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William Lyon Homes

8480 E. Orchard Road, Suite 1000

Greenwood Village, CO 80111

Attn: Rob Johnson

DECLARATION OF COVENANTS AND RESTRICTIONS OF DENVER CONNECTION WEST

THIS DECLARATION OF COVENANTS AND RESTRICTIONS OF DENVER CONNECTION WEST ("**Declaration**," as hereinafter more fully defined) are made and entered into the date and year hereinafter set forth by William Lyon Homes, Inc., a California corporation ("**Developer**," as hereinafter more fully defined).

WITNESSETH:

WHEREAS, Developer is the owner of that certain real property in the City and County of Denver ("**City**"), State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference (the "**Property**," as hereinafter more fully defined); and

WHEREAS, the Developer desires to subject and place upon the Property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions; and

WHEREAS, this Declaration does not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act ("**Act**") at C.R.S. §38-33.3-103(8); therefore, this Declaration is not governed by the Colorado Common Interest Ownership Act; and

WHEREAS, pursuant to C.R.S. § 32-1-1004(8), and other provisions of Title 32 of C.R.S., it is the intention of the Developer to empower the Metropolitan District (as hereinafter defined) to provide certain services to the residents of the Metropolitan District (collectively, the "**Services**," as hereinafter more fully defined), which may include, without limitation, covenant enforcement, design review, common area maintenance trash collection and recycling.

NOW, THEREFORE, Developer hereby declares that the Property shall be held, sold, and conveyed, subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities, and other provisions, as set forth herein.

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GENERAL

A. The Community. As described in the Recitals above, Developer is the owner of that certain real property located in the City as more particularly described on Exhibit A attached hereto and by this reference incorporated herein, which real property collectively constitutes and is defined in this Declaration as the "Property". Developer intends to develop a portion of the Property as a planned community of single family detached residential homes and related uses, and a portion of the Property as a planned community of single family attached residential homes. The name of the community to be developed on the Property is "Avion at Denver Connection". All of the Property is located within the Denver Connection West Metropolitan District, a special district and political subdivision of the State of Colorado (defined herein as the "**Metropolitan District**"). Because ownership of a Unit (as defined below) does not obligate the owner to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration, this Declaration does not create a "common interest community" as defined in the Colorado Common Interest Ownership Act ("**Act**"), and does not subject the Property to the Act. Developer confirms its intention that the Act will not apply to this Declaration. That portion of the Property that is being developed as a planned community of single family attached residential homes will also be subject to and governed by a separate common interest community declaration and owner's association established in accordance with the Act.

B. Purposes of Declaration. This Declaration is executed (a) to further a common and general plan for the development of the Property, as hereinafter defined; (b) to protect and enhance the quality, value, aesthetics, desirability and attractiveness of the Property; (c) to provide for and define certain duties, powers and rights of the Architectural Review Committee, as defined herein; (d) to define certain duties, powers and rights of the Metropolitan District under this Declaration; and (e) to define certain duties, powers and rights of Owners (as defined below) within the Property.

C. Declarations. Developer, for itself and its successors and assigns, hereby declares that the Property, and all property that becomes subject to this Declaration in the manner hereinafter provided from the date the same becomes subject to this Declaration, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration. The provisions of this Declaration run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of: (a) the Property and all property that becomes part of the Property; (b) Developer and its successors and assigns; (c) the Metropolitan District and its successors and assigns; and (d) all Persons having or acquiring any right, title or interest in any portion of the Property or in any property that becomes part of the Property, or any Improvement (as defined below) thereon, and their heirs, personal representatives, successors or assigns. This Declaration will be recorded in the real property records of the City.

ARTICLE 1. DEFINITIONS

Section 1.1. *ARC.*

“**ARC**” means the Architectural Review Committee appointed by the Developer until conveyance of all of the Units to the first Owners thereof, other than the Developer or any Builder (as defined below) or any other Person (as defined below) who acquires one or more Lots for the purpose of constructing single family detached or single family attached residential dwellings thereon, and thereafter appointed by the Metropolitan District, all as provided in Section 2.1 of this Declaration. The ARC shall review, consider and approve, or disapprove, requests for architectural approval, as more fully provided in this Declaration.

Section 1.2. *Builder.*

“**Builder**” means any Person who: (i) acquires one or more Lots for the purpose of constructing single family detached or single family attached residential dwellings on each such Lot for sale, and/or rental, to the public, and/or (ii) acquires one or more Lots for sale to any Person fitting the description in clause (i) above; and is designated as a “**Builder**” under this Declaration in a written designation that is signed by the then-Developer and recorded in the office of the Clerk and Recorder of the City.

Section 1.3. *Declaration.*

“**Declaration**” means this Declaration of Covenants and Restrictions of Denver Connection West, as amended and supplemented from time to time.

Section 1.4. *Developer.*

“**Developer**” means William Lyon Homes, Inc., a California corporation, and/or any other Person to whom the Developer may assign one or more of the Developer's rights under this Declaration (which will be the extent of the Developer's rights to which such assignee succeeds); provided, that no assignment of any Developer rights is effective unless such assignment is duly executed by the assignor Developer and recorded in the office of the Clerk and Recorder of the City.

Section 1.5. *Governing Documents.*

“**Governing Documents**” means this Declaration, any Guidelines (as hereinafter defined), any Rules and Regulations (as hereinafter defined), and any other documents now or hereafter adopted by or for the Metropolitan District or ARC, as amended and supplemented.

Section 1.6. *Improvements.*

“**Improvements**” means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, including but not limited to buildings, outbuildings, swimming pools, hot tubs, satellite dishes, tennis courts, patios, patio covers, awnings, porches, solar collectors, painting or other finish materials on any visible structure or item,

additions, walkways, sprinkler systems, garages, driveways, dog runs, fences, gates in fences, fence posts, swing sets and other play structures, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, groundcover, exterior light fixtures, poles, signs, exterior tanks, exterior air conditioning, cooling, heating and water softening equipment.

Section 1.7. *Lot.*

“**Lot**” means a portion of the Property that has been subdivided and is designated as a lot or parcel on a recorded subdivision plat or land survey plat and which is intended for the construction of a single family residential dwelling unit thereon.

Section 1.8. *Metropolitan District.*

“**Metropolitan District**” means Denver Connection West Metropolitan District, and/or any other metropolitan district(s), to which the then-Metropolitan District may transfer or assign any or all of the rights and duties of the Metropolitan District under this Declaration. Each such assignment or transfer, if any, shall be effective upon recording in the City, of a document of transfer or assignment, duly executed by the Denver Connection West Metropolitan District. The Denver Connection West Metropolitan District is considered the “**Metropolitan District**” for all purposes of this Declaration, unless it has transferred and assigned its rights and duties by document recorded in the real property records of the City. In addition to the authority to provide the Services (as defined in Section 1.12), the Metropolitan District has such other authority with respect to the provision of Services as may be permitted by the Special District Act, C.R.S. 32-1-101 et seq., including but not limited to the right to adopt rules and regulations, fees, rates, tolls, penalties and charges, and undertake enforcement actions (but this Declaration does not limit in any way the authority of the Metropolitan District under the statutes of the State of Colorado), subject to any limitations set forth in the Service Plan of the District.

Section 1.9. *Owner.*

“**Owner**” means each fee simple title holder of a Unit, including Developer, any Builder and any other Person who owns a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation.

Section 1.10. *Person.*

“**Person**” means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof, and includes each Owner, the Developer, each Builder, the ARC, a homeowners association created for any portion of the Property, the Metropolitan District, and the governing body of the Metropolitan District.

Section 1.11. *Property.*

“Property” means the real estate described on the attached Exhibit A, as the same may be supplemented and amended from time to time, as the same may now or hereafter be improved, and as the Developer or other person may now or hereafter subdivide or re-subdivide any portion thereof; provided, however, that the **“Property”** shall not include any property that has been withdrawn as provided in Section 5.10 hereof or any publicly-owned property.

Section 1.12. *Services.*

“Services” means the services that the Metropolitan District is empowered to provide pursuant to its Service Plan and C.R.S. §32-1-1004, as amended, and other provisions of Title 32 of C.R.S., as amended, including covenant enforcement and design review.

Section 1.13. *Unit.*

“Unit” means a Lot that may be sold or conveyed without violation of the provisions of law pertaining to the subdivision of land and which is intended for the construction of one single family residence thereon, including each such residence (attached or detached) and all exterior improvements and landscaping now or hereafter located thereon.

ARTICLE 2. ARCHITECTURAL REVIEW

Section 2.1. *Composition of ARC.*

The ARC shall consist of three (3) or more natural Persons. The governing board of the Metropolitan District (the **“Board”**) has the authority to appoint the ARC and/or to delegate some or all architectural authority (as provided in Section 2.2 hereof).

Section 2.2. *Delegation of Some or All Architectural Authority.*

The Person with the authority to appoint the ARC, as provided in the preceding Section 2.1, has the right and authority to: (i) delegate, in writing, some or all architectural authority, to one or more other Persons, including one or more management companies, by entering into an agreement(s) or other document(s); and (ii) withdraw, in writing, any delegated authority.

Section 2.3. *Architectural Review Requirements; Authority of the ARC.*

2.3.1. No Improvements which constitute a part of a Unit which are constructed, installed or altered after the completion of construction of the Unit, including the initial residential building and the landscaping that constitutes the Unit, and the issuance of a certificate of occupancy for such initial construction, may be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot and no Person shall disturb the subsurface of the land beneath any Unit, unless said Improvements or plans for disturbance of the subsurface are in full compliance with all provisions of the Governing Documents, and unless such Improvements are approved in writing by the ARC, or exempt from approval under any Guidelines adopted pursuant to Section 2.4 of this Declaration. At least one (1) set of complete plans and specifications of the proposed Improvements (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location,

size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the ARC), and a written description of any intended disturbance of the subsurface of the land beneath a Unit must first be submitted to the ARC for review and consideration.

2.3.2. The ARC shall endeavor to exercise its judgment in an attempt to provide for each proposed Improvement to generally harmonize with the existing surroundings, residences, landscaping and structures. However, the ARC shall not review or approve any proposed Improvements regarding whether the same complies with governmental requirements. Rather, as provided in Section 2.3.3, below, the applicant is also required to submit proposed Improvements to the applicable governmental entities for a determination of compliance with governmental requirements. In its review of such plans, specifications and other materials and information, the ARC may require, as a condition to its considering an approval request, that the applicant(s) pay, and/or reimburse the ARC, for the expenses incurred in the process of review and approval or disapproval.

2.3.3. In addition to the foregoing review and approval, and notwithstanding anything to the contrary in this Declaration, the construction, erection, addition, deletion, change or installation, of any Improvements also requires the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and requires issuance of all required permits, licenses and approvals by all such entities.

2.3.4. In addition to the authority that is given to the ARC in this Declaration, as well as such authority as may be implied from any provision(s) of this Declaration, the ARC has all authority and powers not in conflict with this Declaration that are given by Colorado statute and/or case law, to a corporation, a limited liability company, or any other legal entity. The foregoing shall include the power to receive and review complaints from one or more Owners, Developer, one or more Builders, or any other Person(s), alleging that a violation of any of the Governing Documents has occurred or is occurring.

2.3.5. The ARC may, at any time, appoint a representative or committee to act on its behalf. If so, then the actions of such representative or committee shall be the actions of the ARC. However, if such a representative or committee is appointed, then the ARC will have full power over such representative or committee, including the power to at any time withdraw from such representative or committee, any authority to act on behalf of the ARC, and the power to at any time remove or replace such representative or committee.

Section 2.4. *Guidelines.*

The Developer may promulgate, adopt, enact, modify, amend, repeal, and re-enact, architectural standards, rules, regulations and/or guidelines, regarding architectural matters and matters incidental thereto for Denver Connection West (collectively the “**Guidelines**”) and the Metropolitan District, once it has the authority to appoint the ARC as provided in Section 2.1 of this Declaration, and may modify, amend, repeal, and re-enact the Guidelines, but the Guidelines may not conflict with this Declaration and any modification, amendment, repeal, or re-enactment

the Guidelines shall require the prior written approval of the Developer for a period of time expiring on the first to occur of twenty (20) years after the date that this Declaration is recorded in the real property records of the City, or until Developer, its successors and assigns, no longer own any portion of the Property, or until Developer relinquishes such right by instrument recorded in the real property records of the City. The Guidelines may include: clarifying the designs and materials that may be considered in architectural approval; requirements for submissions, procedural requirements, specification of acceptable Improvement(s) that may be installed without prior review or approval; and permitting the ARC, with respect to any violation(s) or alleged violation(s) of any of the Governing Documents, to send demand letters and notices, levy and collect fines and interest, and negotiate, settle and take any other actions. In addition, the Guidelines may provide for blanket approvals, interpretations, or restrictions. By way of example, and not by way of limitation, the Guidelines may state that a certain type of screen door will be acceptable and will not require approval, or may state that only one or more types of fences are acceptable and no other types will be approved, or may allow vegetable gardens without requiring any approvals. All Improvements proposed to be constructed must conform substantially to the requirements of this Declaration and the Guidelines. The Guidelines (as amended from time to time in accordance with their terms) may not be recorded against the Property but are hereby incorporated into this Declaration as if fully set forth herein.

Section 2.5. *Procedures.*

The ARC shall review each request for architectural approval in accordance with the design review procedures set forth in the Guidelines or the Rules and Regulations and approve (which may be with conditions and/or requirements), or disapprove, each request for architectural approval in writing within forty-five (45) days after the complete submission to the ARC of the plans, specifications and other materials and information, which the ARC may require in conjunction therewith. If the ARC fails to give its written approval or disapproval within forty-five (45) days after the complete submission, that has been acknowledged by the ARC by written receipt, of all plans, specifications, materials and other information with respect to a written request for architectural approval, then such request is deemed approved by the ARC.

Section 2.6. *Vote.*

The affirmative, majority vote of the ARC shall be required for approval (which may be with conditions and/or requirements) of each matter, unless the ARC has appointed a representative or committee to act for it, in which case the written decision of such representative or committee shall control, unless the denial of the ARC is appealed by the applicant to the Board of the Metropolitan District within thirty (30) days of the date of the ARC written decision of denial in which case the written decision of the Board of the Metropolitan District shall control.

Section 2.7. *Prosecution of Work After Approval.*

After the ARC approves (which may be with conditions and/or requirements) any proposed Improvement, the proposed Improvement must be constructed, installed and completed as promptly and diligently as possible, and in complete conformity with all conditions and requirements of the

approval. Failure to complete the proposed Improvement within the time period set forth in the Guidelines or, if not set forth in the Guidelines, then one (1) year after the date of approval of the application, or to complete the Improvement in complete conformance with the conditions and requirements of the approval, constitutes non-compliance; provided, however, that the ARC may grant extensions of time for completion of any proposed Improvements, either (a) at the time of initial approval of such Improvements, or (b) upon the request of any Owner, provided such request is delivered to the ARC in writing and the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made.

Section 2.8. *Notice of Completion.*

Upon the completion of an Improvement, the applicant for approval of the same shall give a written “**Notice of Completion**” to the ARC (in form and substance acceptable to the ARC, or on forms provided by ARC). Until the date of receipt of such Notice of Completion, the ARC shall not be deemed to have notice of completion of any Improvement on which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

Section 2.9. *Inspection of Work.*

The ARC, or its duly authorized representative, has the right to inspect any Improvement at any time, including prior to or after completion, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. Such inspections may be made in order to determine whether or not the proposed Improvement is being completed, or has been completed, in compliance with the approval granted pursuant to this Article. However, such right of inspection terminates ninety (90) days after the ARC has received a Notice of Completion from the applicant, provided that no action has been initiated by the ARC within that ninety (90) day period. The ninety (90)-day period to perform inspections after the ARC has received a Notice of Completion does not apply to or limit the right or authority of the ARC or the Board of the Metropolitan District to enforce this Declaration, including but not limited to the requirements pertaining to the maintenance of Improvements.

Section 2.10. *Notice of Non-compliance.*

If, as a result of inspections or otherwise, the ARC determines that any Improvement has been done without obtaining all required approvals (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or is not in compliance with the Guidelines, or has not been completed within the time period set forth in the Guidelines or, if a time period is not specified in the Guidelines then within one (1) year after the date of approval (except landscaping, as provided below), subject to any extensions of time granted pursuant to Section 2.7 hereof, or for any other reason(s), then the ARC shall notify the applicant in writing of the non-compliance. The ARC must give such notice of non-compliance no later than sixty (60) days after the occurrence of either of the following events (as applicable), (a) the ARC receives a Notice of Completion from the applicant, or (b) the ARC discovers any such noncompliance. The notice of non-compliance must specify the particulars of the non-compliance.

Section 2.11. *Correction of Non-compliance.*

If the ARC determines that a non-compliance exists, the Person responsible for such non-compliance shall remedy or remove the same within the time period set forth in the Guidelines or, if not set forth in the Guidelines, then not more than forty-five (45) days from the date of receipt of the notice of non-compliance. If such Person does not comply with the ruling within such period, the ARC may, at its option, record a notice of non-compliance against the Unit on which the non-compliance exists, may impose fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Person responsible for such non-compliance shall reimburse the ARC, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto. This Section 2.11 does not prohibit composting to the extent that it has been approved by the ARC or it is being conducted in accordance with adopted Guidelines.

Section 2.12. *Cooperation.*

The ARC has the right and authority to enter into agreements and otherwise cooperate with any architectural review or similar committees, any metropolitan or other districts, or one or more boards or committees that exercise architectural or design review functions, or any other Person, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the ARC. The costs and expenses for all such matters, if any, shall be shared or apportioned between such Persons and the ARC, as the ARC may determine. The foregoing includes collection, payment, and disbursement of fees, charges, and/or any other amounts.

Section 2.13. *Access Easement.*

The Developer hereby reserves, and each Owner hereby grants, to the ARC, the Metropolitan District and the Person who then has the authority to appoint the ARC, as provided in Section 2.1 of this Declaration, including the agents, employees and contractors of each such Person (including the ARC), on, over, under and across the Lots, and each of them, excluding the interior of any residence thereon, easements for performing any of the actions contemplated in the Governing Documents, including inspections pursuant to Section 2.9 of this Declaration, and including enforcement of each of the terms and provisions of the Governing Documents. If damage is inflicted on any property or Unit, or a strong likelihood exists that damage will be inflicted, then the Person responsible for such damage, or expense to avoid damage, is liable for the cost of prompt repair. The use of "Person" in the preceding sentence includes the ARC and the Person who then has the authority to appoint the ARC, as provided in Section 2.1 of this Declaration, if they are responsible for such damage or expense to avoid damage. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Unit; except that no such notice shall be required in connection with any exterior, non-intrusive inspections and maintenance; and except that, in emergency situations, entry upon a Lot may be made at any time, provided that the Owner(s) or occupant(s) of each affected Lot shall be notified of emergency entry as early as is

reasonably possible. The interior of any residence is not subject to the easements that are provided for in this Section.

Section 2.14. *Utility Easement.*

Each Developer hereby intends hereby to create, and this Declaration does create, a blanket easement upon, across, over and under that portion of the Property owned by a Developer for utilities and the installation, replacement, repair and maintenance of utilities facilities, including, but not limited to, such facilities for providing and/or metering utility services to the Property or any Lots and/or Units thereon, such as water, sewer, 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 necessary facilities, equipment and appurtenances on the Property and to install, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company, or Metropolitan District furnishing a service or monitoring a service covered by the general easement created herein requests a specific easement by separate recordable document, Developer reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms hereof; provided, however, that such right and authority shall cease and terminate upon the earlier of twenty (20) years after recordation of this Declaration in the real property records of the City, or conveyance by all Developers of the last Unit to the first Owner thereof (other than Developer). The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s), and does not apply to the area of a Lot occupied by the footprint of any building constructed on a Lot.

Section 2.15. *No Liability.*

The ARC, the Metropolitan District, the Person who then has the authority to appoint the ARC, as well as any representative or committee appointed by the ARC, is not liable in equity or damages to any Person by reason of any action, failure to act, approval (which may be with conditions and/or requirements), disapproval, or failure to approve (which may be with conditions and/or requirements) or disapprove, in regard to any matter. In reviewing or approving any matter, the ARC is not responsible for the safety, whether structural or otherwise, of the Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor compliance with any other standards or regulations, and any approval (which may be with conditions and/or requirements) of an Improvement by the ARC does not constitute an approval of any such matters and does not constitute a warranty by the ARC to any applicant of the adequacy of design, workmanship or quality of such work or materials for any applicants' intended use. No Owner or other Person is a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by, the ARC.

Section 2.16. *Variance.*

The ARC may grant reasonable variances or adjustments from any conditions and restrictions imposed by Article 2 of this Declaration, or by the Guidelines, in order to overcome

practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments may be granted only in case the granting thereof is not materially detrimental or injurious to the other property or improvements in the neighborhood, and does not militate against the general intent and purpose hereof. However, any variance that may be granted under this Section is only a variance from the requirements of the applicable Governing Document for the individual application, and is not a variance from the requirements of any applicable governmental or quasi-governmental agency or entity. No granting of a variance or adjustment to any one applicant/Owner constitutes a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants/Owners.

Section 2.17. *Waivers; No Precedent.*

The approval or consent of the ARC, or any representative or committee thereof, to any application for approval does not constitute a waiver of any right to withhold or deny approval or consent by such Person, or any Person, as to any application or other matters whatsoever, as to which approval or consent may subsequently or additionally be required. Nor does any such approval or consent constitute a precedent as to any other matter.

Section 2.18. *Developer and Builder Exemption.*

2.18.1. Notwithstanding anything to the contrary, the Developer is exempt from this Article and all provisions of the Governing Documents that require ARC review and/or approval, except for the requirement to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 2.3.3 of this Declaration).

2.18.2. Notwithstanding anything to the contrary, as long as, and to the extent that, a Builder has received written architectural approval from the Developer for one or more matters, such Builder is, as to Developer-approved Improvements, exempt from this Article and all provisions of the Governing Documents that require ARC review and/or approval of such matters, except for the requirement to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 2.3.3 of this Declaration).

2.18.3. Further, the Developer shall have the sole authority under this Declaration to review and approve the design and architecture for the construction of the initial residential building, landscaping and other exterior improvements that constitute a Unit until such time as the initial construction of the Unit is complete and a certificate of occupancy has been issued for such initial construction and the Unit is transferred to a third party purchaser. Thereafter, no Improvements which constitute a part of a Unit may be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot unless such Improvements are approved by the ARC as provided in Section 2.3 of this Declaration.

ARTICLE 3. RESTRICTIONS

Section 3.1. *General.*

The Property is subject to all covenants, conditions, restrictions, requirements, easements, licenses, and other provisions of all documents recorded against the Property in the office of the Clerk and Recorder of the City, including those stated on the recorded plats of the Property, or any portion thereof, but only as and to the extent provided in such documents. In addition, the Developer declares that, subject to Section 5.4 hereof, the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 3.2. *Compliance with Law.*

All Owners, and all other Persons, who reside upon or use any Unit or any other portion of the Property, shall comply with all applicable statutes, ordinances, laws, regulations, rules and requirements of all governmental and quasi-governmental entities, agencies and authorities; provided however, neither the Developer, the ARC or the Metropolitan District shall have any obligation or duty hereunder to enforce this Section 3.2 or compliance with governmental statutes, ordinances, laws, regulations.

Section 3.3. *Residential Use; Professional or Home Occupation.*

Subject to Section 5.4 of this Declaration, Units shall be used for residential use only, including uses which are customarily incident thereto, and may not be used at any time for business, commercial or professional purposes except that Owners may conduct home occupations and professional and business activities within their residences to the extent permitted by, and in compliance with, the ordinances of the City and any Guidelines and Rules and Regulations that do not conflict with such ordinances.

Section 3.4. *Animals.*

No animals, livestock (pigs, cattle, horses, goats, lamas, etc.), birds, poultry, reptiles or insects of any kind may be raised, bred, kept or boarded in or on the Units except as permitted by, and in compliance with, the ordinances of the City, as applicable, and any Guidelines and/or the Rules and Regulations that do not conflict with such the ordinances of the City, as applicable. An Owner's right to keep household pets is coupled with the responsibility for collecting and properly disposing of any animal waste and to pay for all damage caused by such pets.

Section 3.5. *Temporary Structures; Unsightly Conditions.*

Except as hereinafter provided, no structure of a temporary character, including a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected on any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures, offices and trailers for construction, marketing or

storage of materials may be erected and maintained by the Person doing such work. The work of constructing, altering or remodeling any structure or other Improvements must be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects, shall be so located on a Lot as to be visible from a street or from any other Unit.

Section 3.6. *Miscellaneous Improvements.*

3.6.1. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit or Lot other than (i) political signs, (ii) a name plate of the occupant, (iii) identification signage naming the community, (iv) a street and building number, (v) "For Sale," "Open House," or security sign of not more than five (5) square feet in the aggregate; and (vi) signs advertising Unit rentals, garage sales, block parties, or similar community events that comply with any Guidelines that may be adopted pertaining to signage. Notwithstanding the foregoing, any signs, billboards or other advertising may be used by the Developer or by any Builder (with the prior, written approval of the Developer), without regard to the foregoing or any limitations, requirements, specifications or other provisions of the Governing Documents, the ARC, or the Metropolitan District, and without any approval (except as stated earlier in this sentence).

3.6.2. Wood piles or storage areas are not permitted on any Lot so as to be visible from a street or from the ground level of any other Unit.

3.6.3. No types of refrigerating, cooling or heating apparatus are permitted on a roof, except as permitted by law, and then only with the prior, written approval of the ARC. Further, no such apparatus is permitted elsewhere on a Lot except when installed in the location where such apparatus was installed as part of the original construction of the residence on the Lot or otherwise when appropriately screened and approved in writing by the ARC.

3.6.4. No exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on a Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Developer or by any Builder during its sales or construction; and provided further, however, that the requirements of this subsection do not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended. As to "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended, the ARC is empowered to adopt Rules and Regulations governing the types of "antenna" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or applicable regulations, as amended, establish reasonable, non-discriminatory restrictions relating to appearance, safety, location, maintenance, and other matters.

3.6.5. No fences, other than fences constructed or installed by the Developer or a Builder (with the prior, written approval of the Developer), are permitted, except with the prior, written approval (which may be with conditions and/or requirements) of the ARC. Any fence(s) constructed on a Lot, including, without limitation, any fencing slats and support columns, shall be maintained, repaired and replaced by the Owners of such Lot.

3.6.6. The ARC may not effectively prohibit renewable energy generation devices or the installation of or use of any energy efficient measures, provided that the ARC may adopt reasonable aesthetic rules and regulation concerning dimension, placement or external appearance of such devices or measures to the extent such rules and regulations do not conflict with or violate applicable laws.

Section 3.7. *Vehicular Parking, Storage and Repairs.*

3.7.1. Mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, recreational vehicles and boat trailers may only be parked in enclosed garages or specific areas, if any, which may be designated by the ARC, but this restriction shall not prevent the parking of such vehicles as a temporary expedient for loading, delivery or emergency. Stored vehicles and vehicles which are inoperable or do not have current operating licenses are not permitted on the Property except within enclosed garages. For purposes of this Section, the ARC may determine whether a vehicle is considered "stored". For example, a vehicle may be considered to be "stored" if it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours without the prior approval (which may be with conditions and/or requirements) of the ARC.

3.7.2. No activity, including maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Property unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. Any Owner or other Person undertaking any such activities shall be solely responsible for, and assumes all risks of, such activities, including adoption and utilization of any and all necessary safety measures, precautions and ventilation. However, the foregoing restrictions do not prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle on a Unit, together with those activities normally incident and necessary to such washing and polishing.

3.7.3. In the event the ARC or the Board of the Metropolitan District determines that a vehicle is parked or stored in violation of subsections 3.7.1 or 3.7.2 hereof, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the ARC or the Board of the Metropolitan District, then the ARC or the Board of the Metropolitan District may have the vehicle removed at the sole expense of the owner thereof.

3.7.4 Garages shall not be converted for habitable living space or for storage which prevents the parking of automobiles therein. No Owner or occupant of a Unit and no invitee of an Owner or occupant shall park or permit to be parked any vehicle upon any street or driveway or elsewhere in such a manner as to block, impair or impede access to and from another Owner's garage.

3.7.5 DEVELOPER, EACH BUILDER, THE METROPOLITAN DISTRICT, AND THE ARC, HEREBY DISCLAIM ANY AND ALL OBLIGATIONS REGARDING, RELATING TO OR ARISING OUT OF, THE PERFORMANCE OF ANY MAINTENANCE, SERVICING, REBUILDING, REPAIR, DISMANTLING, OR REPAINTING OF ANY TYPE OF VEHICLE, BOAT, TRAILER, MACHINE OR DEVICE OF ANY KIND, BY ANY OWNER OR OTHER PERSON.

Section 3.8. *Nuisances.*

No nuisance is permitted which is visible within or otherwise affects any portion of the Property, nor any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any Unit, or any portion thereof, by its residents. Construction activity performed by the Developer, approved Builders', the Metropolitan District or any entity approved by the ACR performing activities related to development of the property and/or Units, Lot or other structures are exempt from this section.

Section 3.9. *No Hazardous Activities; No Hazardous Materials or Chemicals.*

No activities shall be conducted on any Unit or Lot which are unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged, and no open fires shall be lighted or permitted on any Unit or Lot (except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace or outdoor fire pit powered by natural gas, propane or something similar). Further, no hazardous materials or chemicals shall at any time be located, kept or stored, except such as may be contained in household products normally kept at homes for use of the residents thereof, and in such limited quantities, or with respect to home occupations as may be necessary for the conduct of a permitted business activity so long as such material is lawfully kept in accordance with all applicable governmental laws and regulations, so as not to constitute a hazard or danger to person or property.

Section 3.10. *Lights, Sounds and Odors.*

No light shall be emitted which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be permitted from any Unit which is noxious or interferes with the reasonable and peaceful enjoyment or possession of another Unit by occupant thereof.

Section 3.11. *Restrictions on Trash and Materials.*

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on a Lot or a

street, unless placed in a suitable covered container or trash bin that is suitably located solely for the purpose of trash or recycling pickup. Further, no trash or materials shall be permitted to accumulate in such a manner as to be visible from any Unit. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No trash cans, trash bins or other trash or recycling receptacles shall be maintained in an exposed or unsightly manner. Finally, trash removal and recycling services may be subscribed to by the Metropolitan District on behalf of the residents of all or any portion of the Property and, if so, the Board of the Metropolitan District may determine the scope, frequency, and all other matters, with regard to such trash removal and recycling services; and the Owners shall pay their proportionate share of such trash removal and recycling services, as determined by the Board of the Metropolitan District. This section shall not be construed to prevent composting.

Section 3.12. *Units to be Maintained.*

Subject to Section 3.5 hereof, each Lot (including adjacent tree lawn area(s)) and the Improvements thereon shall at all times be maintained, repaired and replaced in a good, clean and sightly condition by the Owners of such Lot. Any concrete foundation components and concrete post-tension slab that is installed as part of the construction of any Units on the Property or any geogrid extending underground from any retaining wall on or adjacent to a Lot shall not be cut, drilled, removed or modified by any Owner unless such work is performed in accordance with plans prepared by a licensed structural engineer and any requirements of the ARC.

Section 3.13. *Leases.*

The term "lease," as used herein, includes any agreement for the leasing or rental of a Unit, or any portion thereof, and shall specifically include month to month rentals and subleases, but not leases having a term of less than 30 days except if the Owner of a Unit enters into a lease-back of the Unit in connection with such Owner's sale of the Unit that will permit such Owner to continue occupying the Owner's Unit after the closing of the sale of the Unit. Any Owner shall have the right to lease his Unit, or any portion thereof, as long as all leases provide that the lease, and lessee's occupancy of the leased premises, are subject in all respects to the Governing Documents; and that any failure by the lessee to comply with any of the Governing Documents, in any respect, constitutes a default under the lease.

Section 3.14. *Landscaping.*

Within the time frames as hereinafter provided, subject to applicable "force majeure" delays as determined by the ARC, the Owner of each Unit (other than Developer or a Builder) shall install landscaping on all portions of the Lot which is not covered by a building or Improvement, as well as on the tree lawn areas adjacent to such Unit in accordance with the Governing Documents and the requirements of the City. The Owner of each Lot (other than Developer or a Builder) shall install landscaping on any un-landscaped areas of the Owner's Lot, and on adjacent tree lawn areas, within one hundred (180) days after the later to occur of acquisition of such Unit by such Owner, if said acquisition occurs between April 1 and July 31; if such acquisition does not occur between such dates, then such Owner shall install such landscaping by the following July 31. Any material

changes to landscaping of a Lot must be submitted to the ARC for review and approval (which may be with conditions and/or requirements) in accordance with Article 2 of this Declaration. Each Owner shall maintain all landscaping on such Owner's Lot in a neat and attractive condition, including periodic removal of weeds and debris, and replacement of landscaping.

Section 3.15. *Grade and Drainage; Irrigation Recommendations; Drainage Easement; Maintenance of Surface Drainage Improvements and Underdrains; Trash Collection and Other Utility Services.*

3.15.1. Each Owner shall maintain the grading upon the Owner's Lot, and grading around the building foundation, at the slope and pitch fixed by the final grading thereof, so as to maintain the established drainage. Each Owner agrees not in any way to interfere with the established drainage pattern over the Owner's Lot. In the event that it is necessary or desirable to change the established drainage over any Lot, then the Owner thereof shall submit a plan to the ARC for review and approval (which may be with conditions and/or requirements), in accordance with Article 2 of this Declaration, and any such change shall also be made in accordance with all laws, regulations, requirements and resolutions of all applicable governmental entities. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading of a Lot by the Developer, or by a Builder, is completed.

3.15.2. The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within five (5) feet of the foundation of the building or any slab on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls and slabs.

3.15.3. Developer reserves to itself and to the Metropolitan District the right to enter in and upon each rear, front and side yard drainage easements of record, at any time, to construct, repair, replace or change drainage pipes, structures or drainage ways, or to perform such grading, drainage or corrective work as Developer or the Metropolitan District may determine.

3.15.4. To the extent authorized by its service plan and applicable law, and without limiting its authority, the Metropolitan District may provide centralized trash removal and recycling services for all or a portion of the Units and levy and collect fees, charges, and other amounts to be imposed upon such Units for such trash removal and recycling services. Without limiting the generality of the foregoing, the Metropolitan District may, for example, provide for regularly scheduled trash pick-ups and recycling, but may require each Owner to be responsible for scheduling, and paying for, any extraordinary trash pick-ups and/or other recycling and may limit the items eligible for trash pick-up and/or recycling from time to time.

ARTICLE 4. ALTERNATIVE DISPUTE RESOLUTION

Section 4.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

4.1.1. Each Bound Party (as defined below) agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit any Claims (as defined below) to the procedures set forth in Section 4.6 hereof.

4.1.2. By acceptance of a deed for a Unit, each Owner agrees to abide by the terms of this Article.

4.1.3. Any applicable statute of limitation shall apply to the alternative dispute resolution procedures set forth in this Article.

Section 4.2. *Definitions Applicable to this Article.*

For purposes of this Article only, the following terms have the meanings set forth in this Section:

4.2.1. “**JAG**” means the Judicial Arbiter Group or any other Person agreed to by the Claimant and Respondent in writing for the purpose of performing the functions of the Judicial Arbiter Group under this Declaration.

4.2.2. “**Bound Party**” means each of the following: the Developer, each Builder, each contractor, subcontractor, supplier, laborer, the Metropolitan District (to the extent permitted by law), and any homeowners association created for any portion of the Property, and their respective directors, officers, members, partners, employees and agents; the ARC and the committees and representatives appointed by the ARC, and each of their respective members and agents; all Persons subject to this Declaration; and any Person who is not otherwise subject to this Declaration, but who agrees to submit to this Article. Notwithstanding the foregoing, “**Bound Party**” shall not include any of the Persons identified in this Section (or their insurance carrier(s), to the extent a Claim is covered by insurance), if such Persons (or their aforesaid insurance carrier(s)) have entered into a separate written agreement providing for dispute resolution applicable to the Claim; in such circumstance, the dispute resolution mechanism set forth in such separate written agreement shall apply with respect to such Claim, unless such Persons, including all applicable insurance carrier(s), mutually agree to submit such Claim to the provisions of this Article.

4.2.3. “**Claimant**” means any Bound Party having a Claim.

4.2.4. “**Claim**” means, except as exempted by the terms of this Article, any claim, grievance or dispute between one Bound Party and another Bound Party, regardless of how the same may have arisen, that is based on, arises out of or related to (i) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations or duties of any Bound Party; and/or (ii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party

related the interpretation, application or enforcement of any of the Governing Documents or the development of the Property or construction of a Unit; and/or (iii) any allegation pertaining to construction defects in improvements constructed on the Lots.

4.2.5. **"Party"** means the Claimant and the Respondent individually; **"Parties"** means the Claimant and the Respondent collectively.

4.2.6. **"Respondent"** means any Bound Party against whom a Claim is asserted.

Section 4.3. *Commencement or Pursuit of Claim Against Bound Party.*

4.3.1 A Bound Party may not commence or pursue a Claim against any other Bound Party except in compliance with this Article.

4.3.2 Prior to any Bound Party commencing any proceeding against another Bound Party, the Respondent has the right to be heard by the Claimant, and to access, inspect, correct the condition of, or redesign, any portion of any Improvement as to which a defect is alleged, or to otherwise correct the alleged defect.

Section 4.4. *Claims.*

Unless specifically exempted below, all Claims between any of the Bound Parties shall be subject to the provisions of Section 4.6 hereof. Notwithstanding the foregoing, unless all Parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 4.6 hereof:

4.4.1 any action by the ARC, the Board of the Metropolitan District, or the Developer, to enforce Article 2 or Article 3 of this Declaration, or any provision(s) of the Guidelines or the Rules and Regulations (as hereinafter defined), including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief), and such other ancillary relief as a court may deem necessary;

4.4.2 any suit between or among Owners, which does not include Developer, Builder, a homeowners association created for any portion of the Property, the Metropolitan District, or the Board of the Metropolitan District as a Party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

4.4.3 any suit in which any indispensable party is not a Bound Party; and

4.4.4 any suit between an Owner and Builder, which does not include Developer, with respect to construction of a home on a Lot.

Section 4.5. *Mandatory Procedures.*

Prior to proceeding with any Claim against a Respondent, each Claimant shall give a notice to each Respondent, which notice shall state plainly and concisely:

4.5.1 the nature of the Claim, including all Persons involved and Respondent's role in the Claim;

4.5.2 the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

4.5.3 the proposed remedy; and

4.5.4 the fact that Claimant will give the Respondent an opportunity to inspect all property and Improvements potentially involved with the Claim, and that Claimant will meet with Respondent not later than thirty (30) days after such inspection to discuss in good faith ways to resolve the Claim.

Section 4.6. *Final, Binding Arbitration.*

4.6.1 If Claimant desires to pursue the Claim, Claimant shall initiate final, binding arbitration of the Claim with JAG, in accordance with the then-current rules of JAG (or such other reputable arbitration service and its rules as is mutually acceptable to the parties) . Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the Parties, there will be one arbitrator who must have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

4.6.2 Each Party shall bear its own costs and expenses, and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial and on appeal, shall be awarded to the prevailing Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

4.6.3 The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties.

ARTICLE 5. GENERAL PROVISIONS

Section 5.1. *Rules and Regulations.*

Rules and regulations, if any, concerning and governing the Property may be promulgated, adopted, enacted, modified, amended, repealed, and re-enacted by the Board of the Metropolitan District ("**Rules and Regulations**") and such actions shall not be construed as an amendment to this Declaration requiring processing under Section 5.6, hereof. Such Rules and Regulations may, without limitation, regulate or prohibit any use, activity or practice that interferes with the peaceful enjoyment or possession and proper use of any Unit, or any portion thereof, by its residents, and any prohibit noxious or offensive activities and any activity which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. However, any provisions that might be included in Rules and Regulations may be included in the Guidelines and in the event of any

conflict between the Rules and Regulations and the Guidelines, the Guidelines shall control. The Rules and Regulations, if any, may contain such provisions as determined by the Board of the Metropolitan District, including procedural requirements, interpretations, clarifications and applications of any provision(s) of this Declaration or the Guidelines and law, and may include blanket requirements, blanket interpretations, and blanket applications. The Board of the Metropolitan District has the authority to adopt or vary one or more Rules and Regulations that are different for different types of Lots or Units. Any Rules and Regulations, if any, may not be inconsistent with or contrary to this Declaration.

Section 5.2. *Enforcement.*

5.2.1 This subsection is subject to Article 4 of this Declaration. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision, and possible remedies include all of those available at law or in equity. The Developer, the ARC, the Metropolitan District, any homeowners association within the Property and any aggrieved Owner, shall have the right, but not the duty, to institute, maintain and prosecute any such proceedings. No remedy is exclusive of other remedies that may be available. Except as otherwise provided in Article 4 of this Declaration, in any action instituted or maintained under this Declaration or any other such documents, the prevailing party shall be awarded its costs and attorney fees incurred in asserting or defending the claim, as well as any and all other sums; except that, any Person who brings an action against the Developer, any Builder, the Metropolitan District, the ARC or any homeowners association within the Property, regarding enforcement, or non-enforcement, of any provision(s) of the Governing Documents, shall not be awarded their costs and any attorney fees. Failure by the Developer, the ARC, the Metropolitan District, any homeowners association within the Property, or any Owner, to enforce any covenant, restriction or other provision contained in this Declaration, shall in no event give rise to any liability, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of this Declaration, regardless of the number of violations or breaches that may occur.

5.2.2 The foregoing includes the right of the Metropolitan District to: send demand letters and notices; charge interest and/or late charges; levy and collect fines; impose liens (as provided in C.R.S. Section 32-1-1001(j)(1), as amended); and/or negotiate, settle and/or take any other actions, with respect to any violation(s), or alleged violation(s), of any of the Governing Documents.

Section 5.3. *Severability.*

All provisions of this Declaration are severable. Invalidation of any of the provisions by judgment, court order or otherwise, shall in no way affect or limit any other provisions, which shall remain in full force and effect.

Section 5.4. *Rights and Easements of Developer and Builders.*

Notwithstanding anything to the contrary contained in the Governing Documents, it is expressly permissible and proper for Developer and each Builder, and their respective employees, agents, and contractors, to perform all activities, and maintain Improvements, tools, equipment, and facilities, on any portion of the Property which is owned by them or which may be used by them pursuant to a license, easement or other use agreement, that are incidental to development, construction, use, rental, sale, occupancy, and/or advertising. The foregoing includes locating, maintaining and relocating management offices, construction offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations on the portion of the Property owned by them and also on public property, as determined by the Developer or applicable Builder. In addition, nothing contained in this Declaration shall limit the rights of Developer, or require the Developer, to obtain approvals:

5.4.1. to excavate, cut, fill or grade any property (with the consent of the Owner thereof), or to construct, alter, demolish or replace any Improvements;

5.4.2. to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office, in connection with the development, construction or sale of any property; and/or

5.4.3 to seek or obtain any approvals under this Declaration for any such activity.

Section 5.5. *Conflict of Provisions.*

In the case of any conflict between any of the Governing Documents, this Declaration shall control.

Section 5.6. *Duration, Revocation and Amendment.*

5.6.1 Each and every provision of this Declaration run with and bind the Property perpetually from the date of recording of this Declaration. Subject to subsection 5.6.2 of this Declaration, this Declaration may be amended, supplemented and/or terminated, by the affirmative vote or agreement of the Owners of sixty-seven percent (67%) of the Units. Notwithstanding the foregoing, the Metropolitan District shall not be required to comply with or enforce any Owner-adopted amendments, supplements or termination, until such time as the Board of the Metropolitan District receives a recorded copy of such amendment, supplement and/or termination, and shall not be required to enforce any such amendments or supplements that are ultra vires.

5.6.2 Notwithstanding anything to the contrary: (i) until all of the Units have been conveyed to the first Owners thereof other than the Developer or a Builder, no amendment, supplement or termination of this Declaration shall be effective, without the prior written consent or approval of the Developer, which may be with conditions and/or requirements; (ii) until the date that is twenty years after the date that this Declaration is recorded, Article 4 may not be amended without the prior written consent or approval of Developer or an assignee of such right or privilege; and (iii) no provision of this Declaration may be amended or terminated in whole or in part in any manner that removes, revokes,

limits, conditions, or modifies any right or privilege of the Developer under this Declaration, without the prior written consent or approval of Developer or an assignee of such right or privilege.

5.6.3 Notwithstanding anything to the contrary, this Declaration may be amended, in whole or in part, by the Developer without the consent or approval of any other Owner, the Metropolitan District, or any other Person, in order to comply with the requirements, standards, or guidelines of any recognized secondary mortgage markets, including the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, and the federal national mortgage association. This subsection 5.6.3 will remain in effect until conveyance of all the Units to the first Owners thereof, other than the Developer or any Builder.

5.6.4 Notwithstanding anything to the contrary, this Declaration may be amended, in whole or in part, by the Developer without the consent or approval of any other Owner, any Builder, the Metropolitan District, or any other Person, in order to correct any clerical, typographical, technical or other errors in this Declaration and/or to clarify any provision(s) of this Declaration. This subsection 5.6.4 will remain in effect until conveyance of all the Units to the first Owners thereof, other than the Developer or any Builder.

5.6.5 Each amendment to this Declaration enacted by a vote or agreement of Owners of Units shall be applicable only to disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred after the date of recording of such amendment in the real property records of the City, and no such amendment shall be applied retroactively (i) to any disputes, issues, controversies, circumstances, events, claims or causes of action that arose out of acts, omissions, events or other circumstances that occurred before the date of recording of such amendment in the real property records of the City, or (ii) to impair the rights or obligations of any Person, including Developer, as originally set forth in this Declaration.

Section 5.7. *Minor Violations of Setback Restrictions.*

If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Unit immediately adjoining the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of this Declaration or the Guidelines, if any. A “**minor violation**,” for the purpose of this Section, is a violation of not more than two (2) feet beyond the required setback lines or Unit lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 5.8. *Subdivision or Replatting of Units.*

The Developer hereby reserves the right to subdivide or replat any Lot(s) owned by the Developer. Each such subdivision or replatting may change the number of Units in the Property. The foregoing reservation includes the right to move any Lot line(s) for the purpose of accommodating Improvements which are, or may be constructed. This Section 5.8 will remain in effect until conveyance of all the Units to the first Owners thereof, other than the Developer or any Builder.

Section 5.9. *Annexation.*

The Developer may annex to the Property additional real estate (including Improvements), including any real estate (including Improvements) which may previously have been withdrawn from the Property. Each such annexation, if any, shall be accomplished by recording in the real property records of the City, of an annexation document that expressly states that the real estate (including Improvements) described therein shall be subject to this Declaration and all terms and provisions hereof. However, any such annexation may include provisions which, as to the real estate (including Improvements) described therein, adds to or changes the rights, responsibilities and other provisions of this Declaration. Any such additional or changed provisions may be amended, supplemented, and/or terminated, with the consent of the Owners of 67% of the Units to which such provisions apply. The first three (3) sentences of this Section 5.9 shall be in effect until conveyance of all the Units to the first Owners thereof, other than the Developer or any Builder.

Section 5.10. *Withdrawal.*

The Developer reserves the right to withdraw the Property, or any portion thereof, including one or more Lots or Units, from this Declaration, so long as the Developer owns the portion of the Property to be withdrawn. Each withdrawal, if any, may be effected by the Developer recording a withdrawal document in the office of the Clerk and Recorder of the City. A withdrawal as contained in this paragraph constitutes a divestiture, withdrawal, and de-annexation of the withdrawn real estate (including Improvements) from this Declaration so that, from and after the date of recording a withdrawal document, the real estate (including Improvements) so withdrawn shall not be part of the "Property". This Section 5.10 shall be in effect until conveyance of all the Units to the first Owners thereof, other than the Developer or any Builder.

Section 5.11. *Notices.*

Any notice permitted or required in this Declaration shall be deemed to have been given and received upon the earlier to occur of (i) personal delivery upon the Person to whom such notice is to be given; or (ii) two (2) days after deposit in the United States mail, postage prepaid, addressed to the Owner at the address for such Owner's Unit.

Section 5.12. *Limitation on Liability.*

The Developer, any Builder, the Metropolitan District, the ARC, and their respective directors, officers, shareholders, members, partners, agents and employees, are not liable to any Person for any action or for any failure to act arising out of any of the Governing Documents, unless

the action or failure to act was not in good faith and was done or withheld with malice. Further, the Metropolitan District does not waive, and no provision of this Declaration constitutes a waiver of, the immunities and limitations to which the Metropolitan District is entitled as a matter of law, including the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S., as amended. The release and waiver set forth in Section 5.16 (Waiver) applies to this Section.

Section 5.13. *No Representations, Guaranties or Warranties.*

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Developer, any Builder, the Metropolitan District, the ARC, or their respective officers, directors, shareholders, members, partners, agents or employees, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing. The release and waiver set forth in Section 5.16 (Waiver) shall apply to this Section.

Section 5.14. *Disclaimer Regarding Safety.*

DEVELOPER, THE BUILDERS, THE METROPOLITAN DISTRICT, THE ARC, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A UNIT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT DEVELOPER, THE BUILDERS, THE METROPOLITAN DISTRICT, THE ARC, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED IN THE GOVERNING DOCUMENTS, IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY. THE RELEASE AND WAIVER SET FORTH IN SECTION 5.16 (WAIVER) APPLIES TO THIS SECTION.

Section 5.15. *Development Within and Surrounding the Property.*

Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Property, views of or from the Property or the Units, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Unit, each Owner accepts title to such Unit subject to the foregoing, and waives and releases any claim against the Developer, any Builders, the Metropolitan District, the ARC, and their respective officers, directors, members, partners, agents and employees,

heirs, personal representatives, successors and assigns, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 5.16 (Waiver) applies to this Section.

Section 5.16. *Waiver.*

By acceptance of a deed to a Unit, each Owner hereby releases, waives, and discharges the Developer, each Builder, the Metropolitan District, the ARC, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, including but not limited to those contained in Sections 5.12, 5.13, 5.14 and 5.15.

Section 5.17. *Headings.*

The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

Section 5.18. *Gender.*

Unless the context requires a contrary construction, the singular includes the plural and the plural the singular and the use of any gender is applicable to all genders.

Section 5.19. *Action.*

Any action that has been or may be taken by the Developer, any Builder, the Metropolitan District, the ARC, or any other Person, may be taken "**at any time, from time to time**". Each provision that authorizes, directs or permits action shall be deemed to include such language.

Section 5.20. *Sole Discretion.*

All actions which are taken by, or on behalf of, the Developer, any Builder, the Metropolitan District, the Board of the Metropolitan District, the ARC, or any other Person, shall be deemed to be taken "**in the sole discretion**" of such Person.

Section 5.21. *Use of "Include," "Includes," and "Including".*

All uses, in this Declaration, of the words "**include**," "**includes**," and "**including**," shall be deemed to include the words "**without limitation**" immediately thereafter.

Section 5.22. *Runs with the Land; Binding Upon Successors.*

The benefits, burdens, and all other provisions contained in this Declaration are covenants running with and binding upon the Property and all Improvements which are now or hereafter located on the Property. The benefits, burdens, and all other provisions contained in this Declaration are binding upon, and inure to the benefit of the Developer, the Builders and all

Owners, and upon and to their respective heirs, personal representatives, successors and assigns; but, no Person shall become a “Developer” or a “Builder” under this Declaration, except by written assignment or designation, as more fully provided in Sections 1.4 or 1.2 of this Declaration, respectively.

Section 5.23. *Easement for Encroachments.*

To the extent that any Improvement on any Unit encroaches onto another Unit, a valid easement for the encroachment exists.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, being the Developer herein and the Owner of the Property, has executed this Declaration of Covenants and Restrictions of Denver Connection this 19 day of July, 2017.

DEVELOPER:

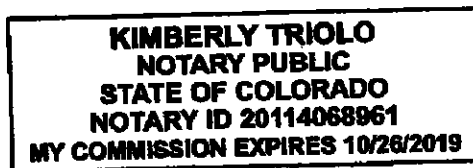
William Lyon Homes, Inc.,
a California corporation

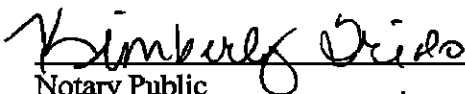
By: Name: Robert A. JohnsonTitle: Vice President

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 19th day of July, 2017, by Robert A. Johnson as Vice President of William Lyon Homes, Inc., a California corporation.

Witness my hand and official seal.




Notary Public
My Commission expires: 10/26/2019

CONSENT OF THE DENVER CONNECTION WEST METROPOLITAN DISTRICT

The undersigned Denver Connection West Metropolitan District, hereby consents to the aforesaid Declaration of Covenants and Restrictions of Denver Connection.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 19th day of July, 2017.

DENVER CONNECTION WEST
METROPOLITAN DISTRICT

By: [Signature]
Name: Robert A. Johnson
Title: PRESIDENT

STATE OF COLORADO)
)
COUNTY OF ARAPAHOE) ss.

The foregoing instrument was acknowledged before me this 19th day of July, 2017, by Robert A. Johnson as PRESIDENT of DENVER CONNECTION WEST METROPOLITAN DISTRICT.

Witness my hand and official seal.

{SEAL}

KIMBERLY TRIOLO
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114068961
MY COMMISSION EXPIRES 10/26/2019

[Signature]
Notary Public
My Commission expires: 10/26/2019

EXHIBIT A
TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF DENVER CONNECTION

(Property)

Denver Connection West – Filing No. 1,
City and County of Denver, State of Colorado,

EXCEPTING AND EXCLUDING THEREFROM THE FOLLOWING:

All dedicated streets and avenues;

and

Lot 1, Block 9,
Denver Connection West – Filing No. 1,
City and County of Denver, State of Colorado;

and

Tracts A through Z, inclusive,
Denver Connection West – Filing No. 1,
City and County of Denver, State of Colorado;

and

Tracts AA and CC,
Denver Connection West – Filing No. 1,
City and County of Denver, State of Colorado.

**DECLARATION OF COVENANTS AND RESTRICTIONS
OF DENVER CONNECTION**

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