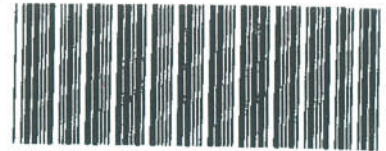


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DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SOLITUDE COLORADO

Declarant:

Cherokee Koelbel, LLC, a Delaware limited liability company

Association:

Solitude Colorado Homeowners Association, Inc., a Colorado non-profit corporation

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOLITUDE COLORADO**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SOLITUDE COLORADO (this "Declaration") is made as of this 12th day of January, 2005, by Cherokee Koelbel, LLC, a Delaware limited liability company ("Declarant").

RECITALS:

A. Declarant is the owner of the real estate in Douglas County, Colorado described in Exhibit A (the "Real Estate"), upon which Declarant desires to create a planned community known as "Solitude Colorado" (the "Community").

B. Portions of the Real Estate will be designated for separate ownership and uses of a residential nature, and portions of the real estate will be designated for ownership by a homeowners' association or a Title 32 metropolitan district.

C. Declarant is also the owner of certain real estate in Douglas County, Colorado that is more particularly described as set forth in Exhibit B attached hereto and by reference made a part hereof, which real estate Declarant has the right to add to Exhibit A.

D. Declarant has caused the Solitude Colorado Homeowners Association, Inc., a Colorado non-profit corporation, to be incorporated under the laws of the State of Colorado as an owners' association for the purpose of exercising the functions as herein set forth.

**ARTICLE 1
ESTABLISHMENT OF COMMUNITY**

1.1 Planned Community. Declarant intends to develop the Real Estate as a high quality, planned community of single-family residences in accordance with the terms and provisions of the Colorado Common Interest Ownership Act.

1.2 Purposes of Declaration. This Declaration is executed (a) in furtherance of a common and general plan for the development of the Community; (b) to protect and enhance the quality, value, aesthetic, desirability, and attractiveness of the Community; (c) to set forth Solitude Colorado Homeowners Association, Inc.'s responsibilities and authority to hold, maintain, care for, and manage Solitude Colorado, including internal landscaped areas which will benefit all owners of "Parcels" (hereafter defined) within the Community; (d) to define certain duties, powers, and rights of the "Owners" (hereafter defined); and (f) to define certain duties, powers, and rights of Declarant.

1.3 Submission of Real Estate. Declarant further declares that all of the Real Estate now or hereafter described in Exhibit A, and as added by exercise of "Development Rights" (hereafter defined), shall be held, sold, and conveyed subject to the following easements, restrictions,

covenants, and conditions included in this Declaration. Declarant hereby declares that all of the real property described in Exhibit B shall be held and/or conveyed subject to the rights of Declarant under Article 8 hereof and subject to the Development Rights and/or "Special Declarant Rights" (hereafter defined) set forth therein. Declarant further declares that this Declaration is made for the purpose of protecting the value and desirability of the Real Estate; that this Declaration shall run with the Real Estate and shall be binding on all parties and on their heirs, legal representatives, successors, and assignees having any right, title, or interest in the Real Estate or any part thereof; and shall inure to the benefit of each Owner.

ARTICLE 2 DEFINITIONS

2.1 "Act" means the Colorado Common Interest Ownership Act, codified as amended at C.R.S. § 38-33.3-101, et seq.

2.2 "Administrative Functions" means all functions of the Association as are necessary and proper under this Declaration and the Act and shall include, without limitation, providing management and administration of the Association; providing architectural review services under Article 5 hereof; incurring reasonable attorneys' fees and accountants' fees; obtaining errors and omissions insurance for "Officers," "Directors" (hereafter defined), and agents of the Association; obtaining fidelity bonds for anyone handling funds of the Association; paying taxes levied against the "Common Areas" (hereafter defined); incurring filing fees, recording costs, and bookkeeping fees; obtaining and maintaining offices and office furniture and equipment; and performing such other reasonable and ordinary administration tasks associated with operating the Association.

2.3 "Allocated Interests" means the proportion of the votes in Association matters and liability for the payment of "Common Expenses" (hereafter defined) that are allocated to each Parcel as more fully set forth in Section 9.5.

2.4 "Ancillary Unit" means any detached structure located within the "Building Envelope" (hereafter defined) of a Parcel and incidental to the "Residence" (hereafter defined) that has been constructed thereon. An Ancillary Unit may not be occupied as a home but may be used as a detached garage or accessory building, a pool house, restrooms, a studio, or a workshop. An Ancillary Unit shall conform to the architectural character and colors of the Improvement on the Parcel occupied as a home and meet the requirements set forth in the "Design Guidelines" (hereafter defined).

2.5 "Annexable Real Estate" means the property that may be added to the Community and subject to this Declaration at the election of Declarant pursuant to the Development Rights set forth in Article 8 below.

2.6 "Articles of Incorporation" means the Articles of Incorporation of Solitude Colorado Homeowners Association, Inc., as the same may be amended from time to time, that have been or will be filed in the office of the Secretary of State of the State of Colorado.

2.7 "Assessment" means any Common Assessment, Special Assessment, or Reimbursement Assessment as defined herein. Assessments are also referred to as a Common

Expense Liability as defined under the Act.

2.8 "Association" means Solitude Colorado Homeowners Association, Inc., a Colorado non-profit corporation, its successors and assignees.

2.9 "Budget" means a written, itemized estimate of the income to be derived and the expenses to be incurred by the Association on an annual basis in performing its functions under this Declaration and prepared pursuant to Article 11 of this Declaration.

2.10 "Building Envelope" means the building envelope of each Parcel as depicted on the "Plat" (hereafter defined) within which "Improvements" (hereafter defined) may be constructed and installed.

2.11 "Bylaws" means the Bylaws of the Association, as may be amended from time to time, that have been or will be adopted by the "Executive Board" (hereafter defined).

2.12 "Common Areas" means those portions of the Real Estate legally described on Exhibit C and all Improvements now or hereafter made thereto, upon annexation into the Community and conveyance to the Association by Declarant, and any other property, real or personal, owned from time to time by the Association, including, but not limited to fee, easement, license and other interests in real property. The term, "Common Area," is synonymous with the term, "common element," as defined at Section 103(5)(b) of the Act.

2.13 "Common Assessment" means the annual assessment levied against each Parcel pursuant to the Budget for the purpose of paying the annual costs of operating the Association, including expenses incurred by the Association in connection with the performance of any Administrative Functions. Common Assessments shall be levied on all Parcels in accordance with the Allocated Interests set forth in Section 9.5.

2.14 "Common Expenses" means the actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Executive Board may find necessary and appropriate pursuant to the "Governing Documents" (hereafter defined). Common Expenses shall not include any expenses incurred during the "Declarant Control Period" (hereafter defined) for initial development or other original construction costs unless approved by Owners representing a majority of the total votes of the Association, excluding votes held by Declarant.

2.15 "Community" means the community known as Solitude Colorado, a "planned community" as defined at Section 103(22) of the Act.

2.16 "Conservation Easement" is that certain Deed of Conservation Easement in Gross recorded on January 13, 2005 in the Records at Reception No. 2005004588, affecting a portion of Solitude Colorado. The Conservation Easement encompasses Tracts A, C, D, E, F, G, I, J, K, L, M and P of the Plat, as defined herein. In addition to an endowment to be created by the Declarant for the monitoring and stewardship of the Conservation Easement encumbering Tracts A, C, D, E, F, G, I, J, K, L, M and P of the Plat, as defined herein, in the amount of \$30,000.00, the Association shall pay to the Grantee of the Conservation Easement a \$1,500.00 per

year monitoring fee, which monitoring fee shall be increased on May 1 of every third year in accordance with any increase in the United States Department of Labor Statistics Final Consumer Price Index for all urban consumers ("CPI-U") for the Denver-Boulder consolidated metropolitan statistical area during the preceding three calendar years. The payment of the monitoring fee shall be on the first day of May of each year beginning in 2005.

2.17 "County" means Douglas County, Colorado.

2.18 "Declaration" means this instrument as it may be amended or supplemented from time to time.

2.19 "Declarant" means Cherokee Koelbel, LLC, a Delaware limited liability company, together with any Person to which any or all of the rights of Declarant may expressly be transferred in accordance with the requirements of the Act, including its successors and assignees. A Person shall be deemed to be a "successor and assignee" of Cherokee Koelbel, LLC, as a Declarant, only if specifically designated as a successor or assignee of Declarant under this Declaration in an instrument recorded in the real property records of Douglas County and shall be deemed a successor and assignee of Declarant only as to the particular rights or interests of Declarant under this Declaration that are specifically designated in the written instrument. A successor to Declarant by consolidation or merger shall automatically be deemed a successor or assignee of Declarant as Declarant under this Declaration.

2.20 "Declarant Control Period" means the period that begins with the appointment of the initial Executive Board and continues until the earlier of: (a) 60 days after Declarant conveys 75% of the Parcels that may be created to Owners other than Declarant; (b) two years after the last conveyance of a Parcel by Declarant in the ordinary course of business; or (c) two years after the right to add new Parcels was last exercised. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and Recorded with the Clerk and Recorder, and, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period that Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective.

2.21 "Design Guidelines" means the detailed design standards for Improvements, as well as guidelines and rules relating to the procedures, materials to be submitted, fees, and additional factors that will be taken into consideration in connection with the approval of any proposed Improvements as published and amended and supplemented from time to time by the "Solitude Colorado Design Review Committee" (hereafter defined). The Design Guidelines shall in all events be consistent with the requirements set forth on the Plat.

2.22 "Development Rights" means those rights set forth in this Declaration and those "development rights" set forth at Section 103(14) of the Act, all as more specifically described in Article 8 hereof.

2.23 "Directors" means the members of the Executive Board.

2.24 "Easements and Licenses" means those easements and licenses appurtenant to, or

included in, the Community or to which any portion of the Community is or may become subject by a reservation in this Declaration, including those Easements and Licenses, including the Conservation Easement, to which the Real Estate is subject as set forth on Exhibit D attached hereto.

2.25 "Equestrian Center" means the recreational amenity that Declarant may, in its sole discretion, elect to construct, but shall not be obligated to construct, in the Community. If Declarant elects to construct an Equestrian Center, it shall be designated for the use of Owners who wish to keep and ride horses in the Community. The Equestrian Center, if constructed, shall be a "Limited Common Area" (hereafter defined) that may be enjoyed by any Owner pursuant to a separate membership agreement by and between the Owner and the Association, which agreement shall be "Recorded" (hereafter defined) upon its full execution. The Equestrian Center, if constructed, shall be constructed on that certain real property legally described as Tract H, as shown on the Plat. Declarant hereby reserves the right to establish the Equestrian Center and convert all or any portion of Tract H to a Limited Common Area.

2.26 "Executive Board" means the Board of Directors of the Association.

2.27 "Extraordinary Action" means any of the following actions taken by the Association: (a) determining not to require professional management if such management has been required by a majority vote of the Owners or of the Mortgagees; (b) except pursuant to the Development Rights set forth in Article 8, expanding the Community to include land not included in the Annexable Real Estate if such additional land would increase the overall land area or the total number of Parcels of the Community by more than 20%; or (c) abandoning, partitioning, encumbering, mortgaging, conveying, selling, or otherwise transferring or relocating the boundaries of the Common Areas (except for (i) granting easements that are not inconsistent with or that do not interfere with the intended use of the Common Area, (ii) dedicating real estate as required by a public authority, (iii) causing limited boundary line adjustments made in accordance with this Declaration, (iv) using insurance proceeds for purposes other than construction or repair of the insured Improvements, or (v) making capital expenditures other than for repair or replacement of existing Improvements during any 12-month period costing more than 20% of the Budget).

2.28 "Governing Documents" means this Declaration, any applicable Supplemental Declaration, the Bylaws, the Articles of Incorporation, the Design Guidelines, and the "Rules and Regulations" (hereafter defined), each as they may be amended from time to time.

2.29 "Improvements" means all construction, installation, and expansion of structures and improvements located upon or made to a Parcel and any appurtenances thereto of every type or kind including, but not limited to, including Residences, Ancillary Units, swimming pools, patio covers, awnings, the painting of any exterior surfaces of any visible structure, roofing, trash containers, mail boxes, satellite dishes, additions, walkways, screen or storm doors, outdoor sculptures or artwork, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, individual sewage disposal systems, solar equipment, grading, filling, or similar disturbance to the surface of the land, and exterior air conditioning.

2.30 "Lease" means any agreement for the leasing or rental of a Parcel, or any dwelling unit located thereon and shall specifically include, without limitation, a month-to-month rental.

2.31 "Limited Common Areas" means portions of the Common Areas primarily benefiting one or more, but less than all, Parcels, as more particularly described in Article 4 and as defined as "limited common element" in the Act. The Equestrian Center shall be a Limited Common Area appurtenant to a designated area in accordance with separate Recorded membership agreements between the Association and the Owners of such Parcels.

2.32 "Maintenance Funds" means the accounts into which the Executive Board shall deposit money paid to the Association consisting of the Operating Fund and the Reserve Fund, and any other fund that the Executive Board in its reasonable discretion deems necessary or desirable for the operation of the Community, and from which disbursements shall be made in the performance of the functions of the Association pursuant to Articles 5, 9, 10, and 11 hereof.

2.33 "Managing Agent" means, subject to replacement from time to time by the Executive Board, any one or more persons employed by the Association who is engaged to perform any of the duties, powers, or functions of the Association.

2.34 "Material Amendment" means the addition, deletion, or modification of any provisions contained herein regarding: (a) the Allocated Interests; (b) reserves for maintenance, repair, or replacement of Common Areas; (c) maintenance obligations; (d) allocation of rights to use Common Areas; (e) any scheme of regulation or enforcement of standards for maintenance, architectural design, or exterior appearance of improvements on Parcels; (f) reduction of insurance requirements; (g) restoration or repair of Common Areas; (h) the addition, annexation, or withdrawal of land to or from the Community except pursuant to Development Rights; (i) restrictions affecting the leasing or sale of a Parcel; or (j) any provision that is for the express benefit of Mortgagees.

2.35 "Metropolitan Districts" means any applicable quasi-municipalities formed pursuant to Title 32, Colorado Revised Statutes.

2.36 "Mortgage" means any mortgage, deed of trust, or other such instrument given voluntarily by an Owner that encumbers such Owner's Parcel to secure the performance of an obligation or the payment of a debt and that is required to be released upon performance of the obligation or payment of the debt.

2.37 "Mortgagee" means a mortgagee or beneficiary under a Mortgage, as the case may be, and the assignees of such Mortgagee.

2.38 "Notice and Hearing" means the procedural due process that must be provided to each Owner as set forth in the Bylaws and this Declaration upon an accusation that such Owner has violated an obligation under any Governing Document of the Association that would entitle the Association to enforce certain remedies provided for such violation under the Governing Documents.

2.39 "Officers" means the officers of the Association including, but not limited to, a president, secretary, and treasurer.

2.40 "Operating Fund" means the Maintenance Fund described in Sections 11.1 and 11.3 hereof.

2.41 "Owner" means Declarant and any Person, or, if more than one, all Persons collectively, who hold fee simple title to a Parcel, including sellers under executory contracts of sale and excluding buyers thereunder.

2.42 "Parcel" means a physical portion of the Community that is designated for separate ownership or occupancy, the boundaries of which are depicted upon the Plat or any Supplemental Plat together with a non-exclusive easement for use and enjoyment of the Common Areas. For the purposes of conforming the terms and provisions of this Declaration to the terms and provisions of the Act, the term "Parcel" shall be analogous to the term "Unit" as that term is defined in the Act. The term Parcel shall not include any property owned by a public body or the Common Areas.

2.43 "Person" means a natural person, a corporation, a partnership, a limited liability company, or any other entity permitted to hold title to real property pursuant to Colorado law.

2.44 "Plat" means the Solitude Colorado Rural Site Plan, which document serves as the equivalent of a land survey plat of the Community and conforms to all of the plat requirements of a common interest community set forth in Section 209 of the Act.

2.45 "Pond" means a small body of water that Declarant may, in its sole discretion, elect to construct, in the Community. The Pond, if constructed, shall be constructed on that certain real property legally described as Tract H, as shown on the Plat. The Pond, if constructed, shall be a "Common Area."

2.46 "Real Estate" means the real property more particularly described on Exhibit A attached hereto and such other real property as may be added to the Community by Declarant pursuant to the Development Rights set forth in Article 8.

2.47 "Record, Recording, or Recorded" refer to the acts and the resulting status, respectively, of filing for record of any document in the Office of the Clerk and Recorder of the County.

2.48 "Reimbursement Assessment" means a charge against a particular Owner and such Owner's Parcel for the purpose of reimbursing the Association for expenditures and other costs and expenses incurred by the Association that arise from or are related to any actions or violation of the Governing Documents by an Owner, together with late charges and interest thereon as more fully provided for herein.

2.49 "Reserve Fund" means the fund described in Sections 11.1 and 11.3 hereof.

2.50 "Residence" means the house constructed on a Parcel for occupancy as home.

2.51 "Rules and Regulations" means the rules and regulations adopted by the Executive Board. The Rules and Regulations may include the imposition of fines and penalties for violations of the Governing Documents by an Owner.

2.52 "Solitude Colorado Design Review Committee" means the committee established by the Association pursuant to Article 5 hereof for the purpose of reviewing and approving all plans for Improvements to be constructed or installed by Owners upon the Parcels.

2.53 "Special Assessment" means a charge against each Owner and such Owner's Parcel representing a portion of the costs of the Association for the purpose of defraying, in whole or in part, payments for any operating deficit, loss or unbudgeted expense, and/or unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, management, administration, or maintenance of the Common Areas.

2.54 "Special Declarant Rights" means those rights set forth in this Declaration and those "special declarant rights" set forth at Section 103(29) of the Act and the other reserved rights, all as more specifically described in Article 8.

2.55 "Supplemental Declaration" means a written instrument, containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, or any combination thereof that is Recorded in conjunction with the annexation of additional real property or other change to the Community.

2.56 "Supplemental Plat" means and includes any land survey plat or supplement to the Plat that is Recorded by Declarant for the purpose of annexing the real estate described thereon to the Community.

2.57 "Working Capital Fund" means the fund established and maintained by the Association pursuant to Section 11.26 hereof.

ARTICLE 3 GENERAL RESTRICTIONS

3.1 Binding Effect. The Real Estate shall be held, used, and enjoyed subject to the following limitations and restrictions and subject to the rights and reservations of Declarant set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Executive Board if such strict application would be unreasonably or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines, rules or regulations promulgated by the Solitude Colorado Design Review Committee or the Executive Board, as applicable. Violation of any provision of this Article by an Owner shall permit the Association a right of entry to enter upon the Parcel of such Owner to cure such violation or otherwise cause compliance with such provision without the prior written consent of such Owner or without prior written notice to such Owner. Notwithstanding the foregoing, there shall be no entry into the interior of an Improvement that is a residence without the consent of the Owner thereof unless a clear emergency exists.

3.2 Maintenance of the Community. No property within the Community shall be permitted to fall into disrepair, and all property within the Community, including any Improvements, shall be kept and maintained in a clean, attractive, and sightly condition. Maintenance, repair, and upkeep of each Parcel, including all maintenance, repair, or replacement of any fence, whether

installed by Declarant, or Owner, shall be the responsibility of the Owner of the Parcel. Maintenance, repair, and upkeep of Common Areas, including streets, roadways, access easements and similar improvements contained within the Community shall be the responsibility of the Association as more particularly provided herein.

3.3 Permitted Uses. Parcels shall be used primarily for residential purposes and uses that are customarily incidental thereto, including short-term and long-term rentals. Except as otherwise provided herein for Ancillary Units, no Improvement erected on a Parcel shall be used or occupied for any purpose other than for a single-family residence. No Parcel shall be used at any time solely for business, commercial, or professional purposes, except as are inherent in the types of residential uses described above. Notwithstanding the foregoing, an Owner may use his or her Parcel for a professional occupation or home business, as long as the Parcel is also being used as a Residence, the applicable zoning ordinances (including County A-1) permit such use, and there is no external evidence of the occupational/business use. The Association is hereby authorized to adopt reasonable Rules and Regulations governing the use and occupancy of the Parcels that are not inconsistent with the provisions of this Declaration.

3.4 Construction Type. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling or structure may be moved onto a Parcel, except as expressly hereinafter provided for temporary buildings.

3.5 No Noxious or Offensive Activity. No noxious or offensive activity shall be permitted upon any property within the Community, nor shall anything be done or placed thereon that is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to others.

3.6 Annoying Sounds or Odors. No sound or odor shall be emitted from any Parcel or Common Area that is noxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security or safety devices used exclusively for security or safety purposes, shall be located or used on any property except with the prior written approval of the Executive Board. Odors emanating from the Equestrian Center that are caused by the riding and keeping of horses in compliance with the Rules and Regulations are expressly declared to be reasonable.

3.7 Use of Fertilizers, Pesticides, and Herbicides. Owners shall use only biodegradable and environmentally sensitive fertilizers, pesticides, and herbicides.

3.8 No Hazardous Activities. No activity shall be conducted on, and no Improvement shall be constructed on, any Parcel that is or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property within the Community, and no open fires shall be lighted or permitted on any property within the Community except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

3.9 No Unsightliness. All unsightly conditions, facilities, equipment, and objects shall be enclosed within a structure, including snow removal equipment, trash containers, and garden or maintenance equipment, except when in actual use. Firewood stacking not to exceed two cords is permitted.

3.10 Holiday Decorations and Lights. No exterior holiday decorations and lights may be displayed before November 15, and all such exterior holiday decorations and lights must be removed and properly stored in a timely manner following the conclusion of the holiday, but, in no case later than January 31. The Association may make additional Rules and Regulations from time to time regarding decorations and lights.

3.11 Weeds. Each Parcel shall be kept free from noxious weeds, brush, or other growth or trash that, in the reasonable opinion of the Association or the Solitude Colorado Design Review Committee, is undesirable, unsightly or causes undue danger of fire. Subject to Section 3.7, each Owner shall employ weed control measures as needed to the unimproved areas of its Parcel, and all in accordance with Douglas County regulations.

3.12 Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub, tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any Parcel except within an enclosed structure or appropriately screened from view, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up, provided this is done no earlier than a reasonable time before the scheduled pick-up and provided that all such materials are contained inside plastic garbage containers.

3.13 Animals. Except as herein specifically set forth herein, no non-domesticated animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Parcel. Domesticated birds or fish and other small domestic animals (e.g., cats and dogs) are allowed, provided that they are not kept, bred, or maintained for any commercial purpose. No animal of any kind shall be permitted that, in the reasonable opinion of the Executive Board, poses a threat to the health, safety, or welfare of the Owners or makes an unreasonable amount of noise or odor or is a nuisance. All pets shall be controlled by their Owners and shall not be allowed off their Owners' Parcels except when properly leashed and accompanied by the Owner or such Owner's representative. Each Owner shall be responsible for proper collection and disposal of pet refuse from any property within the Community, including along trails or in open space areas, provided that horse refuse is permitted along equestrian trails or in open space areas. Additionally, each Owner of a pet shall be financially responsible and liable for any damage caused to person or property by said pet. Horses may be kept at the Equestrian Center by Owners pursuant to separate Recorded agreement with the Association, and may be ridden on any designated equestrian trails within the Community in compliance with the requirements of the Solitude Colorado Design Review Committee and the Rules and Regulations.

3.14 No Temporary Structures. No tent, shack, temporary structure, or temporary building shall be placed upon any property within the Community for more than 72 hours, except with the prior written consent of the Executive Board.

3.15 No Storage Sheds. Except as may be permitted pursuant to Section 3.16 below, no manufactured or individually constructed storage sheds, shacks, buildings, or structures shall be placed upon any property within the Community without the prior written consent of the Solitude Colorado Design Review Committee.

3.16 Ancillary Unit. An accessory building, not to exceed 1,000 square feet is permitted to be constructed in accordance with "Accessory Building Setbacks" as set forth in the Design Guidelines. A detached garage may be built as set forth in the Design Guidelines.

3.17 Restriction on Exterior Electronic Devices. Subject to applicable law, and subject to reasonable Rules and Regulations adopted by the Executive Board, no exterior television or other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station, or similar device of any type ("Electronic Device") shall be erected, installed, or maintained on the Common Areas. Any exterior Electronic Device erected, installed, or maintained by an Owner on such Owner's Parcel is subject to the reasonable and valid safety restrictions and the reasonable restrictions as to screening of the device from view by neighboring Parcels that may be adopted from time to time by the Executive Board. All costs associated with the installation or maintenance of any Electronic Device by an Owner, including costs of repair, replacement, improvement, and maintenance of the structure on which the Electronic Device is affixed, erected, and/or installed shall be the sole responsibility of that Owner.

3.18 Restrictions on Signs and Advertising. No signs, including political signs, posters, billboards, advertising devices, or displays of any kind shall be erected or maintained anywhere within the Community so as to be evident to public view, except: (a) signs that may be approved in writing by the Solitude Colorado Design Review Committee; or (b) signs, posters, billboards, or any other type of advertising device or display erected by Declarant pursuant to Special Declarant Rights. A sign advertising a Parcel for sale or for lease may be placed on a Parcel, but the standards relating to dimensions, color, style, and location of such sign shall be determined from time to time by the Solitude Colorado Design Review Committee. No signage shall be allowed upon any Parcel or Common Area that may detract from the aesthetic value of the Community or that may detract from the property value of the Parcels, as determined by the Solitude Colorado Design Review Committee in its reasonable discretion.

3.19 Maintenance of Drainage. There shall be no interference with the established drainage pattern over any property within the Community except as approved in writing by the Solitude Colorado Design Review Committee. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern that exists at the time the overall grading of any property is completed and shall include any established drainage pattern shown on any plans approved by the County. The established drainage pattern may include the drainage pattern (a) from Common Areas over any Parcel; (b) from any Parcel over the Common Areas; (c) from any property owned by the County or other Persons over any Parcel; (d) from any Parcel over property owned by the County or other Persons; or (e) from any Parcel over another Parcel.

3.20 Compliance with Insurance Requirements. Except as may be approved in writing by the Executive Board, nothing shall be done or kept on property within the Community that may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

3.21 Compliance with Laws. Nothing shall be done or kept on any property within the Community in violation of any law, ordinance, rule, or regulation of any governmental authority having jurisdiction over the Community.

3.22 Further Subdivision of Parcels. Following any resubdivision caused by Declarant in compliance with all of the provisions of this Declaration, no Parcel or residence may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof (including the Association, but excluding Declarant) without the prior written approval of the Executive Board and Declarant. Nothing in this Section 3.22 shall be deemed to prevent an Owner from, or require the approval of the Executive Board or Declarant for, (a) selling or leasing of a Parcel, or (b) transferring or selling any Parcel to more than one Person to be held as tenants-in-common or joint tenants. All Leases must be in writing and be subject to the requirements of the Governing Documents and any other requirements of the Association.

3.23 Sewage Disposal Systems. There is no central sewage disposal system in the Community. Each Owner shall be responsible for installing a septic tank or other individual sewage disposal system on his or her Parcel in accordance with applicable governmental statutes, codes, rules, regulations and ordinances. In addition to the foregoing, the Solitude Colorado Design Review Committee shall adopt as part of the Design Guidelines rules and regulations concerning the placement of individual sewage disposal systems on a Parcel and performance based standards for individual sewage disposal systems. The Association shall adopt ongoing maintenance requirements for all individual sewage disposal systems within the Community. If an individual sewage disposal system is in need of maintenance or repair, the Owner thereof shall be obligated to perform such maintenance or repair at its sole cost and expense. If an Owner shall fail to maintain or repair its individual sewage disposal system within 30 days after written demand by the Executive Board to do so, the Association may perform such work and the cost thereof will be a Reimbursement Assessment allocable solely to the responsible Owner's Parcel. Failure to pay such Reimbursement Assessment will entitle the Association to place a lien on the responsible Owner's Parcel. The Association shall have the right to enforce all rules and regulations adopted by the Solitude Colorado Design Review Committee concerning the repair or maintenance of individual sewage disposal systems.

3.24 Restoration upon Damage or Destruction. If any Improvement on any Parcel is damaged or destroyed, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the Solitude Colorado Design Review Committee, or Owner shall cause the damaged or destroyed Improvement to be demolished and the Parcel to be suitably landscaped, subject to the approval of the Solitude Colorado Design Review Committee, so as to present a pleasing and attractive appearance.

3.25 Storage. No building materials shall be stored on any Parcel except temporarily during continuous construction of an Improvement.

3.26 Vehicle Repairs. No maintenance, servicing, repair, dismantling, or repainting of any type of vehicle, boat, machine, or device may be carried on except within a completely enclosed structure that screens the sight and sound of such activity from the street and from other Parcels. The changing of motor oils, fuels, and antifreeze shall be performed in a manner that prevents releases or spills. All used motor oils, fuels, and antifreeze shall be disposed of in accordance with applicable law. Disposal of such oils, fuels, and antifreeze in the storm drainage or individual on-site waste systems in the Community is strictly prohibited. This provision shall be subject to enforcement pursuant to this Declaration.

3.27 Storage of Gasoline and Explosives, Etc. No Parcel shall be used for the storage of explosives, gasoline, or other volatile and/or incendiary materials or devices. Gasoline or fuel for an Owner's lawn mower, snowblower, and the like may be maintained on an incidental basis on the Parcel in an amount not to exceed fifteen gallons.

3.28 Trailers, Campers, and Junk Vehicles. The following vehicles shall not be parked or stored in, on, or about any Parcel or any street within the Community for more than 72 hours except within a garage approved by the Solitude Colorado Design Review Committee: boats; campers (on or off of supporting vehicles); trailers; tractors; trucks; industrial or commercial vehicles (both cabs or trailers); towed trailer units; motorcycles; disabled, junk, or abandoned vehicles; motor homes or mobile homes; recreational vehicles; horse trailers or other trailers; or any other recreational vehicle. For the purposes of this covenant, a 3/4-ton or smaller vehicles commonly known as "pickup trucks" and "SUVs" shall not be deemed commercial vehicles or trucks. The Association shall have the right to enter a Parcel to remove and/or store and/or to have removed any vehicle in violation of this Section at its Owner's expense. An Owner shall be entitled to seven days' written notice prior to such action by the Association.

3.29 Fences Prohibited. No fences shall be constructed along the perimeter of a Parcel; provided, however, to the extent that a fence is located along the perimeter of a Parcel that is also the perimeter of the Community, such fence shall be specifically permitted and the Association shall be required to maintain such fence in accordance with the requirements of the Plat. Fencing is allowed within the designated Building Envelope of any Parcel when approved by the Solitude Colorado Design Review Committee. Gates may be installed by any Owner as the entry area to a Parcel or Building Envelope only as approved by the Solitude Colorado Design Review Committee. If any portion of the fencing is damaged by an Owner, such Owner shall be obligated to repair, replace, or restore such damage at its sole cost. Additionally, repair, replacement, or maintenance of such fencing for any reason, shall be the responsibility of the Owner at its sole cost. In any case, should the Owner fail to do so within 30 days following demand from the Executive Board to do so, the Association may perform such work, and the cost thereof will be a Reimbursement Assessment allocable solely to the responsible Owner's Parcel. Failure to pay such Reimbursement Assessment will entitle the Association to place a lien on the responsible Owner's Parcel.

3.30 Air Conditioning and Heating Equipment. No heating, air conditioning, or refrigeration equipment shall be placed, allowed, or maintained anywhere other than on the ground unless properly screened and not visible from adjacent Parcels, Common Areas, or public areas.

Approval by the Solitude Colorado Design Review Committee is required for the placement of heating, air conditioning or refrigeration equipment. Solar units meeting all governmental guidelines for residential uses, however, may be located on the roof only if (a) such solar unit is built into and made an integral part of the roof flashing or the structure of any house constructed on such Parcel; and (b) such solar unit is specifically approved by the Solitude Colorado Design Review Committee in accordance with Article 5 below.

3.31 No Hanging Articles. No clothing or household fabrics or other articles shall be hung, dried, or aired on any Parcel or Common Area in such a way as to be visible from other Parcels or from the Community, except to the extent otherwise provided in the Design Guidelines.

3.32 No Overnight On-Street Parking. No Owner shall cause or permit the vehicles of such Owner or of any family member, guest, or invitee of such Owner to be parked overnight on any public street adjacent to or within the vicinity of such Owner's Parcel.

3.33 Basketball Hoops. Basketball hoops shall only be allowed within the Building Envelope if the backboard is either clear or painted a color to match the home on the Parcel, or as otherwise approved by the Solitude Colorado Design Review Committee.

3.34 Play Equipment. Play equipment may be erected within a fenced or screened area within the Building Envelope and approved by the Solitude Colorado Design Review Committee. Such play equipment shall be of an appropriate scale and constructed of approved material in an approved color. Play equipment utilizing natural materials (wood vs. metal) are preferred.

3.35 Swimming Pools/Hot Tubs. All swimming pools, spas, hot tubs, jacuzzis, and the like shall be screened from view of adjacent Parcels and rights of way by screening materials and methods approved by the Solitude Colorado Design Review Committee. All such facilities must be located within the designated Building Envelope.

3.36 Dog Houses/Runs. Dog houses, shelters, and runs shall be completely screened from view of adjacent public and private property and streets and shall be built from fence (as approved in the Design Guidelines) or screening materials compatible with the residential Improvements installed on the Parcel.

3.37 Owner's Right to Lease Parcel. All Owners shall have the right to lease their Parcels provided that: (a) the Lease is in writing; (b) the Lease is for occupancy of a completed residence; (c) the Lease provides that the lessee's occupancy shall be subject to the Governing Documents and that any failure by the lessee to comply with any Governing Document in any respect shall be a default under such Lease; and (d) such Owner shall notify the Association immediately upon the leasing of such Parcel and register with the Association both the name(s) of the tenant(s) and new mailing information for notices to be sent by the Association directly to such Owner.

3.38 Water and Water Rights. Declarant hereby reserves with the power to make subsequent assignments of all or any portion hereof, any and all water, water resources, water rights, ditches and ditch rights, groundwater, waste water, water structures, wells and well rights, permits, and decrees for the development and use or diversion of water, of every nature and kind, whether tributary, non-tributary, or not-non-tributary in nature that are appurtenant to or located upon,

traverse, beneath, or benefit in any way the Real Estate (the "Reserved Water"). Reserving further unto Declarant, its successors and assigns, with the power to make subsequent assignments of all or any portion hereof, all rights to make successive uses or reuse of water delivered to the Real Property and all rights to use, divert, carriage, transport, extract, or develop the Reserved Water. By acceptance of a deed from Declarant, the Owner and its successors and assigns do hereby irrevocably and unconditionally consent to Declarant's diversion, capture, extraction, collection, transport, and use of the Reserved Water, and Owner further irrevocably covenants, on behalf of itself and its successors and assigns, that it will execute such documents that are reasonably required by Declarant for Declarant to exercise its rights to the Reserved Water hereunder, without the requirement of consideration or compensation. By acceptance of delivery and the recording of a deed, Owner agrees that upon request of Declarant from time to time, Owner will execute such documents as may be reasonably required to enable Declarant to develop the Reserved Water reserved hereunder.

ARTICLE 4
DESIGNATION OF PARCELS, COMMON AREAS, AND
LIMITED COMMON AREAS

4.1 Number of Parcels. The number of Parcels included in the Community is sixty-four (64). Real Estate shown on any Plat shall become part of the Community either (a) as it is annexed by Declarant, or (b) automatically by a deed conveying a Parcel to an Owner (other than a Declarant) if such deed describes the Parcel and refers to this Declaration.

4.2 Identification of Parcels/Unit Descriptions. The identification of each Parcel is shown on the Plat. Every contract for sale, deed, Lease, Mortgage, will, or other legal instrument shall legally describe a Parcel by its identifying parcel number, followed by the name of the Community, with reference to the Plat. An illustrative description is as follows:

Parcel _____, Solitude Colorado Rural Site Plan, recorded
January 13, 2005, at Reception No. 2005004587
in the records of the Clerk and Recorder, Douglas County, State of
Colorado.

Reference to the Declaration, the Plat, and map in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration, the Plat, or map without specific references thereto.

4.3 Parcel Boundaries. The boundaries of each Parcel are as depicted on the Plat.

(a) Inclusions. Each Parcel includes the spaces and improvements lying within the boundaries described above. Each Parcel also includes the spaces and improvements containing utility meters, electrical switches, wiring, pipes, ducts, conduits, and communications, television, telephone, and electrical receptacles and boxes serving that Parcel exclusively, the surfaces of these items being the boundaries of that Parcel, whether or not the spaces are contiguous.

(b) Exclusions. Excluded from the Parcel (except as provided above under the title "Inclusion") are the following: the spaces and improvements lying outside the boundaries of a

Parcel and any chutes, pipes, wires, conduits, and other facilities running through or within a Parcel for the purpose of furnishing utility and other service to other Parcels and the Common Areas.

(c) Noncontiguous Portions. Certain Parcels may include special portions or pieces of equipment, such as utility meters, meter boxes, and utility connection structures that are situated in buildings or structures that are detached from the Parcel. Such special equipment is a part of the Parcel, notwithstanding their non-contiguity with the principal portions. Each Parcel includes the spaces and improvements lying within the boundaries described above, and also includes storm drainage improvements, septic tank facilities, utilities and utility meters and communications, television, telephone, and electrical receptacles and boxes serving that Parcel exclusively, whether or not in the boundaries or contiguous to the Parcel, unless the same are maintained by a governmental agency or entity. The Common Areas are excluded from each Parcel and any utilities or other facilities running through or within any Parcel for the purpose of furnishing utility and other service to other Parcels and/or the Common Areas are also excluded.

4.4 Common Areas. The portions of the Real Estate described in Exhibit C are the initial Common Areas. Portions of any Common Areas may be designated as a part of a Parcel or as a Limited Common Area to a Parcel or otherwise change, pursuant to reserved Development Rights. Portions of Parcels may become Common Areas or Limited Common Areas, pursuant to rights reserved elsewhere in this Declaration.

4.5 Limited Common Areas. If Common Expenses are associated with the maintenance, repair, or replacement of a Limited Common Area, those Common Expenses may be assessed equally against the Parcels to which the Limited Common Area is assigned. The following portions of the Real Estate are Limited Common Areas assigned to the Parcels as stated:

(a) Trails, fences, walls, and hedges that jointly serve or lie within the boundary plane of more than one Parcel or within the boundary plane of a Parcel and the Common Areas shall be considered Limited Common Areas appurtenant to the Parcels enclosed or served; and

(b) The Equestrian Center shall be a Limited Common Area appurtenant to any Parcel whose Owner enters into a separate membership agreement with the Association for the use of the Equestrian Center, which agreement shall be Recorded upon its full execution.

Declarant reserves for itself, for 20 years after the recording of this Declaration, the right to allocate parts of the Real Estate as Common Areas, and further, to allocate areas that constitute a part of any Common Areas as Limited Common Areas for the exclusive use of the Owners of the Parcels to which those specified areas shall become appurtenant. This reserved right of Declarant shall be deemed transferred to the Association upon the conveyance of all Parcels, upon the expiration of 20 years, or upon assignment by Declarant to the Association, whichever occurs first. Declarant or the Association may allocate or assign Common Areas or Limited Common Areas (i) in a recorded instrument, (ii) by recording an appropriate amendment or supplement to this Declaration, or (iii) by recording a map or a Supplemental Plat. Such allocations may be made as a matter of reserved right by Declarant or the Association.

ARTICLE 5 EASEMENTS

5.1 Real Estate Burdened. The Real Estate is legally described in Exhibit A, and is subject to the Easements and Licenses set forth therein and on the Plat. Additional easements are set forth in this Article, in Article 8 below, and in the Act. The Real Estate may become subject to other easements or licenses granted by authority reserved in any recorded document.

5.2 Emergency Easement. A general non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons, now or hereafter serving the Community, to enter upon the Community, including the Common Areas in the proper performance of their duties.

5.3 Utilities. There is hereby created a blanket easement for the benefit of the Owners upon, across and through the Common Areas for the installation, replacement, repair, and maintenance of utilities including, but not limited to water, storm drainage, gas, telephone, electricity, computer, cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the facilities, equipment, and appurtenances on the Common Areas necessary to repair, and maintain water wells, water and storm drainage pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits, and meters. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Areas without conflicting with the terms hereof. Such right and authority of Declarant shall cease and terminate upon the earliest of 20 years after recordation of this Declaration in the County of Douglas, Colorado, conveyance by a Declarant of all Parcels (after Declarant has added all real estate to the Community that it has a right to add pursuant to its Development Rights hereunder) to Owners other than a Declarant, or when Declarant elects to surrender such right, at which time said reserved right shall vest in the Association. The easement provided for in this Section 5.3 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Common Areas.

5.4 Maintenance Easement. An easement is hereby granted to the Association, their respective officers, directors, agents, employees, and assignees upon, across, over, in, and under the Common Areas, and a right to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, as the case may be, including the right of the Association to construct and maintain on the Common Areas maintenance and storage facilities for use by the Association.

5.5 Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors, and assignees to enter upon, across, over, in, and under any portion of the Real Estate for the purpose of changing, correcting, or otherwise modifying the grade or drainage improvements on the Real Estate to improve the drainage of water on the Real Estate.

5.6 Easements Deemed Created. All conveyances of Parcels hereafter made, whether by a Declarant or otherwise, shall be construed to grant and reserve the easements contained in this

Declaration, even though no specific reference to such easements or to this Declaration appears in the instrument for such conveyance.

5.7 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of access to his or her Parcel and of enjoyment in and to any Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Parcel, subject to the following provisions:

(a) the right of the Association to promulgate and publish rules and regulations with which each Owner and his or her tenants, invitees, licensees, and guests shall strictly comply;

(b) the right of the Association to suspend an Owner's voting rights and rights to use the Common Areas for any period during which any Assessment against his or her Parcel remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right, power, and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer, conveyance, or grant of any similar interest affecting the Common Areas to the extent permitted by the Act;

(d) the right of the Association to close or limit the use of the Common Areas while maintaining, repairing, and making replacements in the Common Areas; and

(e) the Development Rights and Special Declarant Rights of Declarant reserved in this Declaration.

5.8 Delegation of Use. Any Owner may delegate his or her easement and right of enjoyment to the Common Areas to family members, tenants, guests, or contract purchasers who reside at his or her Parcel.

5.9 Easements for the Executive Board and Owners. Each Parcel shall be subject to an easement in favor of the Executive Board (including its agents, employees, and contractors) and in favor of each Owner to allow for their performance of obligations in this Declaration. On exercising this easement right, the party exercising the right shall be responsible for any resulting damages, and a lien therefore is authorized and established against that party's property pursuant to this Declaration. Easements are reserved on each Parcel for the installation, maintenance, and repair of irrigation meters and equipment and individual sewage disposal systems.

5.10 Additional Easements. Additional easements for utilities and other purposes over and across the Parcels and Common Areas may be as shown upon the Plat and on any recorded map of the Community, and additional utility easements may be established pursuant to the provisions of this Declaration or granted by authority reserved in any recorded document. Easements are also reserved along all private streets, access drives, alleys, and Parcel boundaries for street signs, stop signs, mail boxes, and other Improvements as allowed or permitted by Declarant or the Association.

5.11 Declarant's Reservation of Rights in the Easements. Declarant, for itself and any successor declarant, hereby reserves the right to use the easements set forth in this Article (the "Easements") for the construction and improvement of the Easements and for all other uses not

inconsistent with its Development Rights and Special Declarant Rights as set forth in Article 8 hereof and in the Act. Declarant reserves the right to relocate any Easement, at its sole cost and expense, from time to time, as may be necessary to conform the location of said Easement to Declarant's development plans for the Community. The Association shall execute any and all documents that Declarant may reasonably require to acknowledge and confirm the relocation of the Easements. In addition, Declarant reserves for itself, the Association, and the Owners the right to use and occupy the Easements for any purposes that do not interfere with or endanger any utility lines, fixtures, and devices and that do not obstruct the access drives and alleys.

5.12 Access Easement. Declarant reserves for itself, its successors and designees, during the Declarant Control Period, and grants to the Association and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Areas to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Common Areas; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Real Estate abutting or containing bodies of water or wetlands to the extent reasonable necessary to exercise their rights under this Section 5.12.

ARTICLE 6 DESIGN REVIEW AND APPROVAL

6.1 Approval of Improvements Required. The approval of the Solitude Colorado Design Review Committee shall be required for any Improvement on any Parcel except: (a) for any Improvement to Real Estate made by Declarant; (b) where, in the reasonable discretion of the Executive Board, approval is not required to carry out the purposes of this Declaration; (c) where prior approval of Improvements may be waived or certain Improvements may be exempted in writing or under written guidelines or rules promulgated by the Solitude Colorado Design Review Committee; and (d) for any Improvement made to a Tract shown on the Plat by a Metropolitan District.

6.2 Membership of Committee. The Solitude Colorado Design Review Committee shall consist of three members, all of whom shall be appointed by the Executive Board. Members of the Solitude Colorado Design Review Committee may be removed at any time by the Executive Board and shall serve for such term as may be designated by the Executive Board or until resignation or removal by the Executive Board. The Executive Board may at any time and from time to time change the authorized number of members of the Solitude Colorado Design Review Committee, but the number of members of the Solitude Colorado Design Review Committee shall be an odd number no fewer than three. Members of the Solitude Colorado Design Review Committee shall not necessarily be Owners and may be paid professionals.

6.3 Address of Solitude Colorado Design Review Committee. The address of the Solitude Colorado Design Review Committee shall be at the principal office of the Association.

6.4 Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement, the Person proposing to make such Improvement ("Applicant") shall submit to the Solitude Colorado Design Review Committee at its offices in accordance with the Design Guidelines

such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications, and samples of materials and colors as the Solitude Colorado Design Review Committee may request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement. The Applicant shall be entitled to receive a receipt for the same from the Solitude Colorado Design Review Committee or its authorized agent. The Solitude Colorado Design Review Committee may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvement. Until receipt by the Solitude Colorado Design Review Committee of all required materials in connection with the proposed Improvement, it may postpone review of any materials submitted for approval.

6.5 Criteria for Approval. The Solitude Colorado Design Review Committee shall approve any proposed Improvement only if it deems in its reasonable discretion that (a) the appearance of the proposed Improvement will be in harmony with the surrounding areas of the Community; (b) the Improvement will not detract from the enjoyment of the Community by Owners; (c) the upkeep and maintenance of the proposed Improvement will not become a burden on the Association; and (e) the proposed Improvement will not affect the drainage plan for the Community or any portion thereof. The Solitude Colorado Design Review Committee may condition its approval of any proposed Improvement upon the making of such changes therein by the Applicant as the Solitude Colorado Design Review Committee may deem appropriate.

6.6 Design Guidelines. The Solitude Colorado Design Review Committee shall establish the Design Guidelines and may revise them from time to time. The Design Guidelines adopted shall be consistent with the Plat and shall be enforced by Solitude Colorado Design Review Committee. The Design Guidelines may specify circumstances under which the strict application of standards, limitations, or restrictions will be waived or deemed waived in whole or in part because strict application of such limitations or restrictions would be unreasonable or unduly harsh under the circumstances; provided, however, the Design Guidelines shall in all events comply with the requirements of the Plat. The Design Guidelines may waive the requirement for approval of certain Improvements or exempt certain Improvements from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration or cause a violation of any requirements set forth on the Plat.

6.7 Design Review Fee. The Solitude Colorado Design Review Committee may, through the Design Guidelines or otherwise, provide for the payment of a fee to accompany each request for approval of any proposed Improvement. The Solitude Colorado Design Review Committee may provide that the amount of such fee shall be uniform for similar types of proposed Improvements or that the fee shall be determined in any other reasonable manner including the estimated cost of the proposed Improvement.

6.8 Decision of Committee. Any decision of the Solitude Colorado Design Review Committee shall be made within 30 days after receipt by the Solitude Colorado Design Review Committee of all materials required by it. The decision shall be in writing, and if the decision is not to approve a proposed Improvement, the reasons therefor shall be stated. The decision of the Solitude Colorado Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Solitude Colorado Design Review Committee.

6.9 Failure of Committee to Act on Plans. Any request for approval of a proposed

Improvement shall be deemed disapproved unless approval or a request for additional information or materials is transmitted to the Applicant by the Solitude Colorado Design Review Committee within 30 days after the date of receipt by the Solitude Colorado Design Review Committee of all required materials.

6.10 Prosecution of Work after Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with (a) the description of the proposed Improvement; (b) any materials submitted to the Solitude Colorado Design Review Committee in connection with the proposed Improvement; and (c) any conditions imposed by the Solitude Colorado Design Review Committee. Failure to complete the proposed Improvement within 12 months after the date of approval or such shorter period as specified in writing by the Solitude Colorado Design Review Committee, or to complete the Improvement in accordance with the description and materials furnished to, and the conditions imposed by, the Solitude Colorado Design Review Committee, shall constitute noncompliance with the requirements for approval of Improvements.

6.11 Inspection of Work. Upon completion of the Improvement, the Applicant may give written notice of completion to the Solitude Colorado Design Review Committee ("Notice of Completion"). The Solitude Colorado Design Review Committee shall be deemed to have been given Notice of Completion of such Improvement on the date of its receipt. The Solitude Colorado Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion.

6.12 Notice of Noncompliance. If, as a result of inspections or otherwise, the Solitude Colorado Design Review Committee finds: that any Improvement is being performed or has been accomplished without obtaining the approval of the Solitude Colorado Design Review Committee, or was not done in complete conformity with the description and materials furnished to, and any conditions imposed by the Solitude Colorado Design Review Committee; or that the Design Guidelines have been violated in any respect, the Solitude Colorado Design Review Committee or Association representative shall notify the Applicant in writing of the noncompliance ("Notice of Noncompliance"), which notice shall be given no later than 30 days after the Solitude Colorado Design Review Committee receives a Notice of Completion from the Applicant. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

6.13 Failure of Committee to Act after Completion. If, for any reason other than the Applicant's act or neglect, the Solitude Colorado Design Review Committee fails to deliver to the Applicant a Notice of Noncompliance within 120 days after receipt by the Solitude Colorado Design Review Committee of written Notice of Completion from the Applicant, the Improvement shall be deemed in compliance if the Improvement was, in fact, completed as of the date of Notice of Completion.

6.14 Appeal to Executive Board of Finding of Noncompliance. If the Solitude Colorado Design Review Committee gives any Notice of Noncompliance, the Applicant may appeal to the Executive Board by giving written notice of such appeal to the Board and the Solitude Colorado Design Review Committee within 30 days after receipt of the Notice of Noncompliance by the Applicant. If, after a Notice of Noncompliance, the Applicant fails to commence diligently to

remedy such noncompliance, the Solitude Colorado Design Review Committee shall request a finding of noncompliance by the Executive Board by giving written notice of such request to the Association and the Applicant within 60 days after delivery to the Applicant of a Notice of Noncompliance from the Solitude Colorado Design Review Committee. In either event, the Executive Board shall hear the matter in accordance with the provisions hereof and the Bylaws, and it shall decide whether or not there has been such noncompliance, and if so, the nature thereof and the estimated cost of correcting or removing the same.

6.15 Correction of Noncompliance. If the Executive Board determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than 14 days from the date of receipt by the Applicant of the ruling of the Executive Board or such longer period as the Executive Board may prescribe. If the Applicant does not comply with the ruling, the Executive Board may, at its option, record a Notice of Noncompliance against the real property on which the noncompliance exists, may, with a right of entry especially granted thereby, enter upon such property and remove the noncomplying Improvement, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all costs and expenses incurred by the Association in connection therewith including, but not limited to, attorneys' fees. If such expenses are not promptly repaid by the Applicant to the Association, the Executive Board may levy a Reimbursement Assessment against the Applicant for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies that the Association may have at law, in equity, or under this Declaration. The Applicant shall have no claim for damages or otherwise on account of the entry upon the property and removal of the noncomplying Improvement.

6.16 No Implied Waiver or Estoppel. No action or failure to act by the Solitude Colorado Design Review Committee or by the Executive Board shall constitute a waiver or estoppel with respect to future action by the Solitude Colorado Design Review Committee or the Executive Board with respect to any Improvement. The approval of the Solitude Colorado Design Review Committee of any Improvement shall not be deemed a waiver of any right to withhold approval for any similar Improvement or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement.

6.17 Committee Power to Grant Variances. Subject to the requirements of the governmental authorities, and the requirements set forth on the Plat, the Solitude Colorado Design Review Committee may authorize variances from compliance with any of the provisions of this Declaration, including restrictions upon height, size, floor area, building materials, placement of structures, or similar restrictions when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental consideration may require such variances. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Solitude Colorado Design Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned including, but not limited to, zoning regulations, requirements set forth on the Plat, restrictions pertaining to Building Envelopes or requirements imposed by any governmental

authority having jurisdiction.

6.18 Meetings of Committee. The Solitude Colorado Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Solitude Colorado Design Review Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Solitude Colorado Design Review Committee, except the granting of approval to any Improvement and granting of variances. The action of such representative within the authority of such Committee Representative or the written consent or the vote of a majority of the members of the Solitude Colorado Design Review Committee shall constitute the action of the Solitude Colorado Design Review Committee.

6.19 Records of Actions. The Solitude Colorado Design Review Committee shall report in writing to the Executive Board all final actions of the Solitude Colorado Design Review Committee, and the Executive Board shall keep a permanent record of such reported action.

6.20 Estoppel Certificates. The Executive Board shall, upon the reasonable request of any interested Person and after confirming any necessary facts with the Solitude Colorado Design Review Committee, furnish a certificate with respect to the approval or disapproval of any Improvement or with respect to whether any Improvement was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

6.21 Nonliability of Committee Action. There shall be no liability imposed on the Solitude Colorado Design Review Committee, any member of the Solitude Colorado Design Review Committee, any representative of the Solitude Colorado Design Review Committee, the Association, any member of the Executive Board, or Declarant for any loss, damage, cost, expense, or injury arising out of or in any way connected with the performance of the duties of the Solitude Colorado Design Review Committee unless due to the gross negligence or willful misconduct of the party to be held liable. In reviewing any matter, the Solitude Colorado Design Review Committee shall not be responsible for reviewing, nor shall its approval of an Improvement be deemed approval of, the Improvement from the standpoint of safety, whether structural or otherwise, or such Improvement's conformance with building codes or other governmental laws or regulations.

6.22 Construction Period Exception. During the course of actual construction of any permitted structure or Improvement, and provided construction is proceeding with due diligence, the Solitude Colorado Design Review Committee shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction, provided that during the course of any such construction, nothing is done which will result in a violation of any of the provisions of this Declaration upon completion of construction, and nothing is done that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Community.

ARTICLE 7
USE OF COMMON AREAS

7.1 Owner's Rights of Use/Association Obligations. Unless otherwise provided in this Declaration, all Owners may use Common Areas, and the Association shall have the duty and obligation to keep all Common Areas in good order, condition, and repair. All costs and expenses associated with such obligations shall be Common Expenses, and no third parties, other than Owners in accordance with the provisions hereof, will have any liability or obligation therefor.

7.2 Right of Association to Regulate Use. The Association, acting through the Executive Board, shall have the power to regulate the use of Common Areas by Owners and the public to further enhance the overall rights of use and enjoyment of all Owners.

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

7.4 Liability of Owners for Damage by Owner. Each Owner shall be liable to the Association for any damage to Common Areas or for any expense or liability incurred by the Association, to the extent not covered by insurance, that may be sustained by reason of (a) the actions or conduct of such Owner or any Person using the Common Areas through such Owner; or (b) for any violation of the Governing Documents by such Owner or any Person using the Common Areas through such Owner. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Reimbursement Assessment against an Owner, after Notice and Hearing as provided in the Bylaws, to cover all costs and expenses incurred by the Association arising from or related to violation of the Governing Documents or for any increase in insurance premiums directly attributable to any of the foregoing actions.

7.5 Association Duties if Damage or Destruction to Common Areas. If the Common Areas are damaged by fire or other casualty, or if any governmental authority requires any repair, reconstruction, or replacement of any Common Areas, the Association shall have the duty to repair, reconstruct, or replace the same. Any insurance proceeds payable by reason of the damage or destruction of Common Areas by fire or other casualty shall be paid to the Association and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction, or replacement of Improvements damaged or destroyed, or if the Association is required to make repairs, replacements, or Improvements by governmental authorities, the Association may, in order to make up any deficiency in the insurance proceeds or to pay for the required repair, replacement, or improvement, levy a Special Assessment against the Owners in accordance with Article 11 of this Declaration. If any Owner or group of Owners is liable for any such damage, the Association may levy a Reimbursement Assessment against the Owner or group of Owners responsible therefor to provide the additional funds necessary to make such repair, reconstruction or replacement of the Common Areas. Repair, reconstruction, or replacement of Common Areas shall be done under such contracting and bidding procedures as the Association determines are appropriate. If insurance proceeds available to the Association exceed the cost of repair, reconstruction, and replacement of any Improvement, the Association may use the same for any future maintenance, repair, or replacement of any Improvement and for the operation of other Common Areas.

7.6 Association Powers upon Condemnation. If any Common Areas or interests therein are taken under exercise of the power of eminent domain or by private purchase in lieu thereof, the award in condemnation or the price payable therefor shall be paid to the Association, except to the extent payable to any other Person with an interest in such property, including any Mortgagee of such property. The Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners or other Persons therein. Any award or funds received by the Association shall be held by the Association in such Maintenance Fund as determined by the Executive Board as a reserve for future maintenance, repair, reconstruction, or replacement of Common Areas, or such funds may be used for Improvements or additions to or for the operation of Common Areas. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings related to Common Areas.

ARTICLE 8 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

8.1 Period of Reservation of Rights. Declarant shall have, retain, and reserve the Development Rights and Special Declarant Rights as set forth in this Article 8 for 20 years following the date this Declaration or any Supplemental Declaration hereto is Recorded. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association whether or not specifically stated therein and in each deed or other instrument by which any property within the Community is conveyed by Declarant. The rights, reservations, and easements set forth herein shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other subsequent amendment. Declarant makes no assurances that Declarant will exercise the rights reserved by Declarant herein with respect to all or any portion of the Community, and Declarant reserves the right to exercise such rights with respect to the Community in such time frames and in such a manner as Declarant deems fit in its sole and absolute discretion.

8.2 Construction of Additional Improvements. Declarant reserves the right, but shall have no obligation, to construct additional Improvements, including the Equestrian Center, within the Community at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association, Owners, and some but not all Owners, as in the case of Limited Common Areas. Declarant may convey or transfer such Improvements to the Association, and the Association shall be obligated to care for and maintain the same as elsewhere provided in this Declaration.

8.3 Promotion and Marketing of Community. Declarant hereby reserves the right to use Common Areas and services offered by the Association in connection with the promotion and marketing of the Community. Without limiting the generality of the foregoing, Declarant may (a) erect and maintain on any part of the Common Areas or upon Declarant's Parcels such signs, temporary buildings, and other structures as it reasonably may deem necessary or proper in connection with the promotion, development, and marketing of real estate within the Community; (b) use vehicles and equipment on Common Areas for promotional purposes; (c) permit prospective

purchasers of Parcels to use Common Areas at reasonable times and in reasonable numbers; (d) maintain sales offices, management offices, and model homes on the Common Areas or the Parcels owned by Declarant in such numbers, sizes and in such locations (and relocations) as individually determined by Declarant, in its sole and absolute discretion, along with the right of removal of such property, which may be, at Declarant's election, be designated by Declarant as Common Area; and (e) make reference to the Common Areas and services offered by the Association in connection with the development, promotion, and marketing of property within the boundaries of the Community. Notwithstanding the foregoing, any use of the Common Areas for the above purposes shall be done so as to minimize any inconvenience to the Owners.

8.4 Right to Complete Development of Community. No provision of this Declaration including, but not limited to the use restrictions contained in Article 3 hereof, shall be construed to prevent or limit Declarant's rights to (a) complete the development of the Real Estate and any property that may be added to the Real Estate; (b) construct or alter Improvements on any property owned by Declarant, including temporary buildings; (c) maintain model homes, sales offices, management offices, temporary buildings or offices for construction or sales purposes, or similar facilities upon any property owned by Declarant or owned by the Association upon such Parcels and in such number, location, and sizes as Declarant determines, in its sole and absolute discretion; or (d) post signs incidental to the development, construction, promotion, marketing, or sales of property within the Community. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to (i) excavate, cut, fill, or grade any property owned by Declarant or to construct, alter, demolish, or replace any Improvements on any property owned by Declarant; (ii) use any structure on any property owned by Declarant or the Association as a construction office, model home, or real estate sales office in connection with the sale of any property within the boundaries of the Community; or (iii) require Declarant to seek or obtain the approval of the Solitude Colorado Design Review Committee or of the Association for any such activity or Improvement on any property owned by Declarant.

8.5 Approval of Conveyances or Changes in Use of Common Areas. Until the termination of the Declarant Control Period as elsewhere provided herein, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change, or alter the use of Common Areas; grant a Mortgage encumbering the Common Areas; or use Common Areas other than solely for the benefit of Owners or as specifically allowed hereunder.

8.6 Creation of Easements. Declarant reserves an easement for access, utilities, drainage, and water service in, on, under, over, and across the Parcels and Common Areas for any purpose incident to the construction, development, and sale of Parcels. No such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to a Parcel by its Owner. There is hereby created a blanket easement over the real estate described on Exhibit A for the benefit of the Parcels, the Common Areas and Limited Common Areas for access, installation, replacing, repairing, and maintaining all utilities. Said easement includes future utility services not presently available to the Parcels which may reasonably be required in the future. There is hereby created a general easement over the real estate described on Exhibit A for the benefit of the Parcels, the Common Areas and Limited Common Areas for the benefit of all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter such property in the performance of their duties. Declarant also reserves the Easement rights set forth in

Sections 5.3 and 5.11.

8.7 Creation of Subassociations. Declarant reserves the right to create one or more common interest communities within the Community, to form owners associations to govern the same, and to make such communities and owners associations subordinate to the Association as a master association and subject to this Declaration.

8.8 Conveyance of Additional Real Estate to Association. Declarant reserves the right, but shall have no obligation, to convey additional real estate and Improvements thereon to the Association at any time and from time to time in accordance within this Declaration.

8.9 Annexation of Additional Properties.

(a) Right to Annex Additional Real Estate. Declarant reserves the right for a period of 20 years from the date of this Declaration to annex the Annexable Real Estate, described on Exhibit B hereto, into the Community including any portion of the Annexable Real Estate which it may have previously conveyed. In accordance with the foregoing, each Owner grants to Declarant the right to annex the Annexable Real Estate into the Community and to modify such Owner's right to the Common Areas as more particularly set forth in this Article 8. Further, any purchaser of a Parcel within the Annexable Real Estate understands that it is the intent of Declarant that such Parcel will be annexed prior to conveyance thereof to such purchaser and acknowledges and confirms, that if such annexation fails to occur for any reason, Declarant shall have the right to annex such Parcel even after the conveyance to such purchaser without prior approval of such purchaser. Notwithstanding the foregoing, Declarant reserves the right to convey all or any portion of the Annexable Real Estate to such third party or parties as Declarant deems appropriate whether for purposes consistent with the Declaration or otherwise. Declarant makes no assurances that all or any portion of the Annexable Real Estate will be annexed to the Community, and Declarant reserves the right to annex all or any portion of the Annexable Real Estate to the Community in such order and in such a manner as Declarant deems fit in its sole and absolute discretion.

(b) Annexation Procedure. The annexation of additional real estate into the Community by Declarant shall be achieved by Recording: (a) a deed or Supplemental Declaration containing a legal description of the real estate to be annexed into the Community and such other terms and provisions as Declarant may prescribe in accordance with the terms and provisions hereof; and, if applicable, (b) a Supplemental Plat or map depicting the real estate to be annexed into the Community, if not already included on the Plat and that otherwise contains all information required by the Act. The Supplemental Declaration shall incorporate by reference the covenants, conditions, and restrictions set forth herein and contain such additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and provisions as Declarant may impose on such annexed real estate, taking into account the unique and particular aspects of the proposed development of the real estate encumbered by such Supplemental Declaration. Declarant shall have the right to reserve in a Supplemental Declaration any and all development rights which Declarant deems necessary or appropriate to complete the development of the property being annexed to the Community or that is otherwise necessary to meet the unique and particular aspects of such property. A Supplemental Declaration may provide for a subassociation of Owners within the property described in the Supplemental Declaration and for the right of such subassociation to assess such Owners.

(c) Effect of Expansion. Upon the Recording of a deed or Supplemental Declaration and a Supplemental Plat, if applicable, the real estate described therein shall be subject to all covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration. If any real estate is annexed to the Community as provided herein, the definitions used in this Declaration shall automatically be expanded to encompass and refer to the Community as expanded. References to this Declaration shall mean this Declaration as so supplemented by any Supplemental Declaration. Upon the Recording of a Supplemental Declaration and Supplemental Plat, if applicable, every Owner in such annexed area shall, by virtue of ownership of such Parcel, be a member of the Association and shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other member of the Association. Except as may otherwise be provided herein, upon the annexation of any property to the Community, the Allocated Interests of each Owner's Parcel shall be reallocated as provided in Section 9.5.

(d) Annexation of Additional Unspecified Real Estate. Declarant hereby reserves the right to annex additional, unspecified real estate to the Community to the fullest extent permitted by the Act. If Declarant elects to annex such additional property, Declarant shall annex such property to the Community in accordance with the provisions of this Section 8.9.

8.10 Withdrawal of Annexed Real Estate. Real Estate for which a Supplemental Declaration has been recorded may be withdrawn from the Community by Declarant at any time prior to the time that any Parcel contained therein has been conveyed to a third party. Such withdrawal may be accomplished by the execution, acknowledgment, and Recording of a "Notice of Withdrawal." The Notice of Withdrawal shall (a) be executed and acknowledged by Declarant; (b) contain an adequate legal description of the property being withdrawn from the Community; (c) contain a reference to the Supplemental Declaration by which such property was annexed to the Community including the date thereof and recording information of such Supplemental Declaration; and (d) contain a statement that such property is withdrawn from the Community and shall not be thereafter subject to this Declaration or the Supplemental Declaration for such property. The withdrawal of such property from the Community shall be effective upon Recording the Notice of Withdrawal, and thereafter, said property shall no longer be part of the Community or subject to this Declaration or Supplemental Declaration for such property.

8.11 Conversion of Parcel to Common Areas and Common Areas to Limited Common Areas. Declarant reserves the right to convert any Parcel owned by it or the Association into a Common Area subject to the terms and provisions of the Act. Declarant reserves the right to convert any portion of the Common Area owned by it or the Association into a Limited Common Area.

8.12 Combination or Subdivision of Parcels. The Douglas County regulations governing the Community do not currently permit any further combination or resubdivision of Parcels. Notwithstanding the foregoing, and to the extent permitted in the future, Declarant reserves the right to combine or resubdivide the space within any Parcel or Parcels, or proposed Parcel or Parcels, to create additional Parcels; provided, however, any such combination or resubdivision shall be done strictly in accordance with Douglas County regulations. Upon the combination or resubdivision of any Parcel in accordance with the terms and conditions contained herein, the Allocated Interests of each Owner's Parcel shall be reallocated according to the formulas set forth in Section 9.5 below.

8.13 Expansion of Permitted Real Estate Uses. Notwithstanding anything to the contrary contained herein, Declarant reserves the right to expand the permitted uses for Parcels provided that such uses are consistent with the Plat and are in accordance with County rules, regulations, requirements, and approvals.

8.14 Special Declarant Rights. In addition to the foregoing reserved rights, Declarant further reserves the right to exercise all Development Rights and Special Declarant Rights permitted by the Act, as those terms are defined in the Act.

ARTICLE 9 ASSOCIATION GOVERNANCE

9.1 Formation of the Association. The Association is a Colorado nonprofit corporation under the Colorado Nonprofit Corporations Act. The Association reserves all of the duties, powers, and rights set forth in the Act, the Colorado Nonprofit Corporations Act, this Declaration, the Articles of Incorporation, and the Bylaws.

9.2 Executive Board.

(a) Management Responsibilities. The affairs of the Association shall be managed by the Executive Board. The number, term, and qualifications of the Directors shall be fixed in the Articles of Incorporation and the Bylaws in accordance with the provisions hereof. The Executive Board may, by resolution, elect to delegate portions of its authority to its Officers or the Managing Agent, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the Association. Action by or on behalf of the Association may be taken by the Executive Board or any duly authorized executive committee, Director, Officer, agent, or employee without a vote of the Owners, except as otherwise specifically provided in this Declaration.

(b) Selection of Directors. Declarant shall be entitled to select and appoint Directors and members of the Executive Board, in its sole discretion, until the expiration of the Declarant Control Period. Not later than 60 days after the conveyance by Declarant to Owners other than Declarant of 25% of the Parcels that may be created within the Community, at least one Director, and not less than 25% of the Directors must be elected by Owners other than Declarant; and (b) that no later than 60 days after the conveyance by Declarant of 50% of the Parcels that may be created within the Community to Owners other than Declarant, not less than 33-1/3% of the Directors must be elected by Owners other than Declarant. Upon expiration of the Declarant Control Period, the Owners shall elect an Executive Board of at least three Directors, a majority of whom shall be Owners other than Declarant or designated representatives of Declarant.

9.3 Indemnification. To the extent permitted by law, each Officer and Director of the Association shall be and are hereby indemnified by the Owners and the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or director of the Association, or any settlements thereof, whether or not they are an Officer or Director of the Association at the time such expenses are incurred, except

in such cases wherein such Officer or Director is adjudged guilty of reckless or willful misconduct in the performance of his duties. In the event of a settlement, the indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

9.4 Membership in Association. Everyone who is a record Owner of fee simple title in any Parcel shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Parcel. Ownership of a Parcel shall be the sole qualification for membership. Where more than one person holds an interest in any Parcel, all such persons shall be members of the Association. Declarant shall be a member of the Association for as long as Declarant is an Owner. Membership in the Association shall not be pledged, transferred, alienated, or assigned separate and apart from the fee simple title to a Parcel, except that an Owner may assign some or all of his rights as an Owner and as a member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration. Notwithstanding the foregoing, no Owner shall be permitted to relieve itself of the responsibility for fulfillment of the obligations of membership in the Association under this Declaration.

9.5 Allocated Interests. The Common Expense liability and votes in the Association allocated to each Parcel are set as follows:

- (a) the percentage of liability for Common Expenses, equally;
- (b) the number of votes in the Association, equally.

9.6 Voting Rights of Owners. Each Owner shall have the right to cast one vote for each Parcel owned by such Owner in accordance with the Bylaws, but in no event shall there be more than one vote per Parcel. If title to a Parcel is owned by more than one Person, such Persons shall collectively vote their interest as a single vote.

9.7 Eligible Votes. Notwithstanding anything to the contrary contained herein, only Owners whose voting rights are in good standing under the Bylaws (e.g., voting rights that have not been suspended as provided therein) shall be entitled to vote on Association matters. In accordance therewith, any and all provisions contained herein requiring the approval of a requisite percentage of Owners shall be deemed satisfied when the requisite percentage of Owners entitled to vote has been met.

9.8 Delivery of Documents upon Termination of Declarant Control Period. No later than 60 days after the termination of the Declarant Control Period, Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by Declarant including, without limitation, the following items:

- (a) the original or a certified copy of the recorded Declaration, as amended, the Articles of Incorporation, Bylaws, Rules and Regulations, minute books, and other books and records;
- (b) to the extent required by the Act, an accounting for Association funds and

financial statements from the date the Association received funds and ending on the date the Declarant Control Period ends, audited by an independent certified public accountant, paid for by Declarant, and accompanied by the accountant's letter expressing either the opinion that the financial statements fairly present the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor;

(c) the Association funds or control thereof;

(d) all of Declarant's tangible personal property that has been represented by Declarant to be the property of the Association and all of Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas, and inventories of these properties;

(e) a copy of the plans and specifications used in the construction by Declarant of the Improvements in the Common Areas that were constructed by Declarant;

(f) all insurance policies then in force in which the Owners, the Association, or the Directors and Officers are named as insured persons;

(g) copies of any certificates of occupancy in Declarant's possession that may have been issued with respect to any Improvements within the Community;

(h) any other permits issued by governmental bodies applicable to the Community and that are currently in force or that were issued within one year prior to the date on which the Declarant Control Period expired;

(i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) a roster of Owners and Mortgagees and their addresses and telephone numbers, if known, as shown on Declarant's records;

(k) employment contracts in which the Association is a contracting party; and

(l) any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the Persons performing the services.

ARTICLE 10
DUTIES AND POWERS OF ASSOCIATION

10.1 General Duties and Powers of the Association. The Association has been formed to further the common interests of the Owners. The Association, acting through the Executive Board or Officers or other Persons to whom the Executive Board has delegated such powers, shall have the duties and powers hereinafter set forth; the power to do anything that may be necessary or desirable to further the common interests of the Owners; the powers necessary to maintain, improve, and enhance Common Areas; and the powers necessary to improve and enhance the attractiveness, aesthetics, and desirability of the Community.

10.2 Duty to Accept Real Estate and Facilities Transferred by Declarant. The Association shall accept title to any real estate, including any Improvements thereon, and any personal property transferred to the Association by Declarant, together with the responsibility to perform any and all Administrative Functions associated therewith, provided that such property and Administrative Functions are not inconsistent with the terms of this Declaration. Real Estate interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests, and licenses. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Executive Board, be transferred to the Association free and clear of all liens and monetary encumbrances (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and such easements, covenants, conditions, restrictions, and equitable servitudes or other encumbrances of record.

10.3 Duty to Manage and Care for Common Areas and Limited Common Areas. The Association shall manage, operate, care for, maintain, and repair all Common Areas and Limited Common Areas and keep the same in an attractive and desirable condition for the use and enjoyment of the Owners.

10.4 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Common Areas and Limited Common Areas and all taxes and assessments payable by the Association. The Association shall have the right to dispute any such taxes or assessments provided that the Association contests the same by appropriate legal proceedings that have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment and provided that the Association holds sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties that may accrue with respect thereto if the dispute of such taxes is unsuccessful.

10.5 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times the following insurance, to the extent reasonably obtainable: (a) property insurance on all insurable Improvements and personal property owned by the Association for broad form covered causes of loss, including casualty and fire; and (b) extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of

land, excavation, foundations, and other items normally excluded from property policies. Hazard and flood insurance policies that cover Parcels, if any such policies exist, must contain a standard Mortgagee clause and must provide that notice is given to all relevant Mortgagees at least 30 days prior to the lapse, material modification, or cancellation of such policies.

10.6 Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas, Limited Common Areas and covering public liability for bodily injury and property damage and, if the Association owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable: (a) have limits of not less than \$500,000.00 per person and \$1,000,000.00 per occurrence; (b) insure the Executive Board, the Association, the Managing Agent, if any, and their respective employees, agents, and all Persons acting as agents; (c) include Declarant as an additional insured in such Declarant's capacity as an Owner or Director; (d) include the Owners as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use, or management of Common Areas and Limited Common Areas; and (e) cover claims of one or more insured parties against other insured parties.

10.7 Emergency Access across Railroad Rights-of-Way.

(a) Pursuant to an Agreement for Private Crossing between Declarant and the Burlington Northern and Santa Fe Railway Company, a Delaware corporation (the "Burlington Northern Agreement"), a right for an at grade crossing across the Burlington Northern and Santa Fe Railway rail corridor was granted to Declarant as more particularly set forth in the Burlington Northern Agreement.

(b) Pursuant to a Private Road Crossing Agreement between Declarant and Union Pacific Railroad Company, a Delaware corporation (the "Union Pacific Agreement"), a right for an private road crossing over the Union Pacific Railroad right-of-way and tracks as set forth in the Union Pacific Agreement.

(c) Pursuant to agreements between Declarant and the Association, the Association will assume the obligations of Declarant under the Burlington Northern Agreement and the Union Pacific Agreement, including, but not limited to, the obligation to provide all insurance required to be obtained in accordance with the terms and provisions of the Burlington Northern Agreement and the Union Pacific Agreement.

10.8 General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as reasonable and sound business practice may dictate. If the insurance described is not reasonably available, or if any policy of such insurance is canceled or renewed without a replacement policy therefor having been obtained by it, the Association shall promptly cause notice of that fact to be delivered to all Owners. The Association may carry any other type of insurance it considers appropriate, in amounts it deems appropriate, to insure the interests of the Association. Insurance policies carried pursuant to this Article 10 shall provide that (a) each Owner is an insured person under the policy with respect to liability arising out of such

Owner's interest in the Common Areas or membership in the Association; (b) the insurer waives its right of subrogation under the policy against the Association, each Owner, and any Person claiming by, through, or under such Owner or any other director, agent, or employee of the foregoing; (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy, there is other insurance in the name of a Owner covering the same risk covered by the policy, the Association's policy shall be the primary insurance. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Association. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Executive Board to ascertain whether coverage under the policies is sufficient in light of the current values of the Common Areas and in light of the possible or potential liabilities of the Association. The aforementioned insurance may be provided under blanket policies covering the Common Areas and property of Declarant. In no event shall insurance coverage obtained or maintained by the Association be bought in conjunction with insurance purchased by Owners, occupants, or their Mortgagees.

10.9 Fidelity Bonds Required/Segregation of Funds. If the Executive Board delegates powers of the Executive Board relating to the collection, deposit, transfer, or disbursement of Association funds to the Managing Agent, such Managing Agent shall be required to maintain fidelity insurance coverage or a bond in an amount not less than \$50,000.00 or such higher amount as the Act or Executive Board may require. In addition to the foregoing, such Managing Agent shall be required to carry insurance in such amount as the Executive Board determines and worker's compensation insurance, and shall maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by such Managing Agent and maintain all reserve accounts of each association so managed separate from operational accounts of the Association. The Managing Agent shall further prepare and provide to the Association an annual accounting of Association funds and a financial statement provided that such annual accounting may be prepared by a public or certified public accountant.

10.10 Other Insurance and Bonds. The Association shall obtain such other insurance as may be required by law, including worker's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity, or other bonds as the Association shall deem necessary or desirable.

10.11 Duty to Keep Association Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act, including, but not limited to, financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against an Owner.

10.12 Duties with Respect to Solitude Colorado Design Review Committee Approvals. The Association shall perform functions to assist the Solitude Colorado Design Review Committee as

elsewhere provided in this Declaration.

10.13 Power to Acquire Real Estate and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners including Improvements and personal property. The Association may construct Improvements on Common Areas and may demolish existing Improvements thereon.

10.14 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations or specific policies as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Common Areas, and the use of any other property within the Community, including Parcels. Any such Rules and Regulations or specific policies shall be effective only upon adoption by resolution of the Executive Board. Notice of the adoption, amendment, or repeal of any Rule or Regulation or specific policies shall be given in writing to each Owner at the address for notices to Owners as elsewhere provided in this Declaration or the Bylaws, and copies of the currently effective Rules and Regulations or specific policies shall be made available to each Owner upon request and payment of the reasonable expense of copying the same. Each Owner shall comply with such Rules and Regulations or specific policies and shall see that Persons claiming through such Owner comply with such Rules and Regulations or specific policies. Such Rules and Regulations or specific policies shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations or specific policies and the provisions of this Declaration, the provisions of this Declaration shall prevail.

10.15 Power to Enforce Governing Documents. The Association shall have the power to and shall enforce the provisions of all Governing Documents and shall take such action as the Executive Board deems necessary or desirable to cause such compliance by each Owner and each Person claiming by, through, or under such Owner ("Related User"). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Governing Documents by any one or more of the following means: (a) immediate entry upon any real estate within the Community (with notice where practicable and where no state of emergency exists), without liability to the Owner thereof, for the purpose of enforcement or causing compliance with the Governing Documents; (b) commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of the Governing Documents; (c) commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Governing Documents; (d) suspension, after Notice and Hearing, of the voting rights of an Owner during and for up to 60 days following any breach by such Owner or a Related User of such Owner of the Governing Documents, unless the breach is a continuing breach in which case such suspension shall continue for a period not to exceed 60 days from the date such breach is cured; (e) levying and collecting a Reimbursement Assessment against any Owner for breach of the Governing Documents by such Owner or Related User; (f) filing a lien on the property of the Owner in default, and (g) uniformly applied fines and penalties, established in advance in the Rules and Regulations, from any Owner or Related User for breach of the Governing Documents by such Owner or Related User.

10.16 Power to Grant Easements. In addition to the easements reserved and established in this Declaration, the Association shall have the power to grant access, utility, drainage, water facility, and other such easements in, on, over, or under Common Areas, as well as the power to designate portions of the Common Areas as Limited Common Areas for the benefit of specific Owners.

10.17 Power to Convey and Dedicate Real Estate to Governmental Agencies. The Association, with the approval of Owners representing at least 67% of the voting power of the Association entitled to vote, shall have the power to grant, convey, dedicate, or transfer any Common Areas or facilities to any public, governmental, or quasi-governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate, subject to the provisions elsewhere contained in this Declaration for approval of the same by Declarant with respect to property transferred to the Association by Declarant.

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

10.19 Power to Borrow Money and Encumber Real Estate. The Association shall have the power to borrow money and, with the approval of Owners representing at least 67% of the eligible votes, to encumber Common Areas as security for such borrowing, subject to provisions elsewhere contained in this Declaration with respect to required approvals and consents to such action. An agreement to convey or subject the Common Areas to a security interest shall be evidenced by the execution of an agreement, or ratification thereof, by the requisite number of Owners. The agreement shall specify a date after which the agreement will be void unless Recorded before that date and shall be effective upon Recording.

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

10.21 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado nonprofit corporation including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration, the Articles of Incorporation, or the Bylaws. The Association shall also have the power to do any and all lawful things authorized, required, or permitted to be done under this Declaration, the Articles of Incorporation, or the Bylaws and to do and perform any and all acts necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association.

10.22 Association Agreements. Any agreement for professional management of the Community and any contract providing for services of Declarant may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon 30 days' written notice. The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Declarant Control Period unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after the turnover date upon not more than 30 days' notice to the other party thereto.

10.23 Powers Provided by Law. In addition to the above-referenced powers, the Association shall have full power to take and perform any and all actions that may be lawfully taken by the Association under the Colorado Nonprofit Corporations Act and the Act, as the same may be

amended from time to time.

10.24 Powers as to Trash Collection. The Association shall have the power to regulate the days and hours during which trash, solid waste, and recycling materials may be collected or put out for collection in any part of the Community, and to regulate the number of trash collection service providers permitted to operate within all or any portion of the Community. The Association shall also have the power to provide services for the collection of trash, solid waste, and recycling materials within all or any portions of the Community, and the expenses of such services shall be Common Expenses for which a portion of the Budget shall be allocated. If the Association provides for such services, each Owner within any area served by such services shall, whether or not such Owner utilizes the service, be obligated to pay Common Assessments levied by the Association to cover the costs of providing such function. The areas to be served and the amount of Common Assessments shall be reasonable and shall represent a fair allocation of the costs of providing the services, including a fair allocation of administrative and overhead costs of the Association.

ARTICLE 11
ASSESSMENTS, BUDGETS, AND FUNDS

11.1 Maintenance Funds to Be Established. The Association shall establish and maintain the following separate Maintenance Funds: (a) an "Operating Fund"; and (b) a "Reserve Fund." The Maintenance Funds shall be established as one or more trust savings or trust checking accounts at any financial institution in which deposits are insured by an agency of the federal government.

11.2 Establishment of Other Funds. The Association may, upon approval of Owners representing at least 67% of the eligible votes in the Association, establish other funds as and when needed including, but not limited to, a fund established to allow for the enforcement of the terms and provisions of this Declaration. Nothing herein shall limit, preclude, or impair the authority of the Association to establish other funds for specified purposes authorized by this Declaration. If the Association establishes any additional funds, the Executive Board shall designate an appropriate title for the fund to distinguish it from other funds maintained by the Association.

11.3 Deposit of Common Assessments to Maintenance Funds. Money received by the Association from payments of Common Assessments shall be deposited in the Maintenance Funds in accordance with the following provisions: (a) there shall be deposited in the Operating Fund that portion of the Common Assessments allocated by the Budget for operating costs and expenses relating to or arising from the performance of Administrative Functions by the Association; and (b) there shall be deposited to the Reserve Fund that portion of the Common Assessments allocated by the Budget for capital repairs, replacements, and improvements.

11.4 Other Deposits to Maintenance Funds. The Association shall deposit money received by the Association from sources other than Common Assessments in the Maintenance Fund determined by the Executive Board to be most appropriate. For example, Reimbursement Assessments shall be deposited to the Maintenance Fund from which the costs and expenses were or will be paid that form the basis for the Reimbursement Assessments. Special Assessments for capital repairs, maintenance, replacements, and Improvements shall be deposited to the Reserve Fund from which such capital costs have been or will be paid. Interest and late charges received on account of delinquent Assessments may be allocated among the Maintenance Funds in the same

proportions as the delinquent Assessments were allocated or, at the discretion of the Executive Board, may be allocated to any one or more of the Maintenance Funds or other funds.

11.5 Disbursements from Maintenance Funds. All amounts deposited in the Maintenance Funds shall be used solely for the common benefit of all the Owners for purposes authorized by this Declaration. Disbursements from particular Maintenance Funds shall be limited to specified purposes as follows: (a) disbursements from the Operating Fund may be made for such purposes as are necessary or proper under this Declaration, except those purposes for which disbursements are to be made from other Maintenance Funds; and (b) disbursements from the Reserve Fund shall be made solely for purposes of funding those Administrative Functions that cannot be expected to recur on an annual or more frequent basis.

11.6 Authority for Disbursements. The Executive Board shall have the authority to make or to authorize an agent to make disbursements to or from any Maintenance Fund.

11.7 Common Assessments. For each calendar year, the Association may levy Common Assessments against Parcels to reimburse the Association for Common Expenses. Each Owner shall be obligated to pay the Common Assessments levied against and allocated to such Owner's Parcel, as hereinafter provided. Common Assessments shall be apportioned among all Parcels according to the Allocated Interests of each Parcel.

11.8 Funding of Reserves. The Executive Board, in budgeting and levying Common Assessments, shall endeavor to fund the Reserve Fund by regularly scheduled payments included as part of the Common Assessments rather than by Special Assessments.

11.9 Supplemental Common Assessments. Except as otherwise provided herein, if the estimated sums contained in the Budget prove inadequate for any reason, including nonpayment of any Owner's Common Assessment, the Executive Board may, from time to time, levy a Supplemental Common Assessment for any of the Maintenance Funds. Such Supplemental Common Assessment shall be assessed against each Parcel according to its Allocated Interests. Written notice of any change in the amount of any annual Common Assessment shall be sent to every Owner subject thereto, not less than 30 days prior to the effective date of such change.

11.10 Annual Budgets. At least 60 days prior to the commencement of each calendar year, the Executive Board shall prepare a Budget for such calendar year, including a reasonable provision for contingencies and deposits into the Operating Fund and the Reserve Fund. The proposed Budget shall show, in reasonable detail, the categories of expenses and the amount of expenses in each Maintenance Fund and shall reflect any expected income of the Association for the coming calendar year and any expected surplus from the prior year and any existing surplus in any Reserve Fund. The proposed Budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish, or add to the proper Reserve Fund for major capital repairs, replacements, and improvements for Common Areas. Within 30 days after the adoption of any proposed Budget by the Executive Board, it shall distribute a summary to every Owner, post a summary at the principal office of the Association, and set a date for a meeting of the Owners to consider ratification of the proposed Budget not less than 14 nor more than 60 days after mailing or other delivery of the summary. Such meeting may be concurrent with the annual meeting of Owners as provided in the Bylaws. Unless at that meeting a majority of the Owners reject the Budget, the

Budget shall be deemed ratified, whether or not a quorum is present. If the proposed Budget is rejected, the Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent Budget proposed by the Executive Board. If the Association does not have an address for any Owner, the posting of such Budget summary at the principal office of the Association shall be deemed notice to any such Owner. At such time as the Association publishes a newsletter for Owners, the Budget shall be published in such newsletter. Copies of the Budget shall be made available by the Association to any Owners requesting a copy of the same upon payment of the reasonable expense of copying the same.

11.11 Commencement of Common Assessments. Except as otherwise provided herein, Common Assessments shall commence as to each Parcel within the Community on the first day of the first month following the date the first deed is Recorded conveying a Parcel. The Common Assessments for the first calendar year of that Parcel shall be prorated within the Community on the basis of the number of months in such calendar year remaining from the date of commencement of such Common Assessments to the end of such calendar year.

11.12 Payment of Assessments. Common Assessments shall be due and payable in advance to the Association and shall be payable on such dates as the Executive Board may designate in its sole and absolute discretion. Notice of the amount of the Common Assessments shall be given to each Owner as soon as practical after the Budget has been ratified by the Owners.

11.13 Failure to Fix Assessment. The failure by the Executive Board to levy an Assessment for any year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Owner to pay Assessments, or any installment thereof, for that or any subsequent year. No abatement of the Common Assessment or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to Common Areas or from any action taken to comply with any law or any determination of the Executive Board or for any other reason.

11.14 Special Assessments for Capital Expenditures. In addition to Common Assessments, the Executive Board may levy Special Assessments. Special Assessments may be levied for the purpose of raising funds not otherwise provided under the Budget from Common Assessments to (a) construct, reconstruct, repair, or replace capital Improvements upon Common Areas, including necessary personal property related thereto; (b) add to the Common Areas; (c) provide for necessary facilities and equipment to offer the services authorized in this Declaration; or (d) repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. Special Assessments for capital Improvements that may be used by all Owners of the Association shall be levied solely on the basis of, and in proportion to, the Allocated Interests of each Parcel as set forth in Section 9.5. The Association shall notify Owners in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is due and payable.

11.15 Reimbursement Assessments. The Executive Board may levy a Reimbursement Assessment against any Owner if the willful or negligent failure of a Owner, or a Person acting by or through a Owner, to comply with the Governing Documents results in the expenditure of funds by the Association including, but not limited to, court costs and attorneys' fees. Such Assessment shall be known as a Reimbursement Assessment. The amount of the Reimbursement Assessment shall be

due and payable to the Association 30 days after notice to the Owner of the decision of the Executive Board that the Reimbursement Assessment is due and payable. A Owner shall be entitled to Notice and Hearing prior to the issuance of a Reimbursement Assessment against such Owner by the Association

11.16 Interest on Past-Due Assessments. Any Assessment, or installment of an Assessment, that is not paid when due shall bear interest from the date such Assessment or installment was due at a rate of 21% per annum or the highest rate permitted under the Act, whichever is greater.

11.17 Surplus Funds. The Association shall not be required to pay, or otherwise refund, to the Owners any surplus funds remaining after payment of, or provision for, Administrative Functions or reserves. Such surplus shall be deposited into one of the Maintenance Funds and used to offset future Assessments.

11.18 Notice of Default and Acceleration of Assessments. If any Assessment, or any installment thereof, is not paid when due, the Executive Board may, but shall not be required to, mail a notice of default ("Notice of Default") to the Owner and to each first Mortgagee of the Parcel who has requested a copy of the notice. The Notice of Default shall specify (a) the fact that the installment is delinquent; (b) the date and the amount of the payment required to cure the delinquency; and (c) that failure to cure the delinquency on or before the date specified in the notice may result in acceleration of the balance of the Assessment or the installments of the Assessment for the then current calendar year and the foreclosure of the lien for the Assessment against the Parcel of the Owner. If the delinquent Assessment or installment and any interest thereon are not paid in full on or before the date specified in the Notice of Default, the Executive Board, at its option, may declare all of the unpaid balance of the Assessment to be due and payable immediately without further demand and may enforce the collection of the full Assessment, all interest thereon, and all costs of collection including attorney's fees, in any manner authorized by law or in this Declaration, subject to the protection afforded to Mortgagees under this Declaration.

11.19 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct, and personal debt and obligation of each Owner. In the event of a default in payment of any Assessment or installment thereof, the Executive Board may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by foreclosure of the lien therefor as provided herein.

11.20 Lawsuit to Enforce Assessments. The Executive Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charges, interest, and other costs of enforcement, including reasonable attorneys' fees in the amount as the court may adjudge against the defaulting Owner.

11.21 Lien to Enforce Assessments. Pursuant to and in accordance with the Act, the Association shall have a statutory lien on a Parcel for any Assessment levied against that Parcel, or fines imposed against its Owner, from the time such Assessment or fine becomes due. All expenses, costs, attorneys' fees, and interest outstanding from such Owner shall be included in such lien. The lien created hereby and under the Act shall be prior to any declaration of homestead rights recorded after the time that the Parcel becomes a part of the Community and shall have the priority attached to such lien under the Act and under Colorado law. The lien shall continue until the amounts secured

thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner prescribed for the foreclosure of mortgages in the State of Colorado or in any other manner provided under the Act.

11.22 Estoppel Certificates. Upon the written request of any Owner and any Person with, or intending to acquire, any right, title, or interest in the Parcel of such Owner, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Parcel and the Owner thereof, and setting forth the amount of any Assessment levied against such Parcel that is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, be conclusive against the Association and all Persons for all purposes that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied.

11.23 No Offsets. 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 Executive Board is not properly exercising its duties and powers under this Declaration.

11.24 Working Capital Fund. The Association may require each Owner to make a one-time, non-refundable payment to the Association in an amount determined necessary and appropriate in the reasonable discretion of the Executive Board (not to exceed an amount equal to 25% of the annual Common Assessment against that Owner's Parcel), which sum shall be held by the Association as a working capital fund (the "Working Capital Fund"). Interest on such funds shall accrue to the benefit of the Association. If required by the Association, the Working Capital Fund shall be collected and held by the Association, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of Common Assessments as the same become due. Upon the transfer of his or her Parcel, an Owner shall be entitled to a credit from the transferee for any unused portion of the aforesaid Working Capital Fund. Notwithstanding the foregoing, no Mortgagee who becomes an Owner through foreclosure or acceptance of a deed in lieu thereof shall be required to make a payment to the Association for the Working Capital Fund, and no Owner whose Parcel has been foreclosed upon or transferred to a Mortgagee by a deed in lieu of foreclosure shall be entitled to a credit from the Mortgagee for any unused portion of the aforesaid Working Capital Fund.

ARTICLE 12 AMENDMENTS

12.1 Amendment of Declaration or Plat by Declarant. In addition to the rights reserved in Article 8 herein, prior to conveying any portion of the Real Estate to a third-party, Declarant reserves the right to amend this Declaration, to withdraw all or any part of the Common Areas from the provisions of this Declaration and to withdraw real estate from the Annexable Property described in Exhibit B hereto. In addition to the foregoing, if Declarant determines that any amendments to this Declaration, the Plat, or any map of the Community is necessary in order to make non-material changes, such as for the correction of a technical, clerical, or typographical error or for clarification of a statement or for any changes to property not yet part of the Community, then subject to the following sentence of this Section 12.1, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of any Owners. Each such amendment

shall be made, if at all, by Declarant prior to the expiration of 20 years from the date this Declaration is recorded. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to an amendment under this Section 12.1 on behalf of each Owner and Mortgagee. Each deed, Mortgage, other evidence of obligation, or other instrument affecting a Parcel, and the acceptance thereof, shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to make, execute, and record an amendment under this Section 12.1.

12.2 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least 67% of the votes in the Association. The amendment or repeal shall be effective upon the Recording of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association. Notwithstanding anything herein to the contrary, meetings of the Owners called for the purposes of approving or rejecting Extraordinary Actions and/or Material Amendments must comply with the following: (a) at least 25 days' advance written notice to all Owners must be given; (b) the notice must state the purpose of the meeting and contain a summary of the Extraordinary Action and/or Material Amendment to be approved or rejected; (c) the notice must include a proxy that can be cast in lieu of attendance at the meeting; and (d) a quorum of at least ten percent of the Owners entitled to vote either in person or by proxy must be present at such meeting.

12.3 Amendments Required by Agencies. Prior to 20 years after the date of this Declaration, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration that a Mortgagee, or any similar entity requires to be amended or repealed may be amended or repealed by Declarant or the Association. Any such amendment or repeal shall be effective upon the Recording of a certificate setting forth the amendment or repeal in full.

12.4 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving Development Rights, Special Declarant Rights, or for the benefit of Declarant or its assignees shall not be effective unless Declarant and its assignees, if any, have given written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant or its assignees of any certificate of amendment or repeal. The foregoing requirement for consent to any amendment or repeal shall terminate 20 years after the recording of this Declaration, or upon conveyance of 100% of the Parcels to Owners, whichever occurs first.

ARTICLE 13 SPECIAL PROVISIONS FOR MORTGAGEES

13.1 General Provisions. The provisions of this Article are for the benefit of Mortgagees. To the extent applicable, necessary, or proper, the provisions of this Article apply to both this Declaration, and to the Articles of Incorporation and the Bylaws.

13.2 Special Rights. Upon written request therefor to the Association, stating both its name and address and the Parcel number on which it holds, insures, or guarantees a first lien

Mortgage, a Mortgagee of such first lien Mortgage ("Eligible Holder") who has submitted such written request shall be entitled to: (a) timely written notice of any default by a mortgagor of a Parcel in the performance of the mortgagor's obligations under the Governing Documents, which default is not cured within 60 days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written notice of all meetings of the Executive Board or the Owners; (e) designate a representative to attend any such meetings; (f) receive written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (g) receive written notice of abandonment or termination by the Association of the plan contemplated under this Declaration; (h) receive 30 days' written notice prior to the effective date of any proposed, material amendment to this Declaration, the Articles of Incorporation, or the Bylaws; (i) receive 30 days' written notice prior to the effective date of termination of any agreement for professional management of the Association or the Common Areas, when professional management has been required previously under the Governing Documents or by an Eligible Holder; and (j) receive prompt written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Areas or to the Parcel on which the Eligible Holder holds a first lien Mortgage if the cost of reconstruction is reasonably expected to exceed \$20,000.00 and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Areas or any Parcels.

13.3 Special Approvals. Unless at least 67% of the Eligible Holders (based on one vote for each Mortgage held) of Parcels in the Association and the requisite percentage of Owners have given their written approval, neither the Association nor any Owner shall (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Areas or any improvements thereon that are owned, directly or indirectly, by the Association (except that the granting of access easements, utility easements, drainage easements, water facilities easements, easements for other public purposes consistent with the intended use of such Real Estate by the Association, and easements granted by Declarant or its successor-in-interest pursuant to the Special Declarant Rights shall not be deemed within the meaning of this provision); (b) change the Allocated Interests or the method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (c) by act or omission change, waive, or abandon any scheme or regulation or enforcement thereof pertaining to architectural approval of Improvement, including the architectural design of the exterior appearance of Parcels, or the upkeep of the Common Areas; (d) fail to maintain the casualty, fire, and extended coverage insurance as elsewhere provided in this Declaration; (e) use hazard insurance proceeds for losses other than the repair, replacement, or reconstruction of Improvements that have been damaged or destroyed; (f) take action to terminate the legal status of the Community after substantial destruction or condemnation occurs; (g) amend any material provision of this Declaration; and (h) establish self-management by the Association when professional management has previously been required by the Governing Documents or by an Eligible Holder. An amendment shall not be deemed material if it is for the purpose of correcting technical errors or for clarification only. If an Eligible Holder receives written request for approval of the proposed act, omission, change, or amendment by certified or registered mail with a return receipt requested and does not deliver or post to the requesting party a negative response within 30 days, it shall be deemed to have approved such request.

13.4 Right to Pay Taxes and Insurance Premiums. Any Eligible Holder shall be entitled to pay any taxes or other charges that are in default and which may or have become a lien against a Parcel or any of the Common Areas and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Areas or Parcels, and the Eligible Holder making such payments shall be entitled to immediate reimbursement from the Association.

ARTICLE 14 MISCELLANEOUS

14.1 Term of the Community. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect until December 31, 2055, and thereafter shall be automatically extended for successive periods of ten years each unless terminated by the vote, by written ballot, of Owners holding at least 67% of the eligible votes of the Association. Any termination of the Community shall be in strict compliance with the Act, and if the Act is not in effect at the time of termination, then such termination shall be in strict compliance with the Act as it existed on the date this Declaration was originally Recorded.

14.2 Association Right to Obtain Mortgage Information. Each Owner hereby authorizes any First Mortgagee to furnish information to the Association concerning the status of such First Mortgage and the loan it secures.

14.3 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, telephone, telecopier, or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Parcel of such Person if no address has been given to the Association and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Post Office. Such address may be changed from time to time by notice in writing to the Association.

14.4 Persons Entitled to Enforce Declaration. The Association, acting by authority of the Executive Board, and any Owner entitled to vote shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration against any property within the Community and the Owner thereof. The right of enforcement shall include the right to bring an action for damages as well as an action to enjoin any violation of any provision of this Declaration.

14.5 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

14.6 Enforcement of Self-Help. Declarant, the Association, or any authorized agent of either of them may enforce by self-help any of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration to the fullest extent permitted by this Declaration and the law.

14.7 Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation pertaining to the ownership, occupation, or use of any property within the Community is hereby declared to be a violation of this Declaration and shall be subject to any and all enforcement procedures set forth in this Declaration.

14.8 Mediation. If a dispute arises relating to this Declaration between Declarant and the Association or Declarant and any Owner, the parties thereto shall first proceed in good faith to resolve the matter by mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate if the entire dispute is not resolved within 30 days after the date written notice requesting mediation is sent by one party to the other(s) (the "Mediation Period").

14.9 Arbitration. Any controversy arising out of or relating to this Declaration between Declarant and the Association or Declarant and any Owner that is not settled prior to the expiration of the Mediation Period shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its rules and shall be held in the Denver metropolitan area. If a dispute involves Declarant or the Association, no Person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the land owned either by Declarant or the Association. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction. The initiating Person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The initiating Person shall be responsible for all filing requirements and the payment of any fees according to the rules of the applicable regional office of the American Arbitration Association. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and expenses including attorneys fees, arbitrators fees and out-of-pocket expenses of any kind. The term "prevailing party" shall mean the party whose position is most nearly upheld in arbitration. (For example, the prevailing party would be the party who is required to pay \$1,000.00 in the arbitration proceeding where such party had, prior to the commencement of the arbitration, offered \$500.00 by way of settlement and the opposing party, refusing such offer, had claimed entitlement to \$10,000.00.) The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding. Declarant, the Association, and each Owner of a Parcel expressly consent to arbitration as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any dispute with Declarant as contemplated by this Article in any court of law or equity, and any right to trial by judge or jury.

14.10 Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

14.11 Costs and Attorneys' Fees. In any action or proceeding under this Declaration, the prevailing party shall recover its costs and expenses in connection therewith including reasonable attorneys' fees and costs.

14.12 Limitation on Liability. The Association, the Executive Board, the Solitude Colorado Design Review Committee, Declarant and any agent or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

14.13 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to carry out the purpose of this Declaration.

14.14 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

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

14.16 Number and Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine, or neuter genders shall each include the masculine, feminine, and neuter genders.

14.17 Captions for Convenience. The titles, headings, and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

14.18 Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may be transferred by operation of law to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added by operation of law to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving consolidated association may administer and enforce the covenants, conditions, and restrictions established by this Declaration governing the Community, together with the covenants and restrictions established upon any other property, as one plan.

14.19 Exhibits Incorporated. All Exhibits to this Declaration are incorporated herein and made a part hereof as if fully set forth herein.

14.20 Disclaimer Regarding Safety. DECLARANT HEREBY DISCLAIMS ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. ANY OWNER OF PROPERTY WITHIN THE COMMUNITY ACKNOWLEDGES THAT DECLARANT IS ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND IS NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

14.21 No Representations or Warranties. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, SHALL BE DEEMED TO HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMUNITY, OR ANY IMPROVEMENT THEREON, ITS OR THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, UNLESS AND EXCEPT AS SHALL BE SPECIFICALLY SET FORTH IN WRITING IN A SEPARATE DOCUMENT.

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IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

CHEROKEE KOELBEL, LLC,
a Delaware limited liability company

BY: KOELBEL AND COMPANY,
a Colorado corporation, Manager

By: Walter A. Koelbel, Jr.
Title: President

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 13th day of January, 2005, by Walter A. Koelbel, Jr. as President of Koelbel and Company, a Colorado corporation, Manager of Cherokee Koelbel, LLC, a Delaware limited liability company.

WITNESS my hand and official seal.

My commission expires 09/12/08.



Suzanne K Hobbs
Notary Public

EXHIBIT A

Legal Description of Real Estate

Tracts A, C, D, E, F, G, I, J, K, L, M and P, Solitude Colorado Rural Site Plan recorded
January 13, 2005 at Reception Number 2005004587 in the Office of the Clerk and
Recorder, County of Douglas, State of Colorado

EXHIBIT B

Annexable Real Estate

Parcels 1 through 64, and Tracts H, N and O, Solitude Colorado Rural Site Plan recorded January 13, 2005 at Reception Number 2005004587 in the Office of the Clerk and Recorder, County of Douglas, State of Colorado

EXHIBIT C

Common Areas

- Tracts A, C, D, E, F, G, I, J, K, L, M and P, Solitude Colorado Rural Site Plan recorded January 13, 2005 at Reception Number 2005004587 in the Office of the Clerk and Recorder, County of Douglas, State of Colorado
- Access, drainage and utility easements, according to the Solitude Colorado Rural Site Plan recorded January 13, 2005 at Reception Number 2005004587 in the Office of the Clerk and Recorder, County of Douglas, State of Colorado.

EXHIBIT D

Easements and Licenses

1. The right of the proprietor of a vein or lode to extractor remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded June 23, 1881 in Book K at Page 494, and any and all assignments thereof or interests therein.
(affects NE1/4 Sec 19)
2. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded May 18, 1887 in Book P at Page 44, and any and all assignments thereof or interests therein.
(affects NE1/4 Sec 24)
3. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded July 6, 1892 in Book P at Page 121, and any and all assignments thereof or intersects therein.
(affects N1/2 NE1/4; NE1/4 NW1/4 Sec 30 & SE1/4 SW1/4 Sec 19)
4. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded September 10, 1886 in Book P at Page 370, and any and all assignments thereof or interests therein.
(affects W1/2 SW1/4 Sec 19)
5. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded July 11, 1889 in Book P at Page 384, and any and all assignments thereof or interests therein.
(affects E1/2 SE1/4 Sec 24 & N1/2 SW1/4 Sec 19)
6. The right of the proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patent recorded January 17, 1891 in Book X at Page 8, and any and all assignments thereof or interests therein.
(affects SE1/4 Sec 19)
7. Right-of-way for Last Chance Ditch as shown in instrument recorded March 24, 1924 in Book 75 at Page 47.
(affects part SE1/4 NW1/4 Sec 19)

8. Reservation of undivided one-half interest in all oil, gas or other minerals in and under the described real estate as contained in warranty deed recorded June 2, 1954 in Book 110 at Page 285, and any and all assignments thereof or interest therein.
9. Right-of-way for Last Chance Ditch No. 2 & 3 in instrument filed August 5, 1954 at Reception No. 94730.
(affects part N1/2 NE1/4; NE1/4 NW1/4 Sec 24)
10. An easement for communication and incidental purposes granted to Public Service Company of Colorado by the instrument recorded May 21, 1973 in Book 246 at Page 843, upon the terms and conditions set forth in the instrument, over a portion of the land.
(affects part SE1/4 Sec 19)
11. Reservation of all minerals, including but not limited to oil, gas, gravel, building stone, including minerals removable by surface or open pit mining, underground mining, in situ methods or heap leaching, as contained in deed recorded November 19, 1996 in Book 1387 at Page 1686, and any and all assignments thereof or interest therein.
12. Terms, conditions, provisions, agreements and obligations specified under the Agreement, which was recorded March 6, 2000 in Book 1816 at Page 1700.
13. Any rights, interest, or easements in favor of the United States, the State of Colorado or the public, which exist or are claimed to exist in and over the present and past bed, banks, or waters of East Plum Creek.
14. Terms, agreements, provisions, conditions and obligations of a Ground lease, executed by Cherokee Ranch, Inc., a lessor(s), and Cooley Gravel Company, as lessee(s), recorded May 15, 1987 in Book 721 at Page 46, and recorded May 21, 1990 in Book 912 at Page 1045, and any and all parties claiming by, through or under said lessee(s).
15. Terms, conditions, provisions, agreements and easements specified under the Grant of Easement, which was recorded June 15, 2000 in Book 1857 at Page 1344.
16. Terms, conditions, provisions, agreements and easements specified under the Grant of Easement, which was recorded June 15, 2000 in Book 1857 at Page 1351.
17. Terms, conditions, provisions, agreements and obligations specified under the Memorandum of Contract, which was recorded June 15, 2000 in Book 1857 at Page 1361.
18. All water and water rights, ditches and ditch rights, reservoir rights, springs and seeps, whether adjudicated or unadjudicated, conditional or absolute, surface or underground as conveyed to Cherokee Koelbel, LLC in deed recorded August 20, 2002 at Reception No. 2002083016.
19. An undivided ½ interest in all oil, gas and other mineral rights as reserved in deed recorded December 31, 1979 in Book 379 at Page 466, and any and all assignments thereof or interests therein.

20. Easement for ingress and egress over a westerly portion of subject property granted to Chase Manhattan Mortgage Corporation in instrument recorded May 17, 1996 in Book 1342 at Page 929.
21. Easement for ingress and egress over a westerly portion of subject property granted to The Women's Bank, N.A., in Instrument recorded December 22, 1997 in Book 1495 at Page 1867.
22. Easement for ingress and egress over a westerly portion of subject property granted to Nancy Leprino in deed of trust recorded March 3, 2000 in Book 1816 at Page 127.
23. One-half interest in all mineral rights as reserved by Laura C. Scott in deed recorded October 9, 1970 in Book 210 at Page 200, and any and all assignments thereof or interests therein.
24. The effect of the inclusion of the subject property in the West Douglas County Fire Protection District, as disclosed by the instrument recorded May 21, 1980 in Book 387 at Page 523 and May 19, 1980 in Book 387 at Page 779.
25. Deed of Trust from Bradley K. Brown, to the public trustee of Douglas County, for the benefit of Chase Manhattan Mortgage Corporation, securing an original principal indebtedness of \$377,000.00, and any other amounts and/or obligations, dated December 17, 1997, and recorded December 22, 1997 in Book 1495 at Page 1867. (affects easement parcel only of part of NW1/4 Sec 24)
26. Terms, conditions, provisions, agreements and easements specified under the Access Easement, which was recorded January 28, 2001 in Book 1950 at Page 1493.
27. Terms, conditions, provisions, agreements and obligations specified under the Grazing Easement and Use Restriction, which was recorded January 18, 2001 in Book 1950 at Page 1510.
28. The effect of the inclusion of the subject property in the Solitude Metropolitan District, as disclosed by the instrument recorded December 5, 2002 at Reception No. 2002132566.
29. An easement for gas pipeline and incidental purposes granted to Public Service Company of Colorado by the instrument recorded July 22, 2003 at Reception No. 2003109215, upon the terms and conditions set forth in the instrument, over a portion of the land.
30. Terms, conditions, provisions, agreements and obligations specified under the Conservation Easement, which was recorded January 13, 2005 at Reception No. 2005004588.