expansion Property is adjacent to or in the vicinity of the Property. Pursuant to this Declaration, Declarant reserves the right, but has no obligation, to add all or any part of the Expansion Property, at any time and from time to time, to the planned community created by this Declaration.

DECLARATION

ARTICLE I  
DECLARATION

Declarant hereby declares that the Property (including all real property later made subject to the terms of this Declaration as provided herein, as of the date such property becomes so subject) shall be owned, held, used, occupied, maintained, altered, transferred, leased, encumbered, sold and conveyed subject to the covenants, conditions, restrictions, equitable servitudes, reservations, easements, assessments, charges, liens and other provisions set forth in this Declaration, which shall run with the Property and shall bind and inure to the benefit of all parties having any right, title or interest in the Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives.

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ARTICLE II  
DEFINITIONS

2.01 Basic Definitions.

(a) "Act" has the meaning given to that term in Recital B above.

(b) "Agencies" means the Federal National Mortgage Association formed pursuant to Title VIII of the Housing and Urban Development Act of 1968, the Federal Home Loan Mortgage Corporation or The Mortgage Corporation created by Title III of the Emergency Home Finance Act of 1970, the Department of Housing and Urban Development (including the Federal Housing Administration and the Government National Mortgage Association), the Veterans Administration or any other governmental or quasi-governmental agency or other public, quasi-public or private entity that performs, now or in the future, functions similar to those now performed by the named entities in relation to the lending, insuring or guaranteeing of mortgage funds or the purchase of mortgages relating to residential real estate.

(c) "Approved Builder" means any Person who now or hereafter acquires a Lot for the purpose of constructing a dwelling thereon for resale to a third party, and who is designated in a written instrument signed by Declarant as an "Approved Builder" under this Declaration. Such designation may be stated in the executed contract governing the acquisition of such Lot from Declarant, and is subject to revocation by Declarant as provided in Section 10.25 below.

(d) "Articles" means the Articles of Incorporation of the Association, as the same may be amended and supplemented from time to time.

(e) "Assessment" means a General Assessment, a Special Assessment or a Default Assessment levied pursuant to Article VII below.

(f) "Assessment Lien" means the statutory lien of the Association described in Section 7.08 below.

(g) "Association" means The Farm at Arapahoe County Homeowners' Association, Inc., a Colorado nonprofit corporation, and its successors and assigns. The Association is a unit owners' association organized pursuant to Section 38-33.3-301 of the Act.

(h) "Association Documents" means this Declaration, the Articles, the Bylaws and the Rules and Regulations, as the same may be amended and supplemented from time to time.

(i) "Board of Directors" means the board of directors of the Association pursuant to the Association Documents.

(j) "Bylaws" means the Bylaws of the Association, as the same may be amended and supplemented from time to time.

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(k) "Common Elements" means any real property within the Property (including real property later made subject to the terms of this Declaration as provided herein, as of the date such property becomes so subject), other than a Lot (as hereafter defined), and all personal property that is now or hereafter owned or leased by the Association, or that the Association is otherwise required to operate, manage, maintain or repair from time to time, together with any improvements now or hereafter located thereon. The Common Elements are intended for the common use and enjoyment of the Owners and include, without limitation, trails, recreational amenities, easements and landscape buffers designated on any final development plan or subdivision plat for any portion of the Property or The Farm at Arapahoe County, or constructed on the Property, excluding (i) those dedicated to any governmental or quasi-governmental authority for public use (provided that landscaping within dedicated rights-of-way shall be deemed Common Elements to be maintained by the Association), (ii) those to be maintained and operated by any special district, and (iii) those now or hereafter owned, leased, operated, managed, maintained or repaired by any property owners' association other than the Association, and which only members of such other property owners' association are entitled to use and enjoy (including without limitation, any recreational facility hereafter constructed for the benefit of less than all of The Farm at Arapahoe County, if a separate association is formed to govern the operations and maintenance of such facility).

(l) "Common Expenses" means (i) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, maintaining, repairing, altering and improving the Common Elements (including, without limitation, costs for taxes and insurance); (B) administering and enforcing the covenants, conditions, restrictions, reservations, easements and other provisions set forth in this Declaration; (C) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant to this Declaration; (D) regulating and managing the planned community created pursuant to this Declaration; and (E) operating the Association; and (ii) reserves for any such costs, expenses and liabilities.

(m) "Declarant" means The Farm Development Company, a Colorado corporation, together with its successors and assigns as provided herein and in the Act. A Person shall be deemed a "successor or assign" of Declarant only if such Person is designated as such in an instrument signed by Declarant and such Person and recorded in the real property records of Arapahoe County, Colorado, which instrument may limit by designation the particular rights or interest of Declarant to which such Person succeeds. Notwithstanding the foregoing, a successor entity formed by merger or consolidation of Declarant shall automatically be deemed a successor and assign of Declarant for all purposes and as to all rights of Declarant set forth in this Declaration.

(n) "Declarant Control Period" has the meaning given to that term in Section 6.02 below.

(o) "Declaration" means this Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County, as it may be amended or supplemented from time to time, together with the subdivision plats, final development plans and other recorded



instruments that create or modify the planned community known as The Farm at Arapahoe County.

(p) "Default Assessment" has the meaning given to that term in Section 7.06 below.

(q) "Design Review Board" means the committee or committees established by the Board of Directors (as hereafter defined) to regulate the design and construction of improvements on Lots. Declarant may designate, at the time additional property is annexed to The Farm at Arapahoe County pursuant to this Declaration, that such additional property shall be subject to a distinct set of design guidelines administered by a newly created Design Review Board having jurisdiction over that additional property, or that such additional property shall be subject to an existing set of design guidelines administered by an existing Design Review Board, or subject to a new set of design guidelines administered by an existing Design Review Board, or subject to an existing set of design guidelines administered by a newly created Design Review Board. As a result, it is possible that different portions of The Farm at Arapahoe County will be governed by different architectural and design guidelines administered by different Design Review Boards. All references in this Declaration to the Design Review Board refer to each such committee, with respect to matters concerning that portion of the Property within the jurisdiction of such committee from time to time.

(r) "Director" means a duly elected or appointed member of the Board of Directors.

(s) "Expansion Property" has the meaning given to that term in Recital C above.

(t) "First Mortgage" means any Mortgage which is not subordinate to any other Mortgage on the subject real property. The holder of a First Mortgage is herein called a "First Mortgagee."

(u) "General Assessment" means an Assessment for Common Expenses levied pursuant to Section 7.04 below.

(v) "General Common Element" means all Common Elements, except Limited Common Elements. The General Common Elements include, without limitation, those Common Elements identified on Exhibit C attached hereto and made a part hereof.

(w) "Improvement" means any landscaping, improvement, structure or appurtenance of every type and kind, including, without limitation, grading, excavation and filling or similar disturbance to the surface of the land; landscaping features; clearing or removal of trees, shrubs, grass or plant; satellite dish; antenna; dwelling units; buildings; outbuildings; swimming pools, tennis courts, basketball hoops, skateboard ramps and other recreational improvements; patios and patio covers; decks; awnings; exterior paint, trim and other finish materials; solar collectors; dog runs; dog houses; walkways; trails; additions to existing structures; sprinkler systems; garages and carports; driveways; paving and gravel; fences; walls

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(whether for screening or retention); stairs; exterior lighting; signs; exterior tanks and utilities (whether for air conditioning, cooling, heating, water softening or any other purpose); or any change to any of the foregoing, or any other exterior change visible from any street or Lot or tract which are not expressly included in the foregoing.

(x) "Limited Common Element" means any Common Element that is reserved for the exclusive use by or benefit of one or more, but less than all of the Owners, including, without limitation, all Common Elements designated as Limited Common Elements by the Act, this Declaration, or the subdivision plat for any portion of the Property (including real property later made subject to the terms of this Declaration as provided herein, as of the date such property becomes so subject). The Declarant may designate that any amenity or facility (including but not limited to any recreational facility) hereafter constructed as part of The Farm at Arapahoe County is a Limited Common Element of only certain Lots. NO OWNER SHOULD ASSUME BY REASON OF THE PROXIMITY OF SUCH OWNER'S LOT TO ANY AMENITY OR FACILITY THAT SUCH OWNER WILL HAVE RIGHTS TO USE AND ENJOY SUCH AMENITY OR FACILITY, AND EACH PURCHASER SHOULD CAREFULLY INVESTIGATE WHAT COMMON ELEMENTS AND LIMITED COMMON ELEMENTS MAY BE USED AND ENJOYED AS A RESULT OF OWNING A PARTICULAR LOT.

(y) "Lot" means (i) any area of the Property (including all real property later made subject to the terms of this Declaration as provided herein, as of the date such property becomes so subject) designated as a lot on any subdivision plat now or hereafter recorded in the real property records of Arapahoe County, Colorado, with respect to such property, and (ii) any area of real property within the Property or the Expansion Property that Declarant later designates as a Lot pursuant to Section 15.02 below. As used in this Declaration, a "Lot" is intended to be a "unit," as that term is used in the Act. If any Lot or tract is further subdivided in a manner permitted by this Declaration, then upon such further subdivision, the term "Lot" shall mean each subdivided unit within such Lot or tract that may be legally conveyed and is separately taxed and assessed as a distinct unit of real estate.

(z) "Membership" means a membership in the Association and the rights granted to Owners pursuant to this Declaration, the Articles and the Bylaws to participate in the Association.

(za) "Mortgage" means any interest in real property created by contract or conveyance as security for payment of a debt or performance of an obligation. The term includes, without limitation, a lien created by mortgage, deed of trust, trust deed, security deed, contract for deed, lease intended as security, and assignment of leases and rents intended as security, as well as an executory land sales contract to which the Veterans Administration of the United States of America is party as seller, regardless of whether such instrument is insured, held or guaranteed by any Agency. The holder or beneficiary of a Mortgage is herein called a "Mortgagee."

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(bb) "Notice and Opportunity to be Heard" means prior written notice and an open hearing before the Board of Directors, or a committee appointed by the Board of Directors as provided in the Bylaws (regardless of whether such hearing is actually attended by the Owner).

(cc) "Owner" means the record holder of legal title to the fee simple interest in any Lot or portion thereof (including, without limitation, Declarant and any Approved Builder). If there is more than one record holder of legal title to a Lot, each record holder shall be an Owner.

(dd) "Person" means any natural person, corporation, partnership, limited liability company, association, trustee or any other entity or combination thereof recognized as being capable of owning real property under the laws of the State of Colorado.

(ee) "Purchaser" means a Person, excluding Declarant, who by means of a transfer acquires a legal or equitable interest in a Lot, other than (a) a leasehold interest of less than forty years, including renewal options, or (b) a Mortgage.

(ff) "Property" has the meaning given to that term in Recital A above.

(gg) "Rules and Regulations" means any instruments adopted by the Association for the regulation and management of the planned community created by this Declaration, as the same may be amended or supplemented from time to time.

(hh) "Share of Common Expenses" means the share of Common Expenses allocated to each Lot in accordance with the terms and conditions of Section 7.02 below.

(ii) "Special Assessment" has the meaning given to that term in Section 7.05 below.

(jj) "Special Declarant Rights" means the rights reserved by Declarant for itself, its successors and assigns in this Declaration, including without limitation, Article XV below.

(kk) "Subassociation" means a Colorado corporation, other than the Association, hereafter organized and established and whose members are Owners of Lots within all or a portion of the Property covered by this Declaration from time to time.

## 2.02 Gender and Number.

Wherever the context of this Declaration so requires, (a) words used in the masculine gender shall include the feminine and neuter genders; (b) words used in the neuter gender shall include the masculine and feminine genders; (c) words used in the singular shall include the plural; and (d) words used in the plural shall include the singular.

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ARTICLE III  
LOTS AND TRACTS

3.01 Lots.

(a) Declarant hereby creates 124 Lots on the Property, the boundaries and identifying numbers of which are shown on the subdivision plat for the Property now or hereafter recorded in the real property records of Arapahoe County, Colorado.

(b) Declarant hereby reserves the right to create a maximum of 2500 Lots within the planned community created by this Declaration, including the Expansion Property.

3.02 Tracts.

Declarant reserves the right to create tracts, from time to time, within the planned community created by this Declaration. The boundaries and designations of such tracts shall be shown on the subdivision plat(s) for the Property now or hereafter recorded in the real property records of Arapahoe County, Colorado. Such tracts are not Lots. It is Declarant's intention to convey, lease or otherwise grant easements or rights to the Association over the tracts to the extent that Common Elements are or will be constructed thereon.

3.03 Separate Taxation: No Partition.

(a) Pursuant to Section 38-33.3-105 of the Act, each Lot (and each tract created pursuant to Section 3.02 above) constitutes a separate parcel of real estate and will be separately assessed and taxed.

(b) No Owner shall have the right to partition or to seek the partition of the Common Elements or any portion of the Common Elements.

ARTICLE IV  
THE ASSOCIATION

4.01 Formation of the Association.

On or before the date on which Declarant conveys the first Lot to a Purchaser, Declarant shall form the Association.

4.02 Purposes and Powers.

(a) The Association's purposes are (i) to manage, operate, construct, improve, alter and maintain the Common Elements, as to which the Association may retain a manager; (ii) to administer and enforce the covenants, conditions, restrictions, reservations, easements and other provisions set forth in this Declaration; (iii) to levy, collect and enforce the Assessments, charges and liens imposed pursuant to this Declaration; (iv) to the extent determined by the

Board of Directors, to provide services and recreational and social facilities and activities for Owners and residents of the planned community and their guests (including but not limited to mandatory trash collection services), and to provide services to Subassociations pursuant to written agreements providing for reimbursement of the Association's costs and expenses; (v) to regulate and manage the planned community created hereby and known as The Farm at Arapahoe County, including without limitation, the adoption of Rules and Regulations from time to time, and (vi) to otherwise act to further the common interests, health, safety or welfare of the Owners.

(b) Unless expressly prohibited by law or any of the Association Documents, the Association may (i) take any and all actions that it deems necessary or advisable to fulfill its purposes, (ii) exercise all powers that may be exercised by property owners' associations under the Act, and (iii) exercise all powers that may be exercised in Colorado by nonprofit corporations. The Association shall have the power to retain and pay for the services of a manager or managers to undertake any of the management or functions for which the Association is responsible under this Declaration or any other Association Document, and shall have the authority to award exclusive contracts to providers of services such as trash collection.

(c) The Association shall accept title to, or a leasehold or other interest or easement in any real or personal property transferred to the Association by Declarant as part of the planned community (including any tracts now or hereafter containing Common Elements located on the Property or any part of the Expansion Property or other real property hereafter made subject to this Declaration). At Declarant's option, any such conveyance or transfer may be subject to reserved rights as well as covenants, conditions, restrictions, liens, encumbrances and equitable servitudes existing or created at the time of such conveyance or transfer, so long as such conveyance or transfer is free from monetary liens (other than liens for taxes and assessments not then due and payable) and complies with the Act.

4.03 Association Documents.

(a) The obligations, burdens and benefits created by this Declaration touch and concern the Property (including real property later made subject to this Declaration as provided herein, as of the date such property is so made subject) and are, and shall be, covenants running with the Property for the benefit of all of such Property. The Association and each Owner shall comply with and benefit from each term, provision, covenant, condition, restriction, reservation, easement and other provision contained in the Association Documents.

(b) If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. If there is any conflict or

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inconsistency between the terms and conditions of the Articles and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of the Articles shall control. In the event of any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control. If there is any conflict or inconsistency between the terms and conditions of any Association Document and the mandatory provisions of the Act or other applicable law, the Act or such applicable law, as the case may be, shall control.

#### 4.04 Books and Records.

Upon request, the Association shall allow Owners, Mortgagees and their respective agents to inspect current copies of the Association Documents and the books, records, budgets and financial statements of the Association during normal business hours and under other reasonable circumstances. The Association may charge a reasonable fee for copying such materials.

#### 4.05 Personal Liability and Indemnification.

(a) No Director or officer of the Association appointed by Declarant shall be personally liable to the Association or any Owner for any injury, damage, loss, cost or expense suffered or incurred by reason of any act or omission of such Director or officer, unless a court of competent jurisdiction finds that such Director or officer breached a fiduciary duty that such Director or officer owed to the Association or an Owner.

(b) No Director or officer of the Association who was not appointed by Declarant, and no employee, agent or committee member of the Association or Design Review Board shall be personally liable to the Association or any Owner for any injury, damage, loss, cost or expense suffered or incurred by reason of any act or omission of such Director, officer, employee, agent or committee member, unless a court of competent jurisdiction finds that the act or omission of such Director, officer, employee, agent or committee member was wanton and willful.

(c) The Association shall indemnify and hold harmless each present or former Director or officer, employee, agent or committee member against any and all claims, suits, proceedings, injuries, damages, losses, costs and expenses, including, but not limited to, attorneys' fees and disbursements, asserted against or incurred by any such present or former Director or officer, employee, agent or committee member to the fullest extent permitted by the Association Documents and applicable law. The Association shall obtain director and officer liability insurance as required by the Bylaws, and the cost of such insurance shall constitute a Common Expense.

ARTICLE V  
MEMBERSHIP IN THE ASSOCIATION

5.01 Membership.

(a) There shall be one Membership appurtenant to every Lot. A Membership may not be separated from the ownership of the Lot to which it is appurtenant.

(b) Any Membership appurtenant to a Lot having more than one Owner shall be shared by such Owners.

(c) A Membership may be transferred or encumbered only in connection with the conveyance or encumbrance of a fee simple interest in the Lot to which the Membership is appurtenant. Any transfer or encumbrance of a Membership other than as permitted in this paragraph 5.01(c) shall be void and have no force or effect.

5.02 Voting.

(a) Each Membership shall be entitled to one vote, regardless of the number of Owners of the Lot to which the Membership is appurtenant. Fractional voting shall not be allowed. If the Owners of a Lot cannot agree among themselves as to how to cast their vote when they are required to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the Membership, unless objection thereto is made to the chairperson of the meeting at the time the vote is cast. If more than one vote is cast for any particular Membership, none of such votes shall be counted and all of such votes shall be deemed null and void.

(b) In any election of Directors to the Board of Directors, each Membership shall have the number of votes equal to the number of Directors to be elected to the Board of Directors by such election. Cumulative voting shall not be allowed in the election of Directors to the Board of Directors or for any other purpose.

(c) Notwithstanding the terms and conditions of paragraph 5.02(a) above, the Association shall have no voting rights for any Membership appurtenant to any Lot owned by the Association.

(d) The voting rights of any Membership may be suspended by the Association, after Notice and Opportunity to be Heard, if any Owner holding such Membership is not in good standing as a result of any uncured default under the Association Documents.

ARTICLE VI  
BOARD OF DIRECTORS

6.01 Powers of the Board of Directors.

(a) Except as provided in this Declaration, the Articles and the Bylaws, the Board of Directors may act on behalf of the Association in all instances.

(b) The Board of Directors may not act on behalf of the Association to:  
(i) amend this Declaration; (ii) terminate the planned community created pursuant to this Declaration; (iii) elect Directors to the Board of Directors, other than to fill a vacancy for the unexpired portion of a Director's term; or (iv) determine the qualifications, powers and duties, or terms of office, of Directors.

(c) By resolution, the Board of Directors may delegate portions of its authority to an executive committee or other committees, or to officers, agents, employees or managers of the Association. No such delegation shall relieve the Board of Directors of ultimate responsibility for management of the Association's affairs.

6.02 Declarant Control Period.

(a) Subject to the terms and conditions of paragraphs 6.02(b) and (c) below, but notwithstanding anything else to the contrary contained in this Declaration or in any other Association Document, Declarant shall have the exclusive right to appoint and remove all Directors and officers during the Declarant Control Period. The term "Declarant Control Period" means the period commencing on the date on which Declarant forms the Association and ending on the happening of any of the following events, whichever occurs first:

- (i) sixty days after conveyance to Purchasers of 75 percent of the maximum number of Lots that may be created by Declarant hereunder;
- (ii) two years after the last conveyance of a Lot by Declarant to a Purchaser in the ordinary course of business; or
- (iii) two years after any right to add additional property or new Lots was last exercised; or
- (iv) the date that is the twentieth annual anniversary of the date of recording of this Declaration.

(b) Declarant may voluntarily surrender its right to appoint and remove Directors and officers prior to the expiration of the Declarant Control Period, but, in that event, Declarant may require, for the remainder of the Declarant Control Period, that specific actions of



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the Association or the Board of Directors, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

(c) Notwithstanding anything to the contrary contained in paragraph 6.02(a) above:

- (i) not later than sixty days after the conveyance to Purchasers of 25 percent of the maximum number of Lots that may be created by Declarant hereunder, at least one Director and not less than 25 percent of the Directors must be elected by Owners other than Declarant; and
- (ii) not later than sixty days after the conveyance to Purchasers of 50 percent of the maximum number of Lots that may be created by Declarant hereunder, at least one Director and not less than 33-1/3 percent of the Directors must be elected by Owners other than Declarant.

(d) Not later than the expiration of the Declarant Control Period, the Owners shall elect a Board of Directors of at least three Directors, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. Such Directors shall take office upon election.

#### 6.03 Removal of Members of the Board of Directors.

Notwithstanding any provision of this Declaration or any other Association Document to the contrary, the Owners, by a vote of at least 67 percent of all Memberships represented (in person or by proxy) and entitled to vote at any meeting at which a quorum is present, may remove any Director, with or without cause, other than a Director appointed by Declarant. Only Declarant may remove a Director appointed by Declarant during the Declarant Control Period, or fill a vacancy created by the removal of a Director appointed by Declarant during the Declarant Control Period.

### ARTICLE VII ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS

#### 7.01 Obligations for Assessments.

(a) Declarant, for each Lot it owns, hereby covenants and agrees, and each Owner, by accepting a deed to a Lot (regardless of whether expressly stated in such deed), shall be deemed to have covenanted and agreed, to pay to the Association all (i) General Assessments; (ii) Special Assessments; (iii) Default Assessments; and (iv) other fines and charges that the Association is required or permitted to levy or impose on such Owner or such Owner's Lot pursuant to this Declaration or any other Association Document.

(b) No Owner shall be exempt from liability for any such Assessment or other charge by waiving the use or enjoyment of any Common Element or by abandoning a Lot against which such Assessments or other charges are made. No abatement of any Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to any Common Element, from any action taken to comply with any law or any determination of the Board of Directors, or for any other reason. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason, including without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration or any other Association Document.

(c) Except as provided in this paragraph 7.01(c) and paragraph 7.09(a) below, the obligation to pay to the Association any Assessment or other charges levied against any Lot shall be a joint and several obligation of the Owner of such Lot and such Owner's successors, assigns, heirs, devisees and personal representatives. A Person acquiring fee simple title to a Lot shall be jointly and severally liable with the former Owner of the Lot for all Assessments and other charges that had accrued and were payable when such Person acquired fee simple title to the Lot, for so long as such Person holds fee simple title to the Lot.

(d) Each Assessment or other fine or charge, together with interest and penalties thereon and all costs and expenses incurred by the Association to collect such Assessment or other charge, including reasonable attorneys' fees and disbursements, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment Lien securing the same, or any other right or remedy of the Association.

(e) At the time any Purchaser other than an Approved Builder takes title to a Lot, such Purchaser shall deposit with the Association, to be kept by the Association in a separate working-capital reserve fund, an amount equal to two months' worth of General Assessments established for that calendar year. If such amount has been paid by an Owner, then upon transfer of such Owner's Lot to another Purchaser, such Owner shall be entitled to a credit from such Purchaser (but not from the Association) for such contribution to the working-capital reserve fund.

#### 7.02 Share of Common Expenses.

(a) Except as otherwise set forth in this Declaration, all Common Expenses shall be allocated equally among all Lots that have been created prior to the date on which the Common Expenses were incurred. The Share of Common Expenses of each Lot shall be determined as follows:

$$\text{Share of Common Expenses} = \frac{1}{\text{\# of Lots created prior to the date on which the Common Expense was incurred}}$$

(b) If any Lots are added to or withdrawn from the planned community as herein provided, the Shares of Common Expenses for all Lots after such addition or withdrawal shall be recalculated in accordance with the formula set forth in paragraph 7.02(a) above.

(c) Until the Association levies an Assessment, Declarant shall pay all Common Expenses.

### 7.03 Budgets.

(a) Prior to the first levy of a General Assessment for Common Expenses, and, thereafter, on or before October 1 of each calendar year, the Board of Directors shall adopt a proposed annual budget for the Association for the following calendar year, which proposed budget shall, among other things, set forth (i) the Board of Directors's estimates of Common Expenses to be incurred for the next calendar year; (ii) the amount of funds for such Common Expenses that the Board of Directors proposes to raise through General Assessments; and (iii) the amount of funds for such Common Expenses that the Board of Directors proposes to raise through Special Assessments. Such budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish or add to a fund for major capital repairs, replacements and improvements. Within thirty days after adopting a proposed budget, the Board of Directors shall deliver a summary of the proposed budget to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed budget. The date of such meeting shall not be less than fifteen days, nor more than fifty days, after the delivery of the summary of the proposed budget to the Owners. Unless at that meeting a majority of the votes allocated to all Memberships, regardless of whether a quorum is present, rejects the proposed budget, the proposed budget shall be deemed ratified. If the proposed budget is rejected, the annual budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

(b) If the Board of Directors deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under paragraph 7.03(a) above, the Board of Directors may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fifteen days, nor more than fifty days, after the delivery of the summary of the proposed amendment. Unless at that meeting a majority of the votes allocated to all Memberships, regardless of whether a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

### 7.04. General Assessments.

(a) After the Owners ratify an annual budget under paragraph 7.03(a) above, the Association shall levy an assessment for Common Expenses (a "General Assessment") on each Lot. The amount of the General Assessment payable with respect to each Lot shall equal the product obtained by multiplying (A) the amount set forth in the annual budget ratified by the

Owners as the amount of Common Expenses to be raised by General Assessments, by (B) that Lot's Share of Common Expenses determined pursuant to paragraph 7.02(a) above. The Owners shall pay the General Assessments levied against their respective Lots in monthly installments payable on the first day of each calendar month, or in such other periodic installments as may be required by the Association from time to time (however, in any case, not less than annually).

(b) If the Owners ratify an amendment to the General Assessment portion of an annual budget pursuant to paragraph 7.03(b) above, the amount of the General Assessment levied against each Lot shall be adjusted accordingly, as shall the amount of each Owner's periodic installments. Without limiting the generality of the foregoing, if an amendment increases the amount of General Assessments payable, then the amount of each installment due after such amendment shall equal the quotient obtained by dividing: (i) the difference obtained by subtracting the amount of General Assessments already paid as to a Lot for the applicable fiscal year from the amended amount of General Assessment payable for the applicable fiscal year, by (ii) the number of installment payments to be made over the remainder of that fiscal year.

(c) If the Owners fail to ratify an annual budget for any calendar year prior to January 1 of that calendar year, the Owners shall continue to pay periodic installments of the General Assessment to the Association at the rate payable during the prior calendar year until such time as the Owners ratify a new annual budget for the then current calendar year. Once the Owners ratify a new annual budget, the Association shall levy on each Lot the General Assessment for the then current calendar year and each Owner's periodic installments shall be adjusted as necessary to pay the new General Assessment in equal periodic installments over the remainder of such calendar year, giving the Owners credit for any installments that the Owners have previously paid to the Association during such calendar year.

(d) The failure of the Association to levy a General Assessment for any calendar year shall not be deemed a waiver, modification or release of the Owners' liability for the Share of Common Expenses allocated to such Owner's Lot.

#### 7.05 Special Assessments.

(a) The Assessments that the Association may levy pursuant to this Section 7.05 are referred to in this Declaration as "Special Assessments."

(b) Notwithstanding anything to the contrary contained in Section 7.04 above, if any Common Expense benefits fewer than all of the Lots, the Association may levy an Assessment for such Common Expense exclusively against the Lots benefitted thereby, equally or in any other equitable proportions as the Association deems appropriate. Without limiting the generality of the foregoing, any Common Expenses attributable to a Limited Common Element shall be shared on a pro rata basis among the Lots to which such Limited Common Element is appurtenant (meaning those Limited Common Elements that an Owner is entitled to use and enjoy by virtue of such Owner's ownership of a particular Lot designated as one of the Lots benefitted by and entitled to use such Limited Common Element).

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(c) Each Special Assessment levied against any Lot shall be shown on an annual budget, or on an amendment to an annual budget, ratified by the Owners in accordance with Section 7.03 above, and shall be paid as and when required by the Association.

7.06 Default Assessments.

(a) Notwithstanding anything to the contrary contained herein, if any Common Expense (including, without limitation, any Common Expense relating to repair or replacement of a Common Element whether arising out of damage to such Common Element or otherwise) is caused by (i) the negligence or misconduct of an Owner or an Owner's family member, employee, agent, lessee or guest, or (ii) a violation of any covenant or condition of an Association Document by an Owner or an Owner's family member, employee, agent, lessee or guest, the Association may levy an Assessment against such Owner's Lot for the amount of such Common Expense. Any such Assessment levied by the Association, and each fine, penalty, fee or other charge imposed upon an Owner for the violation of any covenant or condition of any Association Document by an Owner or an Owner's family member, employee, agent or guest, and all enforcement costs, collection costs, attorneys' fees and other costs and expenses incurred by the Association as a result of or in connection with any of the foregoing are each referred to herein as a "Default Assessment."

(b) Default Assessments need not be shown on an annual budget, or on an amendment to an annual budget, ratified by the Owners in accordance with Section 7.03 above.

(c) With respect to any Default Assessment, or portion thereof, levied other than as a late charge, interest, fee or collection cost, the Owner of the Lot against which the Association seeks to levy the Default Assessment shall be provided a Notice and Opportunity to be Heard. Owners of Lots against which Default Assessments have been levied shall pay such Default Assessments within thirty days of receipt of demand therefor from the Association, unless such demand states a different time period for payment.

7.07 Assignment of Assessments.

The Association shall have the unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Association or otherwise.

7.08 Assessment Lien.

(a) Pursuant to Section 38-33.3-316 of the Act, the Association shall have a statutory lien on each Lot for any Assessment levied against that Lot and any interest, attorneys' fees and disbursements and costs of collection imposed against its Owner under any Association Document. The Assessment Lien shall secure all of the foregoing obligations of an Owner from the time such obligations become due. If an Assessment is payable in installments, the Assessment Lien secures each installment from the time it becomes due, including the due date set by any valid acceleration of installment obligations. In that regard, upon any default by an

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Owner in the payment of a General Assessment (or any other Assessment payable in installments), the Association may, after notice and an opportunity to cure during a time period established by the Association (or 30 days, if no cure period is so established), accelerate the balance of the Assessment or the installments of the Assessment for the then-current fiscal year.

(b) An Assessment Lien is prior to all other liens and encumbrances on a Lot except:

- (i) liens and encumbrances recorded prior to the recordation of this Declaration;
- (ii) a First Mortgage which was recorded before the date on which the Assessment sought to be enforced became delinquent, subject to paragraph (c) below; and
- (iii) liens for real estate taxes and other governmental assessments or charges against the Lot.

(c) To the extent provided by the Act, an Assessment Lien is also prior to a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent to the extent of an amount equal to the General Assessments and the Special Assessments that would have become due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any Person holding a lien senior to any part of the Assessment Lien of an action or a nonjudicial foreclosure either to enforce or extinguish the Assessment Lien, to the extent now or hereafter provided in the Act.

(d) The recording of this Declaration constitutes record notice and perfection of an Assessment Lien on each Lot. No further recordation of any claim of any Assessment Lien is required.

(e) An Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six years after the full amount of the Assessment secured thereby becomes due.

(f) This Section 7.08 does not prohibit (i) actions or suits to recover sums secured by an Assessment Lien, whether pursuant to Section 7.01(d) or otherwise, or (ii) the Association from taking a deed in lieu of foreclosure.

(g) In any action by the Association to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Owner, ex parte, to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. A court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Assessments.

(h) An Assessment Lien may be foreclosed in like manner as a mortgage on real estate.

7.09 Estoppel Certificates: Notices to Mortgagees.

(a) The Association shall furnish to an Owner or such Owner's designee or to a Mortgagee or its designee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot. The statement shall be furnished within thirty calendar days after the Association's receipt of the request and shall be binding on the Association, the Board of Directors and every Owner. If no statement is furnished to the Owner, the Mortgagee or their designee, then the Association shall have no right to assert an Assessment Lien upon the Lot for unpaid Assessments which were due as of the date of the request.

(b) The Association shall report to any Mortgagee any unpaid Assessments remaining unpaid for more than sixty days after the same shall have become due, if such Mortgagee has previously delivered to the Association a written request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment with respect to such Lot, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment, and upon such payment, such Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as a lien of the Mortgagee held by such Mortgagee.

ARTICLE VIII  
MAINTENANCE OF COMMON ELEMENTS AND LOTS

8.01 Maintenance of Common Elements.

(a) Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain all Common Elements and the improvements and landscaping located thereon in good order and repair and in a safe, attractive and desirable condition, and shall otherwise manage and operate all Common Elements as it deems necessary and appropriate. In this regard the Association or its duly designated agent may:

- (i) construct, modify, add to, repair, replace or renovate any trails and other Improvements that are located on, or constitute a part of, any Common Element;
- (ii) plant and replace trees, shrubs and other vegetation on any Common Element;
- (iii) place, maintain and replace signs, fencing, mailboxes, irrigation systems and other improvements upon any Common Element;

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- (iv) adopt and enforce Rules and Regulations regulating the use of Common Elements and other matters within the Association's purposes and powers; and
  - (v) impose and collect fees for the use of any Common Element.

(b) The Board of Directors shall be the sole judge as to the appropriate maintenance, operation and management of the Common Elements.

#### 8.02 Maintenance of Lots.

(a) Each Owner, at such Owner's sole cost and expense, shall maintain such Owner's Lot and the improvements and landscaping located thereon, or constituting a part thereof, in good order and repair and in a safe and attractive condition. The Association may adopt Rules and Regulations stating minimum maintenance standards and requirements to be satisfied by Owners.

(b) If, in the reasonable judgment of the Association, an Owner fails to maintain the Owner's Lot, the landscaping located thereon or the exterior of any improvements located thereon in accordance with this Declaration and the Rules and Regulations, the Association may, after Notice and Opportunity to be Heard, enter upon such Lot and perform such maintenance or repair as the Association deems necessary or advisable and charge all costs and expenses incurred by the Association in connection therewith to such Owner as a Default Assessment.

### ARTICLE IX DESIGN REVIEW

#### 9.01 Design Review Board.

(a) The Board of Directors shall establish a Design Review Board which shall consist of such odd number of regular members and alternate members as the Board of Directors may designate. The members of the Design Review Board shall be appointed by the Board of Directors. The regular term of office for each member shall be one year. Any such member may be removed with or without cause by the Board of Directors at any time by written notice. A successor appointed to fill any vacancy on the Design Review Board shall serve the remainder of the term of the former member.

(b) Notwithstanding anything to the contrary contained herein, the Declarant reserves the right to create a separate and distinct Design Review Board, or to create separate and distinct design guidelines, or both, at any time and from time to time with respect to different phases or portions of The Farm at Arapahoe County, as more particularly described in the definition of "Design Review Board" in Article II above.

(c) The Design Review Board shall select its own chairman and vice-chairman from among its members. The chairman or, in the chairman's absence, the vice-chairman shall



be the presiding officer of its meetings. In the absence of both the chairman and the vice-chairman from a meeting, the members present shall appoint a member to serve as acting chairman at such meeting. Meetings shall be held upon call of the chairman or vice-chairman at the offices of the Association. A majority of members shall constitute a quorum for the transaction of business. An alternate member may participate at any meeting at which there is not a quorum and shall have all of the authority of a regular member while so participating. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date. The affirmative vote of a majority of the members of the Design Review Board shall constitute the action of the Design Review Board on any matter before it. Except as set forth above, the Design Review Board shall operate in accordance with its own Rules and Regulations which shall be filed with the Association and maintained in the records of the Association and shall be subject to inspection by all Owners and Mortgagees. The Rules and Regulations may differ for different portions or phases of The Farm at Arapahoe County.

(d) The Design Review Board is hereby authorized to retain, at the expense of the Association, the services of one or more consulting architects, landscape architects, urban designers or other professionals to advise and assist the Design Review Board in performing the design review functions prescribed in this Article IX.

(e) If Declarant voluntarily surrenders its right to appoint and remove Directors and officers prior to the expiration of the Declarant Control Period, Declarant may: (i) reserve the right to appoint members of the Design Review Board, or (ii) require that specific actions of the Design Review Board be approved by the Declarant before they become effective, or (iii) both, as described in a recorded instrument executed by Declarant in each case.

#### 9.02 Design Review Board Approval and Control.

(a) No Owner other than Declarant may, without the prior written consent of the Design Review Board: (i) construct any Improvement on any Lot, (ii) make any alteration to exterior surfaces of approved buildings, landscaping, grading or other Improvements on any Lot (including without limitation, any change of exterior appearance, color, roofing materials or texture), (iii) alter the drainage pattern with respect to any Lot or onto any other Lot or Common Element, (iv) construct any additional building or Improvement on a Lot, or (v) demolish or destroy, by voluntary action, any Improvement on any Lot. A request for approval shall be accompanied by such documents and plans, specifications and samples as the Design Review Board may require from time to time pursuant to the design guidelines and its rules and regulations. The Design Review Board shall not act arbitrarily or capriciously. The decisions of the Design Review Board shall be conclusive and binding on all interested parties, subject only to the right of appeal and review by the Board of Directors as described in Section 9.03 below.

(b) Each Owner other than Declarant shall comply with the design guidelines adopted by and the Rules and Regulations of the Design Review Board, as the same may be amended from time to time by the Design Review Board. Without limiting the generality of the foregoing, by accepting title to any Lot, an Owner acknowledges and agrees that the design guidelines applicable to that Lot may differ from the design guidelines applicable to other

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portions of The Farm at Arapahoe County, as determined by Declarant in its sole and absolute discretion. Such design guidelines may exempt certain Improvements to Lots from the approval requirements of this Declaration, and may waive strict application of the limitations and restrictions of this Declaration, particularly where application thereof would be unreasonable or unduly harsh under the circumstances. Such design guidelines shall expand upon the provisions of this Declaration relating to procedures and criteria for approval, and may specify rules and regulations pertaining to the construction of Improvements. Such design guidelines and rules and regulations shall have the same force and effect as if they were set forth in this Declaration (but the literal terms of this Declaration shall prevail in the event of any conflict).

(c) The Design Review Board or its designated representative may monitor any approved project to the extent required to ensure that the construction or work on such project complies with any and all approved plans and construction procedures. The Design Review Board or its designated representatives may enter upon any Lot at any reasonable time or times to inspect the progress, work status or completion of any project. In addition to the remedies described in Section 9.04 below, the Design Review Board may withdraw approval of any project and require all activity at such project to be stopped, if deviations from the approved plan or approved construction practices are not corrected or reconciled promptly after written notification to the Owner specifying such deviations.

(d) Any material to be submitted or notice given to the Design Review Board shall be submitted at the office of the Association.

(e) The Design Review Board and the Board of Directors shall each have the authority to grant variances from compliance with any of the provisions of this Declaration or the design guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and signed by a majority of the members of the Design Review Board or the Board of Directors, as the case may be.

#### 9.03 Appeal to Board of Directors.

Any Owner aggrieved by a decision of the Design Review Board may appeal the decision to the Board of Directors in accordance with procedures to be established by the Board of Directors. Such appeal shall be in writing and shall be filed within thirty days after the decision of the Design Review Board. In the event the decision of the Design Review Board is overruled by the Board of Directors on any issue or question, the prior decision of the Design Review Board shall be deemed modified to the extent specified by the Board of Directors and such decision, as so modified, shall thereafter be deemed the decision of the Design Review Board.

#### 9.04 Enforcement of Restrictions.

(a) The Design Review Board shall have primary responsibility to enforce the restrictions set forth in this Article IX and the Rules and Regulations adopted by the Design

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Review Board; provided, however, that such responsibility shall not limit the right of the Association to take action under any provision of this Declaration. If the Design Review Board does not take action to enforce such restrictions within fifteen days after being requested to do so by the Board of Directors, the Association may assume responsibility for enforcing such restrictions in any case in which the Design Review Board declined to act.

(b) If an Owner violates any term or condition set forth in this Article IX or in the Rules and Regulations of the Design Review Board, the Design Review Board and the Association shall have the following rights and remedies:

- (i) The Design Review Board may, by written notice to the Owner, revoke any approval previously granted to the Owner, in which event the Owner shall, upon receipt of such notice, immediately cease any development, improvement, alteration, landscaping or other activity covered by the approval so revoked.
- (ii) The Design Review Board and the Association may, but are not obligated to, after Notice and Opportunity to be Heard, enter upon the Owner's Lot and cure such violation at the Owner's sole cost and expense. If the Design Review Board or the Association cures any such violation, the Owner shall pay to the Association, as a Default Assessment, the amount of all costs incurred by the Design Review Board or the Association in connection therewith within thirty days after the Owner receives a written invoice therefor from the Design Review Board or the Association.
- (iii) The Association may sue the Owner to enjoin such violation, or to require specific performance of an Owner's obligations.
- (iv) The Association may sue the Owner for all damages, losses, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the Design Review Board or the Association as a result of the violation.
- (v) The Design Review Board and the Association shall have all other rights and remedies available to them under this Declaration, at law, or in equity. All rights and remedies of the Design Review Board and the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

Nothing in this paragraph is intended to or does limit the rights of the Declarant or any other Owner to pursue an action against another Owner to enforce any legal rights or remedies available to the Declarant or such Owner as a result of losses or damage arising out of another

Owner's failure to satisfy his obligations under this Declaration, the design guidelines or the Rules and Regulations.

(c) No action or failure to act by the Design Review Board or the Association shall constitute a waiver or estoppel with respect to future action. Specifically, the approval of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or any similar proposals, plans, specifications or other materials submitted with respect to other Improvements.

#### 9.05 Fees.

The Design Review Board may establish processing and review fees for considering any requests for approvals submitted to it, which fees shall be paid at the time the request for approval is submitted.

### ARTICLE X COVENANTS, CONDITIONS AND RESTRICTIONS

#### 10.01 Applicability of Covenants, Conditions and Restrictions.

Except as otherwise provided herein, the covenants, conditions and restrictions set forth in this Article X shall apply to all Lots and the Owners thereof.

#### 10.02 Use of Lots.

(a) A Lot may be used only for the construction and occupancy of one single-family detached dwelling, or where permitted by the zoning applicable to a Lot and so designated on the subdivision plat, single-family attached dwellings, and typical appurtenances thereto (such as garages, decks, patios, driveways and landscaping). No Improvement on any Lot may be used in any manner that is inconsistent with the approved zoning thereof or the approvals granted pursuant to this Declaration or applicable law.

(b) No gainful occupation, profession, trade or other nonresidential use, other than the keeping of a home office that is not open to the general public and is not used for meetings with clients or customers, shall be conducted on a Lot, without the prior written consent of the Board of Directors.

(c) All residential improvements shall be located within the building envelopes, if any, designated for the Lots on the applicable subdivision plats, except driveways and other improvements approved by the Design Review Board and complying with the requirements of Arapahoe County.

### 10.03 Design Control.

Except as expressly provided to the contrary in this Declaration, no Improvement that in any way alters the exterior appearance of any property within the planned community, or the Improvements located thereon, shall be made or done without the prior written consent of the Design Review Board, and no changes or deviations in or from the plans and specifications consented to by the Design Review Board shall be made without the prior written consent of the Design Review Board. The Design Review Board may establish minimum and maximum square footage requirements with respect to dwelling units and other improvements on the Lots. The approval rights of the Design Review Board extend to aesthetic considerations as well as issues of design consistency and quality.

### 10.04 Landscaping, Fencing and Private Drives.

(a) Each Purchaser of a Lot and each Approved Builder shall ensure that the grading and landscaping of such Purchaser's or Approved Builder's Lot is completed in accordance with plans approved by the Design Review Board and in accordance with the standards set forth in the Design Guidelines. In addition, an Approved Builder shall be responsible for installation of front-yard landscaping prior to initial occupancy of a residence constructed by such Approved Builder, unless the residence is first occupied during the period between October 1 and April 30, in which event completion of landscape installation may be delayed until June 1 next succeeding. On corner lots, side yard areas adjacent to a public street shall be landscaped at the same time as the front yard. With respect to Lots which adjoin common greenbelt areas (including but not limited to, landscaping along Orchard Road and Tower Road), or public park areas, the Approved Builder as to such Lot shall install side and/or rear yard landscaping, or both (i.e., landscaping of the yard area which so adjoins), at the same time as the front yard landscaping is installed. With respect to a Lot which does not adjoin common greenbelt areas or public park areas, side and rear yard landscaping shall be installed within 9 months after initial occupancy of a residence on such Lot by an Owner.

(b) All private driveways must conform to the requirements and guidelines established by the Design Review Board for that portion of the Property in which the Lot served by such driveway is located.

(c) No fencing shall be permitted on any Lot, unless approved by the Design Review Board (which may, in its discretion, determine that no fencing of Lots is permitted within The Farm at Arapahoe County, or any portion thereof, provided that the Design Review Board may not require removal of pre-existing fencing which is in compliance with the Design Guidelines and had been approved by the Design Review Board at the time of its installation). Without limiting the generality of the foregoing, the Design Review Board may adopt guidelines, standards and Rules and Regulations regarding fencing, which shall be complied with by all Owners.

10.05 Animals.

(a) No animal of any kind shall be raised, bred or kept on any Lot, except that domestic dogs, cats and other household pets permitted by the Association may be kept on a Lot, so long as they are kept in accordance with this Declaration and all other Association Documents and do not exceed a reasonable number (as determined by the Board of Directors under the circumstances of each case).

(b) No Owner shall allow any animal owned or controlled by such Owner to roam within the planned community unattended. At all times, dogs, cats and other household pets shall either be (i) confined within the Owner's Lot, or (ii) on a leash and under the direct control and supervision of their Owners. An Owner shall be responsible for immediately removing any excrement left on any Lot or Common Element by any animal owned or controlled by such Owner, and if an Owner fails to do so, the Association may provide, by notice, that such Owner is not permitted to keep any animal on the Property.

(c) No animal may be kept on the Property if that animal unreasonably interferes with the rights, comforts and convenience of other Owners, as reasonably determined by the Association (including without limitation, due to barking or other noise). The Association may adopt Rules and Regulations regarding the ownership and control of animals within The Farm at Arapahoe County.

10.06 Temporary Occupancy and Temporary Buildings.

No trailer, incomplete building, tent, shack, garage, barn or temporary buildings or structures of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction dwellings on Lots are subject to prior review and approval of the Design Review Board, and shall be removed immediately after the completion of construction. Temporary sales facilities may be used by an Approved Builder during the period of construction of model homes within the Project, subject to prior review and approval of such temporary facility by the Design Review Board. Any such temporary sales facility shall be removed immediately after opening of a model home by such Approved Builder.

10.07 Nuisances: Unsightliness: Construction Activities.

(a) No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no offensive or noxious odors, excessive glare or unreasonably bright exterior lighting or loud or offensive noises shall be permitted to arise or emit therefrom, so as to render any such Lot or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other Lot or to the occupants of such other Lot, or to disturb the peace and enjoyment of other Owners. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Lot or to its occupants.

(b) No lawn statuary or other decorative or functional exterior improvements shall be permitted, unless approved by the Design Review Board (which may prohibit or require

screening of such items in its reasonable discretion). Without limiting the generality of the foregoing, no clothing or household fabrics or other articles may be hung, dried or aired on any Lot or Common Element in a place or manner that is visible from any other Lot, Common Element or public right-of-way or open space.

(c) Normal construction activities and parking in connection with the building of Improvements on a Lot or in connection with the Declarant's building of Improvements in the Common Elements or Declarant's other customary development activities shall not be considered a nuisance or otherwise prohibited by this Declaration (subject to the design review provisions hereof).

10.08 Hazardous Activities.

No activity shall be conducted within the planned community created hereby which is or might be hazardous to any Person or property. Without limiting the generality of the foregoing, (a) no firearms shall be discharged within the Property, and (b) no open fires shall be lighted within Property, except in a contained fireplace or barbecue unit which is attended and is designed to prevent the dispersal of burning embers. Normal construction activities shall not be considered hazardous for the purpose of this Section 10.08.

10.09 Trash Removal: Utilities.

(a) If the Association establishes, retains or otherwise provides trash removal services within The Farm at Arapahoe County, all Owners shall be obligated to use such trash removal services and to comply with such Rules and Regulations as the Association may adopt in that regard.

(b) All electric, gas, water, television, radio, telephone and other utility installations and connections from the boundary of a Lot to improvements located on such Lot shall be placed underground, unless otherwise approved by the Design Review Board. All cooling and heating apparatus shall be concealed or placed on the ground immediately adjacent to a dwelling. No exterior roof-mounted or side-mounted evaporative cooling, swamp cooling or air conditioning units shall be installed on any dwelling, unless the Design Review Board determines in its sole discretion that such units can be installed in an aesthetically pleasing manner. Notwithstanding the foregoing, any existing utility lines that are located above-ground as of the date of this Declaration are permitted.

10.10 Maintenance of Improvements.

No buildings or other Improvements on any Lot shall be permitted to fall into disrepair and each such building or other improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. If any building or other Improvement is damaged or destroyed, then, subject to the approvals required from the Design Review Board, such building or other Improvement shall be immediately repaired or rebuilt or demolished. If any such building or improvement is demolished, the Owner of the Lot on which

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such building or Improvement was located shall promptly install and thereafter maintain approved landscaping (in accordance with plans approved by the Design Review Board) on the portion of the Lot on which such building or improvement was located.

10.11 Mineral Exploration; Private Water and Sewer Systems.

(a) No Lot or Common Element shall be used in any manner to explore for or to remove any water (other than in favor of East Cherry Creek Valley Water and Sanitation District), oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

(b) No private wells (other than in favor of East Cherry Creek Valley Water and Sanitation District), septic fields, private septic systems, cesspools or septic tanks shall be permitted on the Property or any portion thereof, without the prior written approval of the Design Review Board (which may be withheld in its sole discretion).

10.12 Exterior Mechanical Equipment.

No exterior mechanical equipment shall be erected on any Lot without the specific written approval of the Design Review Board. Notwithstanding the foregoing, the Design Review Board may restrict the erection or installation of any satellite dish with a diameter of less than one meter or any other exterior radio or television antenna only to the extent permitted by law. All exterior mechanical equipment shall be incorporated as an integral part of the architectural character of any building erected.

10.13 Signs.

No signs whatsoever shall be erected or maintained on any Lot except (a) signs required by legal proceedings; (b) signs erected or approved in writing by the Declarant, and (c) such other signs as may have been approved in advance and in writing by the Design Review Board, or that comply with the requirements established by the Design Review Board in the sign policy, if any, adopted by the Design Review Board from time to time.

10.14 Trash Containers; Mailboxes.

(a) No garbage or trash shall be placed or kept on any Lot, except in covered containers. No such trash containers shall be kept on any Lot in a manner such that they are visible from any other Lot, except on trash collection days. Dumpsters used in conjunction with construction activities on Lots shall be subject to special rules adopted by the Design Review Board. The Association may adopt Rules and Regulations regarding trash storage, collection and removal, and may require the use of uniform trash containers.

(b) The Association may require the use of uniform mailboxes and may designate central locations for mail pick-up and delivery.



10.15 Compliance with Laws.

Nothing shall be done or kept on a Lot in violation of any law, ordinance, rule or regulation of any governmental authority.

10.16 Compliance with Insurance Requirements.

Except as may be approved in writing by the Association, nothing shall be done or kept on any Lot which may result in an increase in the rates of any insurance, or the cancellation of any insurance, maintained by the Association.

10.17 Overhead Encroachments.

No tree, shrub or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any street, trail or other pedestrian way from ground level to a height of eight feet without the prior consent of the Design Review Board.

10.18 Restriction on Subdivision, Rezoning and Timeshare.

No Lot shall be further subdivided or separated into smaller lots by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner, without the prior written consent of the Association, which consent must be evidenced on the plat or other instrument creating the subdivision. No further covenants, conditions or restrictions shall be recorded by any Owner or other Person, except Declarant, against any Lot without the Association's prior written consent, and any covenants, conditions or restrictions recorded by any Person other than Declarant without such consent evidenced thereon shall be null and void. No application for rezoning of any Lot, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Association and the proposed use otherwise complies with this Declaration and all other Association Documents. No Owner may submit a Lot to a timeshare or similar arrangement.

10.19 Leases.

The Association may, in the Rules and Regulations, prohibit or impose restrictions upon the short-term leasing of all or any part of an Owner's Lot (meaning any lease having a term of less than six months).

10.20 Recreational and Commercial Vehicles: Vehicle Repair.

(a) Other than lawful operation on public streets and rights-of-way or private driveways, no motorbike, motorcycle, snowmobile, golf cart, moped, three-wheeler or other motorized vehicle may be operated on the Property. No commercial vehicle, house trailer, camper, camping trailer, motor home, horse trailer, boat, hauling trailer of any nature, truck larger than 3/4 ton, self-contained recreational vehicle (commonly referred to as an "RV"), snowmobile, jet-ski, motocross motorcycle, three-wheeler or other recreational equipment or

vehicle or associated accessory shall be parked on any portion of the Property for longer than 48 hours in any two-week period, other than in a covered, enclosed structure approved by the Design Review Board or for purposes of loading and cleaning (but not repair).

(b) No vehicle maintenance or repair (including without limitation, changing of oil) shall be conducted on the Property (other than in cases of emergency, such as changing of a flat tire occurring on the Property), unless conducted in compliance with all applicable laws within an enclosed garage or other structure.

#### 10.21 Declarant's Exemption.

Nothing contained in this Declaration or any other Association Document shall be construed to prevent (a) the exercise by Declarant of any Special Declarant Rights; or (b) the erection or maintenance by Declarant or its duly authorized agents, of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing or sale of property within the planned community.

#### 10.22 Health, Safety and Welfare.

In the event additional uses, activities, and facilities are deemed by the Board of Directors, in its sole discretion, to be nuisances or to adversely affect the health, safety or welfare of Owners or the value of property within the planned community known as The Farm at Arapahoe County, the Board of Directors may (but is not obligated to) adopt Rules and Regulations restricting or regulating the same.

#### 10.23 Final Development Plans and Subdivision Plats.

The Property is subject to all restrictions and covenants imposed by all final development plans for The Farm at Arapahoe County and all subdivision plats for the Property now or hereafter recorded in the real property records of Arapahoe County, Colorado, as the same may be amended or supplemented from time to time. Declarant reserves the right to amend and modify the final development plans for all or any portion of the Property and to replat any portions of the Property owned by Declarant from time to time. No assurance is provided that the any final development plan and subdivision plat will remain in effect.

#### 10.24 Compliance With Covenants, Conditions and Restrictions.

Each Owner shall comply with all of the terms, provisions, covenants, conditions, restrictions, easements and reservations on the Owner's part to be complied with under this Declaration or any other Association Document, or under the documents governing any Subassociation applicable to such Owner's Lot.

10.25 Approved Builders.

No Person other than an Approved Builder, an Owner who is not in the business of constructing and selling homes, or Declarant may construct Improvements on the Property, unless otherwise approved by Declarant (during the Declarant Control Period) and the Design Review Board. Status as an Approved Builder may be revoked by the Declarant at any time that an Approved Builder is in violation of any Association Document, and may be permanently revoked for repeated violations of the Association Documents.

ARTICLE XI  
EASEMENTS AND RESERVATIONS

11.01 Declarant's Easements.

(a) Declarant hereby reserves for itself, its successors and assigns an easement over, across, through and under each Lot (excluding any residential structure now or hereafter constructed on such Lot) and the Common Elements to (i) discharge Declarant's obligations under this Declaration; (ii) exercise any of Declarant's rights under this Declaration; and (iii) make improvements within the planned community or any other real estate now or hereafter owned by Declarant (including, without limitation, the Expansion Property).

(b) Declarant hereby reserves to itself, its successors and assigns, the right to (i) establish from time to time utility and other easements, rights-of-way, permits or licenses over, across, through and under the Common Elements; (ii) specify the terms to govern any easements or rights conveyed by Declarant; and (iii) create other reservations, exceptions and exclusions that Declarant deems appropriate.

11.02 Owners' Easements Over Common Elements.

Subject to the terms and conditions of this Declaration and all other Association Documents, Declarant hereby grants to the Owners an easement over, across and through the Common Elements (a) for ingress and egress to their Lots, and (b) to use and enjoy the Common Elements. An Owner's ability to use and enjoy the Common Elements is subject to the regulatory, enforcement and other powers of the Association, and may be denied upon any uncured default by such Owner under the Association Documents. Without limiting the generality of the foregoing, the Association may assess charges for use of the Common Elements, and establish permitted times and manners of use thereof as well as rules and regulations governing use of the Common Elements. NO OWNER SHOULD ASSUME BY REASON OF THE PROXIMITY OF SUCH OWNER'S LOT TO ANY AMENITY OR FACILITY THAT SUCH OWNER WILL HAVE RIGHTS TO USE AND ENJOY SUCH AMENITY OR FACILITY, AND EACH PURCHASER SHOULD CAREFULLY INVESTIGATE WHAT COMMON ELEMENTS AND LIMITED COMMON ELEMENTS MAY BE USED AND ENJOYED AS A RESULT OF OWNING A PARTICULAR LOT.

11.03 Utility Easement.

There is hereby created a blanket easement over, across, through and under the those portions of the Lots which are within applicable building setbacks for such Lots, which easement may be used for the installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sanitary sewer, storm drainage, gas, telephone, electricity and cable television. Declarant or the Association may authorize the release of portions of the easement created by this Section 11.03 upon the request of any Owner showing good cause therefor. Notwithstanding anything to the contrary contained in this Section 11.03, no electrical lines, water lines, telephone lines or other utility or service lines may be installed or relocated on any portion of the Property, except by Declarant so long as Declarant has any interest in the Property or the Expansion Property, by an Approved Builder or as otherwise approved by Declarant or the Design Review Board.

11.04 Association's Easements.

Declarant hereby grants the Association an easement over, across, through and under each Common Element and each Lot (excluding entry into any residential structure now or hereafter constructed on such Lot) to (a) exercise any right held by the Association under this Declaration or any other Association document, and (b) perform any obligation imposed upon the Association by this Declaration or any other Association Document. Notwithstanding the foregoing, the Association shall not enter upon any Lot without reasonable prior notice to the Owner of the Lot, except in cases of emergency.

11.05 Recorded Easements.

The Property shall be subject to all easements of record or of use as of the date of recordation of this Declaration, as well as easements in favor of all fire departments, law enforcement agencies, ambulances and governmental authorities who enter the Property in the performance of their duties.

ARTICLE XII  
INSURANCE

12.01 Insurance Required to be Obtained by the Association.

(a) The Association shall obtain and maintain all insurance required to be obtained and maintained by the Association under the Act and any additional insurance that the Board of Directors deems necessary or that is required by law. In addition, the Association shall obtain and keep in force a fidelity bond for any Person handling funds of the Association, in such amounts and upon such terms as the Act requires from time to time.

(b) To the extent reasonably possible without undue cost, the insurance maintained by the Association shall contain a waiver of rights of subrogation as against the Association, each Owner and any Person claiming by, through or under such Owner and as

against any officer, director, agent or employee of any of the foregoing, and shall cover each Owner without each such Owner being specifically named.

(c) Upon request of Declarant, and subject to Declarant's payment to the Association of any additional premium attributable thereto, the insurance maintained by the Association shall name Declarant as an additional insured and shall contain a waiver of rights of subrogation against Declarant, to the extent reasonably possible and permitted by law.

(d) If any Agency holds any Security Interest on a Lot, then the Association shall obtain and maintain during the term of such Security Interest such insurance and bonds as may be required by the Agency, unless such insurance or bond is not available or has been waived in writing by such Agency.

12.02 Adjustments.

Any loss covered by insurance maintained by the Association shall be adjusted with the Association in accordance with the terms and conditions of the Act. The insurance proceeds payable for any such loss shall be paid in accordance with the terms and conditions of the Act.

ARTICLE XIII  
CASUALTY

13.01 Casualty to Common Elements.

The Association shall respond to any damage to, or destruction of, any Common Elements in accordance with the terms and conditions of the Act.

13.02 Casualty to a Lot.

Each Owner shall be responsible for repairing or replacing any damage to, or destruction of, such Owner's Lot. If any building or other Improvement is damaged or destroyed, then, subject to the approvals required from the Design Review Board, such building or other Improvement shall be immediately repaired or rebuilt or demolished. If any such building or improvement is demolished, the Owner of the Lot on which such building or Improvement was located shall promptly landscape the portion of the Lot on which such building or improvement was located in accordance with plans approved by the Design Review Board. No hazardous conditions or damaged Improvements shall be permitted to remain in such state on any Lot.

ARTICLE XIV  
CONDEMNATION

14.01 Condemnation of all Lots.

If all of the planned community known as The Farm at Arapahoe County is taken by condemnation or similar proceeding, the planned community and this Declaration shall terminate as of the date of the taking, and any condemnation award payable in connection therewith shall be disbursed among the Owners in accordance with Section 38-33.3-218 of the Act.

14.02 Condemnation of Fewer than all Lots.

If one or more Lots, but fewer than all Lots, are taken by condemnation or similar proceeding, (a) any condemnation award payable in connection therewith shall be paid, and (b) the Shares of Common Expenses allocated to those Lots shall be reallocated, in accordance with the terms and conditions of Section 38-33.3-107 of the Act.

14.03 Condemnation of Common Elements.

Whenever all or any part of the Common Elements shall be taken by condemnation or similar proceeding, or whenever all or any part of the Common Elements is conveyed in lieu of a taking under a threat of condemnation, the award payable in connection therewith shall be paid to the Association and used by the Association (a) first, to repair any damage to Common Elements resulting from the condemnation or other taking, and (b) second, for any other Common Expenses.

ARTICLE XV  
SPECIAL DECLARANT RIGHTS

15.01 Improvements.

Declarant hereby reserves for itself, its successors and assigns the right to construct any Improvements contemplated or permitted by any preliminary development plan or final development plan or any subdivision plat for the Property, the Expansion Property or The Farm at Arapahoe County (in each case, as amended and supplemented from time to time), and the right to construct any Improvement that Declarant deems necessary or advisable on any Common Element or any Lot owned by Declarant, including, without limitation, trails, drainage facilities, utility facilities, water tanks, monuments and recreational facilities. Such construction shall not be subject to design review and approval as herein provided.

15.02 Development Rights.

(a) Declarant hereby reserves for itself, its successors and assigns:

- (i) the right to amend this Declaration to add, at any time and from time to time, all or any part of the Expansion Property and up to the maximum area of additional real estate that is not described in this Declaration as permitted pursuant to Section 38-33.3-222 of the Act;
- (ii) the right to amend this Declaration to create up to 2500 Lots, and additional Common Elements on all or any portion of any other real estate that Declarant may add to the planned community pursuant to subparagraph 15.02(a)(i) above (including without limitation, the right to designate recreational amenities hereafter developed as Limited Common Elements for the benefit of only certain designated Lots, whether now existing or hereafter created);
- (iv) the right to subdivide any Lot owned by Declarant;
- (v) the right to convert any Lot owned by Declarant into Common Elements; and
- (vi) the right to withdraw from the planned community any real estate owned by Declarant prior to the conveyance of a Lot to a Purchaser and, after the addition of any other real property to the planned community, the right to withdraw any real estate owned by Declarant and located within such portion at any time prior to the conveyance of a Lot located in such portion to a Purchaser.

(b) In exercising any development right reserved hereunder, Declarant shall execute and record an amendment to this Declaration in accordance with the requirements set forth Section 38-33.3-210 of the Act.

#### 15.03 Sales Offices, Construction Offices and Model Homes.

Declarant hereby reserves for itself, its successors and assigns, including any Approved Builder, the right to construct and maintain sales offices, construction offices, management offices and model homes on Lots owned by Declarant or any Approved Builder. Declarant also reserves for itself, its successors and assigns the right to construct and maintain signs advertising the planned community on any and all Common Elements or any Lot. Without limiting the generality of the foregoing, Declarant hereby reserves for itself, its successors and assigns, the right to maintain a sales office in any facility that may at any time be constructed and comprise part of the Common Elements or the Property in such manner and for such period of time as Declarant may determine in its sole and absolute discretion, even if such use constitutes the sole and exclusive use of such facility. If Declarant uses all or any portion of a facility located on a Common Element for marketing and sales purposes, then such facility or the portion thereof exclusively used by Declarant shall not constitute a Common Element, and the Owners shall have no rights with respect thereto, until such time as Declarant ceases such use.

15.04 Exercising Special Declarant Rights.

Declarant may exercise its Special Declarant Rights at any time and from time to time prior to the earlier of: (a) the date that is 50 years after the date of recording of this Declaration, and (b) the date on which the certificate of occupancy is issued for the last Lot that may be created pursuant to this Declaration. The consent or approval of the Association or the Owners shall not be required in connection with Declarant's exercise of its rights under this Article XV, or any other right reserved to Declarant under the Association Documents. Declarant may exercise its Special Declarant Rights any number of times and in any order and no assurance is given as to the timing of such exercise or the order in which Declarant will exercise its Special Declarant Rights. If Declarant exercises any Special Declarant Right with respect to any portion of the Property, Declarant may, but is not obligated to, exercise the Special Declarant Right with respect to any other portion of the Property. Declarant has no obligation to exercise any Special Declarant Right, and makes no assurance that any such right will be exercised.

ARTICLE XVI  
ENFORCEMENT AND REMEDIES

16.01 Enforcement.

(a) Each provision of this Declaration with respect to the Association or the Common Elements shall be enforceable by Declarant or any Owner by a proceeding for injunctive relief or specific performance.

(b) Each provision of this Declaration with respect to an Owner or a Lot shall be enforceable by the Association or Declarant by (i) a proceeding for injunctive relief or specific performance; (ii) a suit or action to recover damages; and/or (iii) in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, exclusion of such Owner and such Owner's family members, tenants and guests from the use of any Common Elements and from the participation in any Association affairs (including, without limitation, any suspension of voting rights). In addition, if an Owner fails to perform or observe any covenant or condition on such Owner's part to be performed or observed under this Declaration or any other Association Document, the Association shall have the following rights and remedies:

- (i) The Association may, but is not obligated to, after Notice and Opportunity to be Heard, cure such failure to comply at the Owner's sole cost and expense. If the Association cures any such failure to comply, the Owner shall pay to the Association as a Default Assessment the amount of all costs incurred by the Association in connection therewith within thirty days after the Owner receives a written invoice therefor from the Association.
- (ii) The Association may, after Notice and Opportunity to be Heard, fine the Owner in an amount determined by the Association or pursuant to a schedule adopted by the Association from time to time.



Incremental fines for repeat violations shall be permitted. The Owner shall pay any such fine to the Association, as a Default Assessment, within thirty days after the Owner receives a written invoice therefor from the Association.

(iii) The Association shall have all other rights and remedies available to it under this Declaration, at law or in equity.

(c) All rights and remedies of Declarant and the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

16.02 Attorneys' Fees.

In the event of any dispute under or with respect to this Declaration or any other Association Document, the prevailing party (as to liability, without regard to any monetary award) shall be entitled to recover from the nonprevailing party all of its costs and expenses in connection therewith, including, but not limited to, reasonable attorneys' fees and disbursements.

16.03 Interest.

If an Owner fails to pay to the Association any Assessment or other amount due to the Association as and when the same becomes due, the Owner shall pay to the Association interest on such unpaid amount at the rate of 18 percent per annum, or five points above the prime rate then established and published by Norwest Bank Colorado (or its successor), whichever is higher, from the due date of such unpaid amount until the date paid, or such other reasonable rate as the Board of Directors may establish within legal limits from time to time.

ARTICLE XVII  
TERM AND AMENDMENTS

17.01 Term.

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration shall run with and bind the Property until this Declaration is terminated pursuant to Section 17.02 below.

17.02 Termination.

(a) The Owners may terminate this Declaration and the planned community created hereby by a vote of at least 80 percent of the votes allocated to all Memberships. If the necessary votes and consents are obtained, the agreement of the Owners to terminate the planned community and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the terms and conditions of Section 38-33.3-218 of the Act. Upon recordation of the termination agreement with the

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Clerk and Recorder for Arapahoe County, Colorado, the planned community created hereby shall be terminated, this Declaration (excluding any subdivision plat thereof and final development plan of record) shall have no further force or effect, and the Association shall be dissolved.

(b) Prior to the conveyance of any Lot by Declarant to any Purchaser, the Declarant may terminate this Declaration and the planned community created hereby by recording a statement of termination to that effect in the real property records of Arapahoe County, Colorado.

### 17.03 Amendments.

(a) Subject to Section 17.02 above, and except for the provisions of this Declaration described in Section 38-33.3-217(1) of the Act, the Owners may amend any provision of this Declaration at any time by a vote of at least 67 percent of all Memberships. If the necessary votes and consents are obtained, the Association shall cause to be recorded with the Clerk and Recorder for Arapahoe County, Colorado, an amendment to this Declaration, in accordance with the terms and conditions of Section 38-33.3-217 of the Act.

(b) Notwithstanding the terms and conditions of Article XVII above, Declarant may amend this Declaration, without the approval or consent of the Associations or any Owners, as follows: (i) at any time, for any reason, prior to the conveyance by Declarant of a Lot to any Purchaser; and (ii) at any time, if such amendment is required by any Agency as a prerequisite to its issuance or guarantee of any Mortgage with respect to any portion of the Property; and (iii) at any time, to correct technical errors.

(c) Upon filing a written notice of such First Mortgage with the Association, a First Mortgagee shall be entitled to: (i) written notice from the Association of any default under the Association Documents by the Owner of the Lot subject to such Mortgage, if such default is not cured within sixty days after the Association learns of it; (ii) cure any such default on behalf of the mortgagor under the First Mortgage, or any failure by the Association to pay taxes or insurance premiums with respect to the Common Elements; and (iii) receive written notice of any casualty or condemnation of the Common Elements.

(e) Each First Mortgagee that files written notice of such First Mortgage with the Association shall be entitled to receive prior notice of any of the following actions proposed by the Association or its members, and no such action may be taken unless approved by at least 51% of such First Mortgagees who have provided such notice (based upon one vote for each Lot subject to such First Mortgage):

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Common Element or Improvements thereof that are owned, directly or indirectly, by the Association (other than the granting of easements for public purposes consistent with the intended use of such property by the Association and its members);

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(ii) amendment of this Declaration to: (A) change the method for allocating membership interests or votes, or the Share of Common Expenses appurtenant to each Lot, or the method of allocating insurance or condemnation proceeds; or (B) waive or abandon the design review process or restrictive covenants contained in this Declaration; or (C) change any material matter affecting the planned community or its Owners;

(iii) application of insurance proceeds for losses to Common Elements for other than the repair, replacement or reconstruction of the Improvements that were damaged or destroyed.

If an eligible First Mortgagee receives notice of any such matter, and does not respond within thirty calendar days, then such First Mortgagee shall be deemed to have consented to and approved such matter.

### ARTICLE XVIII MISCELLANEOUS

#### 18.01 Interpretation of the Declaration.

Except for judicial construction, the Association, by its Board of Directors, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the covenants and the provisions hereof.

#### 18.02 Severability.

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provisions hereof.

#### 18.03 Disclaimer of Representations and Limitation of Liability.

(a) Notwithstanding anything to the contrary contained in this Declaration or any marketing or other materials distributed or published by Declarant or any Approved Builder, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the planned community known as The Farm at Arapahoe County can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that if such land is once used for a particular use, that such use will continue in effect. **ANY AND ALL WARRANTIES WITH RESPECT TO ANY PORTION OF THE PROPERTY OR ANY IMPROVEMENTS THEREON, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW (INCLUDING BUT NOT LIMITED TO ALL IMPLIED**

WARRANTIES OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY SPECIFICALLY DISCLAIMED. DECLARANT AND THE ASSOCIATION DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSON OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A LOT, AN OWNER AGREES THAT DECLARANT AND THE ASSOCIATION ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED IN THIS DECLARATION AND THE ASSOCIATION DOCUMENTS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY OR THE EXPANSION PROPERTY.

(b) To the greatest extent permitted by applicable law, the Association, its Board of Directors, the Design Review Board and its members, Declarant and any member, agent, employee, officer, director, or representation of any of them shall not be liable to any person or entity for any action or failure to act under this Declaration if the action or failure to act was in good faith and without malice.

#### 18.04 Reference to Declaration and Deeds.

Deeds to and instruments affecting any Lot or any other part of the Property may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon the grantee-owner or other person claiming through any deed or other instrument and his or her heirs, executors, administrators, successors and assigns.

#### 18.05 Successors and Assigns of Declarant.

Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder, provided that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers as provided herein and in the Act.

#### 18.06 Captions and Titles.

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

#### 18.07 Notices.

If notice of any action or proposed action by the Board of Directors or any committee or if any meeting is required to be given to any Owner by law, this Declaration or any other Association Document, then, unless otherwise specified herein or in any other Association Document, such notice requirement shall be deemed satisfied if such notice of such action or



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lots 1-8, Block 1

Lots 1-27, Block 2

Lots 1-33, Block 3

Lots 1-12, Block 4

Lots 1-12, Block 15

Lots 1-25, Block 16

Lots 1-7, Block 17

Tract "A"

Tract "B"

Tract "C"

Tract "F"

The Farm at Arapahoe County, Filing No. 3,  
County of Arapahoe, State of Colorado,  
according to the final plat thereof recorded in the real property records of Arapahoe County,  
Colorado, on December 12, 1997, at Reception No. A7157825.

EXHIBIT B

LEGAL DESCRIPTION OF EXPANSION PROPERTY

All of Section 21, Township 5 South, Range 66 West of the 6th Principal Meridian, County of Arapahoe, State of Colorado,

EXCEPT those portions conveyed in deed recorded January 18, 1971 in Book 1904 at Page 342, and

EXCEPT any portion lying within public rights of way, and

EXCEPT the right of way for Old Orchard Road as set forth in instruments recorded in Book 6 at Pages 278 and 312, and

EXCEPT that portion conveyed to Columbia Metropolitan District in deed recorded March 2, 1988 in Book 5379 at Page 322, and

EXCEPT Lots 1-8, Block 1; Lots 1-27, Block 2; Lots 1-33, Block 3; Lots 1-12, Block 4; Lots 1-12, Block 15; Lots 1-25, Block 16; Lots 1-7, Block 17; Tract "A"; Tract "B"; Tract "C"; and Tract "F" of The Farm at Arapahoe County, Filing No. 3, County of Arapahoe, State of Colorado, according to the final plat thereof recorded in the real property records of Arapahoe County, Colorado, on December 12, 1997, at Reception No. A7157825.

47

EXHIBIT C

GENERAL COMMON ELEMENTS

The following property within The Farm at Arapahoe County, Filing No. 3, County of Arapahoe, State of Colorado according to the final plat thereof recorded in the real property records of Arapahoe County, Colorado, on December 12, 1997, at Reception No. A7157825.:

Tract "A" and all improvements now or hereafter constructed on Tract "A,"

Tract "B" and all improvements now or hereafter constructed on Tract "B,"

Tract "C" and all improvements now or hereafter constructed on Tract "C,"

Tract "F" and all improvements now or hereafter constructed on Tract "F," and

Any underdrain system now or hereafter constructed within public rights-of-way or Tracts within The Farm at Arapahoe County, Filing No. 3, pursuant to water and sewer plans now or hereafter approved by the East Cherry Creek Valley Water and Sanitation District (and expressly excluding any underdrain now or hereafter constructed on any single-family Lot within The Farm at Arapahoe County, Filing No. 3).



**Second Amendment to Master Declaration of Covenants, Conditions and Restrictions  
for The Farm at Arapahoe County**

This Second Amendment to Master Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County (this "Second Amendment") amends the Master Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County, recorded in the real property records of Arapahoe County on March 25, 1998 at Reception No. A8040928 (the "Declaration").

1. Definitions.

(a) All capitalized terms that are used and not otherwise defined in this Second Amendment have the meanings given to them in the Declaration.

(b) Section 2.01 of the Declaration is amended to add the following definitions:

" (ll) Improved Lot means any Lot on which building improvements have been constructed and for which a temporary or permanent certificate of occupancy has been issued by Arapahoe County. In addition, a Vacant Lot shall automatically become an Improved Lot for purposes of this Declaration on the date that is ninety days after the issuance of a building permit for such Lot, regardless of whether any building improvements have been constructed thereon or certificate of occupancy has been issued."

" (mm) Vacant Lot means any Lot that is not an Improved Lot."

2. Share of Common Expenses.

Section 7.02(a) of the Declaration is amended and restated to read as follows:

" (a) Except as otherwise set forth in this Declaration, all Common Expenses shall be allocated among all Lots that have been created prior to the date on which the Common Expenses were incurred in accordance with each Lot's Share of Common Expenses. The Share of Common Expenses of each Lot shall be determined as follows:

Share of Common  $\frac{1}{\text{---}}$

Expenses of an Improved Lot =  $(0.5 \times \text{number of Vacant Lots}) + \text{number of Improved Lots}$

Share of Common  $\frac{0.5}{\text{---}}$

Expenses of a Vacant Lot =  $(0.5 \times \text{number of Vacant Lots}) + \text{number of Improved Lots}$

These allocations are intended to differentiate between Improved Lots and Vacant Lots, to take into account anticipated differences in the level of use of Common Elements and related impacts on the Association's costs and activities. Accordingly, a change in the status of any Lot from Vacant Lot to Improved Lot will affect the Share of Common Expenses of all other Lots as well as that Lot. To ease the administration of this system of allocation, the Board of Directors of the Association may establish fixed dates or periods for recalculation of the Shares of Common Expenses based upon changes in Lot status (i.e., from a Vacant Lot to an Improved Lot) which have occurred. For example, the Board of Directors may provide for recalculation of the Lots' Shares of Common Expenses due to changes in Lot status on a monthly basis, a quarterly basis, a semi-annual basis or any other time period that the Board of Directors deems advisable from time to time."

3. Affirmation of Declaration. Except as specifically set forth in this Second Amendment, the Declaration remains unchanged and in full force and effect. This Second Amendment shall hereafter be interpreted for all purposes as part of the Declaration.

4. Certification. By signing below, the undersigned officer of the Association certifies that the foregoing is a true and accurate copy of the Second Amendment to Master Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County, and that the same has been approved by the requisite number of Owners as required by Section 17.03 of the Declaration and Section 38-33.33-217 of the Colorado Common Interest Ownership Act.

Executed as of November 19, 1998.

THE FARM AT ARAPAHOE COUNTY  
HOMEOWNERS' ASSOCIATION, INC.  
a Colorado nonprofit corporation

BY: *Leeland Albert*  
Name: Leeland Albert  
Its: President

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF Denver         )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> of November, 1998, by Leeland Albert as President of The Farm at Arapahoe County Homeowners' Association, Inc., a Colorado nonprofit corporation, on behalf of such corporation.

Witness my hand and official seal.  
My commission expires: 11/28/98



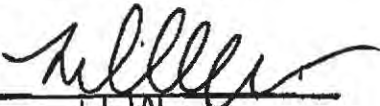
*Leslie Warner*  
Notary Public

**APPROVAL OF AMENDMENT**


The undersigned, as the owners of at least 67% of the Lots governed by the Master Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County, recorded in the real property records of Arapahoe County on March 25, 1998 at Reception No. A8040928 (the "Declaration"), hereby consent to the amendment of the Declaration as set forth in the Second Amendment to Master Declaration of Covenants, Conditions and Restrictions for The Farm at Arapahoe County.

Dated as of November 19, 1998.

The Farm Development Company,  
a Colorado corporation

By:   
Name: Leond Alpert  
Title: President

South Plains Company LLC, a Colorado  
limited liability company

By:   
Name: PERRY A. CADMAN  
Title: MANAGER

**First Amendment to Master Declaration of Covenants, Conditions, and Restrictions for  
The Farm at Arapahoe County**

1-5

This First Amendment to Master Declaration of Covenants, Conditions, and Restrictions for The Farm at Arapahoe County ("First Amendment") is executed as of June 30, 1998, by The Farm Development Company, a Colorado corporation, as the Declarant under that certain Master Declaration of Covenants, Conditions, and Restrictions for The Farm at Arapahoe County dated March 11, 1998, and recorded in the office of the Arapahoe County Clerk and Recorder on March 25, 1998, at Reception No. A8040928 (the "Master Declaration") governing property generally known as THE FARM AT ARAPAHOE COUNTY, a planned community situate in the County of Arapahoe, State of Colorado (the "Project").

WHEREAS, pursuant to Section 15.02 of the Master Declaration, Declarant reserved the right to subject all or any part of the Expansion Property (as such term is defined in the Master Declaration) to the terms of the Master Declaration by filing an amendment to the Master Declaration pursuant to Colorado Revised Statutes § 38-33.3-210; and

WHEREAS, Declarant desires to subject the portion of the Expansion Property described on Exhibit 1 attached hereto (hereafter referred to in this First Amendment as the "Amendment 1 Property") to the terms of the Master Declaration and to cause such Amendment 1 Property to become a part of the Property (as such term is defined in the Master Declaration);

NOW, THEREFORE, Declarant hereby declares as follows:

1. Subjection to Master Declaration. From and after the date of this First Amendment, the Amendment 1 Property shall be owned, held, used, occupied, maintained, altered, transferred, leased, encumbered, sold and conveyed subject to the covenants, conditions, restrictions, equitable servitudes, reservations, easements, assessments, charges, liens and other provisions set forth in the Master Declaration, which shall run with the Amendment 1 Property and shall bind and inure to the benefit of all parties having any right, title or interest in the Amendment 1 Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives. The Amendment 1 Property shall hereafter be considered as a part of the Property subjected to the Master Declaration, and the persons holding any interests therein shall have all of the rights and obligations set forth in the Master Declaration according to the nature of their interests. The definitions of "Lot," "Tract" and other definitions in the Master Declaration are hereby expanded to apply to the Amendment 1 Property.

2. Shares of Common Expenses. The allocation of Common Expenses among the Lots pursuant to Section 7.02 of the Master Declaration is hereby recalculated as provided in Section 7.02(a) of the Master Declaration.

3. Additions to Common Elements. Portions of the Amendment 1 Property fitting the definition of "Common Elements" under the Master Declaration are hereby declared to be Common Elements of the Project, all of which shall be considered to be General Common Elements except as provided in Paragraph 4 of this First Amendment. General Common



#38351

Elements shall include, but are not necessarily limited to, those improvements identified on Exhibit 2 attached hereto. 2.5

4. **Recreation Center Site.** The portion of the Amendment 1 Property described as Tract B, Filing No. 1 on the attached Exhibit 1 (the "Recreation Center Site") is hereby subjected to the following additional covenants, conditions and restrictions:

a. The Recreation Center Site shall be used exclusively for the construction, use, operation, maintenance, repair and replacement of a private recreational facility and accessory uses.

b. The Recreation Center Site is hereby declared to be a Limited Common Element allocated to Lots within the following portions of the Property:

(i) the Amendment 1 Property;

(ii) other Lots within Filing Nos. 1, 2 and 5, The Farm at Arapahoe County, upon the recording of appropriate amendments to subject them to the terms of the Master Declaration which expressly refer to the Recreation Center Site as being a Limited Common Element of such Lots; and

(iii) It is the intent of Declarant to convey the Recreation Center Site to an Approved Builder (the "Grantee") upon the condition that the Grantee commence and diligently pursue the construction of a recreation center upon the site within certain time limits. In the event that Declarant exercises its right to re-enter and take possession of such site due to a default of the Grantee under the conditions imposed upon its title, Declarant may allocate the Recreation Center Site as a Limited Common Element to other Lots within the Project as Declarant may designate in an amendment to the Master Declaration subjecting such Lots to the terms of the Master Declaration or pursuant to a separate designation, executed by Declarant and recorded in the records of the Arapahoe County Clerk and Recorder.

Collectively, the Lots to which the Recreation Center Site is allocated as a Limited Common Element pursuant to the foregoing shall be referred to as the "Benefitted Lots."

c. In the event of the re-entry of Declarant and the termination of Grantee's title to the Recreation Center Site as described in Paragraph 4(b)(iii) above, Declarant shall have the further right, upon written notice to the Association, to permit the Owners of Lots within the Project other than the Benefitted Lots, and the families, guests and invitees of such Owners, to use any recreation center located upon the Recreation Center Site upon a fee basis, notwithstanding the designation of the Recreation Center Site as a Limited Common Element allocated to the Benefitted Lots pursuant to Paragraph 4(b) of this First Amendment. The Association shall be the responsible party for setting and collecting such fees and for administering the fee program.



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**Exhibit 1**  
to First Amendment to Master Declaration

**Description of Annexed Property**

Lots 1 - 23, Block 2  
Lots 2 - 10, Block 3  
Lot 6, Block 6  
Tracts A and B

The Farm at Arapahoe County, Filing No. 1, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on June 18, 1998, at Reception No. A8092749.

Lots 1 - 10, Block 1  
Lots 2 - 5, Block 2  
Lots 1 - 4 and Lots 15 - 21, Block 4  
Tracts A and B

The Farm at Arapahoe County Filing No. 2, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on June 18, 1998, at Reception No. A8092750.



55

**Exhibit 2**  
to First Amendment to Master Declaration

**General Common Elements**

1. Tract A, Filing No. 1, The Farm at Arapahoe County, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on June 18, 1998, at Reception No. A8092749, and any improvements now or hereafter constructed within such Tracts.

2. Tracts A and B, Filing No. 2, The Farm at Arapahoe County, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on June 18, 1998, at Reception No. A8092750, and any improvements now or hereafter constructed within such Tracts.

3. Any underdrain system now or hereafter constructed in public rights-of-way or Tracts within the Farm at Arapahoe County, Filing Nos. 1 and 2, pursuant to water and sewer plans now or hereafter approved by the East Cherry Creek Valley Water and Sanitation District (and expressly excluding any underdrain now or hereafter constructed on any single-family Lot within the Farm at Arapahoe County, Filing Nos. 1 and 2).

4. Landscaping installed within a fifty foot easement for landscaping and sidewalks along East Arapahoe Road where it abuts the Amendment 1 Property, in the area between the road and the top, or peak, of earthen berms installed by the Declarant within such easement. Landscaping in the remainder of the easement shall be maintained by individual Owners of Lots abutting East Arapahoe Road, and shall not be considered to be a General Common Element.

5. Landscaping installed within a thirty foot easement for landscaping and sidewalks along South Waco Road where it abuts the Amendment 1 Property, in the area between the road and the top, or peak, of earthen berms installed by the Declarant within such easement. Landscaping in the remainder of the easement shall be maintained by individual Owners of Lots abutting South Waco Road, and shall not be considered to be a General Common Element.

3

### Third Amendment to Master Declaration of Covenants, Conditions, and Restrictions for The Farm at Arapahoe County

This Third Amendment to Master Declaration of Covenants, Conditions, and Restrictions for The Farm at Arapahoe County ("Third Amendment") is executed as of December 31, 1998, by The Farm Development Company, a Colorado corporation, as the Declarant under that certain Master Declaration of Covenants, Conditions, and Restrictions for The Farm at Arapahoe County dated March 11, 1998, and recorded in the office of the Arapahoe County Clerk and Recorder on March 25, 1998, at Reception No. A8040928, as previously amended (the "Master Declaration"), governing property generally known as THE FARM AT ARAPAHOE COUNTY, a planned community situate in the County of Arapahoe, State of Colorado (the "Project").

WHEREAS, pursuant to Section 15.02 of the Master Declaration, Declarant reserved the right to subject all or any part of the Expansion Property (as such term is defined in the Master Declaration) to the terms of the Master Declaration by filing an amendment to the Master Declaration pursuant to Colorado Revised Statutes § 38-33.3-210; and

WHEREAS, Declarant desires to subject the portion of the Expansion Property described on Exhibit 1 attached hereto (hereafter referred to in this Third Amendment as the "Amendment 3 Property") to the terms of the Master Declaration and to cause such Amendment 3 Property to become a part of the Property (as such term is defined in the Master Declaration);

NOW, THEREFORE, Declarant hereby declares as follows:

1. Subjection to Master Declaration. From and after the date of this Third Amendment, the Amendment 3 Property shall be owned, held, used, occupied, maintained, altered, transferred, leased, encumbered, sold and conveyed subject to the covenants, conditions, restrictions, equitable servitudes, reservations, easements, assessments, charges, liens and other provisions set forth in the Master Declaration, which shall run with the Amendment 3 Property and shall bind and inure to the benefit of all parties having any right, title or interest in the Amendment 3 Property, or any portion thereof, and their respective successors, assigns, heirs, devisees and personal representatives. The Amendment 3 Property shall hereafter be considered as a part of the Property subjected to the Master Declaration, and the persons holding any interests therein shall have all of the rights and obligations set forth in the Master Declaration according to the nature of their interests. The definitions of "Lot," "Tract" and other definitions in the Master Declaration are hereby expanded to apply to the Amendment 3 Property.

2. Shares of Common Expenses. The allocation of Common Expenses among the Lots pursuant to Section 7.02 of the Master Declaration is hereby recalculated as provided in Section 7.02(a) of the Master Declaration.

3. Additions to Common Elements. Portions of the Amendment 3 Property fitting the definition of "Common Elements" under the Master Declaration are hereby declared to be Common Elements of the Project, all of which shall be considered to be General Common Elements. General Common Elements shall include, but are not necessarily limited to, those improvements identified on Exhibit 2 attached hereto.





**Exhibit 1**  
to Third Amendment to Master Declaration

**Description of Annexed Property**

Lots 1 through 3, inclusive, Block 1;  
Lots 1 through 14, inclusive, Block 2;  
Lots 1 through 17, inclusive, Block 3;  
Lots 1 through 7, inclusive, Block 4;  
Lots 1 through 17, inclusive, Block 5;  
Lots 1 through 18, inclusive, Block 6;  
Lots 1 through 43, inclusive, Block 7;  
Lots 1 through 20, inclusive, Block 8;

The Farm at Arapahoe County, Filing No. 4, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on December 28, 1998, at Reception No. A8212699.

**Exhibit 2**  
to Third Amendment to Master Declaration

**General Common Elements**

1. Tracts A, B, C, D, E and F, Filing No. 4, The Farm at Arapahoe County, according to the plat thereof recorded in the office of the Arapahoe County Clerk and Recorder on December 28, 1998, at Reception No. A8212699, and any improvements now or hereafter constructed within such Tracts.
  
2. Any underdrain system now or hereafter constructed in public rights-of-way or Tracts within the Farm at Arapahoe County, Filing No. 4, pursuant to water and sewer plans now or hereafter approved by the East Cherry Creek Valley Water and Sanitation District (and expressly excluding any underdrain now or hereafter constructed on any single-family Lot within the Farm at Arapahoe County, Filing No. 4).



**E0150297**

**BARGAIN AND SALE DEED**

**THIS DEED**, dated this 19 day of August, 2020, is between **TLA LLC**, a Colorado limited liability company, **Leland J. Alpert, Theodore J. Alpert** and **Jonathan Alpert**, City and County of Denver and State of Colorado, grantors, and **The Farm at Arapahoe County Homeowners' Association, Inc.**, grantee, of the County of Arapahoe and State of Colorado, whose address is 7208 S. Tucson Way #125, Centennial, CO 80112.

**WITNESS**, that the grantors, for and in consideration of the sum of One and no/100-----Dollars, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantee, its successors and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Arapahoe and State of Colorado, described as follows:

**Tract J, The Farm at Arapahoe County, Filing No. 9**

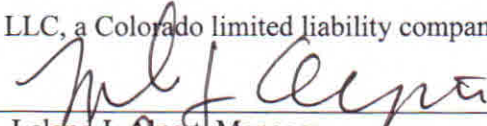
Also known by street and number as: Vacant Land  
 Assessor's schedule or parcel number: PIN 034129839 AIN 2073-21-2-33-012


**TOGETHER** with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantors, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;


**TO HAVE AND TO HOLD** the said premises above bargained and described, with the appurtenances, unto the grantee, its successors and assigns forever.

**IN WITNESS WHEREOF**, the grantors have executed this deed on the date set forth above.

TLA LLC, a Colorado limited liability company

By:   
 Leland J. Alpert, Manager

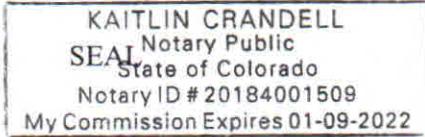
  
 Leland J. Alpert

  
 Theodore J. Alpert

  
 Jonathan Alpert

State of Colorado )  
 ) ss.  
City and County of Denver )

The foregoing instrument was acknowledged before me this 11 day of August, 2020, by Leland J. Alpert, individually and as Manager of TLA LLC, a Colorado limited liability company.

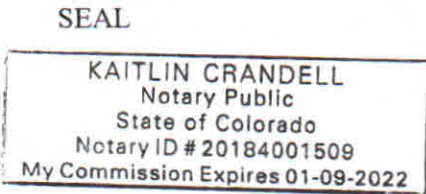


Witness my hand and official seal.  
My commission expires: 01.09.2022

Kaitlin Crandell  
Notary Public

State of Colorado )  
 ) ss.  
City and County of Denver )

The foregoing instrument was acknowledged before me this 19 day of August, 2020, by Theodore J. Alpert.

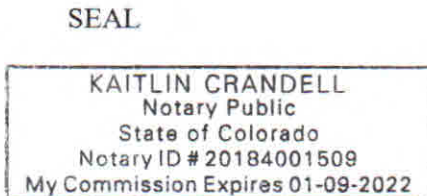


Witness my hand and official seal.  
My commission expires: 01.09.2022

Kaitlin Crandell  
Notary Public

State of Colorado )  
 ) ss.  
City and County of Denver )

The foregoing instrument was acknowledged before me this 12 day of August, 2020, by Jonathan Alpert.



Witness my hand and official seal.  
My commission expires: 01.09.2022

Kaitlin Crandell  
Notary Public