

**Recording Requested
and After Recording Return To:
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Attn: Lindsey W. Hunt, Esq.**

**GRANT OF RECIPROCAL EASEMENTS
AND DECLARATION OF COVENANTS
FOR
HARMONY TECHNOLOGY PARK**

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This Grant of Reciprocal Easements and Declaration of Covenants (the "Declaration") is made and entered into this 16th day of June, 2008 by Harmony Technology Park, LLC, a Colorado limited liability company ("Declarant"), whose address is c/o MAV Development Company, 303 Detroit Street, Ann Arbor, MI 48104.

RECITALS

This Declaration is made and executed upon the basis of the following facts, understandings and intentions of the Declarant;

A. Declarant is the owner of that certain parcel of real property located in the City of Fort Collins, County of Larimer, State of Colorado, with the legal description as set forth on **Exhibit A**, attached hereto and made a part hereof (the "Property").

B. The Declarant has or will develop and operate the Property to insure proper use, appropriate development and improvement of the Property. To effectuate the common use and operation of the Property, Declarant intends that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which shall run with the Property and be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

C. The conditions, covenants, restrictions and easements set forth herein are intended to replace, amend, restate and supersede those certain Harmony Technology Park (HTP) Protective Covenants recorded February 18, 1998 at Reception No. 98011695 in the records of the Clerk and Recorder of Larimer County, Colorado (the "Prior Covenants") with respect to the Property. The Prior Covenants shall be of no further force and effect with respect to the Property.

NOW THEREFORE, Declarant makes the following grants, covenants, conditions, restrictions, submissions and declarations:

1. Definitions. Each reference in this Declaration to any of the following terms shall mean:

1.1 Act. The Colorado Common Interest Ownership Act, C.R.S. §38 33.3 101, et seq., as it may be amended from time to time.

1.2 Common Area. All areas of the Property, other than Lots, encompassing without limitation all those facilities within or upon the Property for the non-exclusive use of Owners, Occupants and Users in common, including but not limited to Private Roads, driveways, areas of ingress and egress, sidewalk and other pedestrian ways, areas containing buildings or structures used in connection with the maintenance of the Common Area roadways, sanitary and storm sewer areas (and sanitary and storm sewers to the extent shared by more than one Lot), delivery areas, landscape areas, areas containing signs or structures advertising the common name given for the Property, together with the signs and structures constructed thereon. Any enlargement of or addition to the Common Area as provided herein shall be included in the definition of Common Area for purposes of this Declaration. Portions of the Common Area are subject to certain easements as granted by Declarant.

1.3 Common Area Expenses. All costs and expenses incurred in connection with management, operation, maintenance, repair and replacement of the Common Area and Improvements thereon in accordance with or pursuant to this Declaration including, without limitation, gardening and landscaping, cleaning, sweeping, replacements, repairs, line painting, lighting, sanitary control, removal of snow, ice, trash, rubbish, garbage and other refuse, cost of personnel to implement such services, maintenance of shared sanitary sewer or storm lines outside the Lot, management fee for the Common Area Manager and any third-party manager hired by the Common Area Manager, any costs and expenses of collection of Common Area Expenses and of enforcement of this Declaration and the rules and regulations issued pursuant to this Declaration, if any, and any other costs and expenses incurred in connection with the exercise or performance by the Common Area Manager of any of its rights or obligations hereunder. In the event there is no Common Area Manager pursuant to the terms of Section 1.4 herein, there shall be no shared Common Area Expenses.

1.4 Common Area Manager. Declarant as the Owner of the Property, or its assigns and/or its successors as Owner of all of the Common Area, or any party appointed or hired by Declarant to serve as Common Area Manager. In the event Declarant transfers the entirety of its interest in the Common Area without an assignment of Declarant's rights and obligations as the Common Area Manager to a successor, assign, or third party appointed or hired to act as Common Area Manager (a "Termination Transfer"), there shall no longer be a Common Area Manager.

1.5 Declarant. Harmony Technology Park, LLC, a Colorado limited liability company, or any entity that controls, is controlled by or is under common control with Declarant, provided that written notice of assignment is executed by the Declarant designated and by the transferee and recorded in the real property records for Larimer County, Colorado.

1.6 Declarant Control Period. The period of time that the Declarant is entitled to exercise the Declarant Rights, including but not limited to the appointment of the Common Area Manager and the members of the DRC. The Declarant Control Period begins on the date of recording of this Declaration and expires upon the first of the following to occur:

(a) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business; or

(b) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

1.7 Declarant Rights. Each provision in this Declaration that calls for Declarant approval, that gives the Declarant a veto, or that otherwise entitles the Declarant to exercise or refuse to exercise a right, remedy or similar entitlement of any kind shall be deemed a "declarant right" for purposes of Colorado law.

1.8 Design Guidelines. Those architectural, landscape and/or design standards adopted by the Declarant as the Design Guidelines, as the same may be updated, modified, or revised from time to time.

1.9 Development and Sale Period. The period of time during which the Declarant or any "Declarant Affiliate" owns any portion of the Property. A "Declarant Affiliate" is any Person that controls, is controlled by, or is under common control with the Declarant, and any Person who is an owner, a member, a manager, a partner, or a shareholder of the Declarant.

1.10 DRC. The design review committee established by the Declarant pursuant to this Declaration as the board that will administer the aesthetic and architectural servitudes set forth in this

Declaration, and for the purpose of exercising the functions set forth in this Declaration relating to design review and approval.

1.11 Improvements. Including but not limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs, any structures of any type or kind or any other change in the Property from its natural state.

1.12 Lot. Those separately platted portions of the Property (whether platted at the time of this Declaration or subsequent to the date hereof) intended to be conveyed to a third party, whether related or unrelated to Declarant, and utilized for construction of Improvements intended for commercial or other related uses by the Owners and other Occupants.

1.13 Occupant. Any Person or Persons from time to time entitled to the use and occupancy of any portion of a Lot in the Property under this Declaration or any lease, license or concession agreement, or other instrument or arrangement under which the Occupant acquires its right to such use and occupancy.

1.14 Owner or Owners. The Declarant executing this Declaration and its successors in interest holding fee simple title to the Property, as shown in the official records of the County of Larimer, State of Colorado, as of the time in question. The term Owner shall include the Person or Persons holding record fee title to all or any portion of the Property.

1.15 Person or Persons. Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agency, administrative tribunal, or any other form of business or legal entity.

1.16 Plans and Specifications. Any and all documents designed to guide, govern, or otherwise control the exterior architectural, aesthetic, and site design of an Improvement including, but not limited to, those indicating size, shape, configuration or materials; all site plans; grading plans; drainage plans; landscaping, fencing, signage and lighting plans; elevation drawings, specifications on all exterior building products; samples of exterior colors; and all other documentation or information relevant to the exterior architectural, aesthetic, and site design of a particular Improvement.

1.17 Private Road. Portions of the Common Area may consist of private roads abutting one or more lots ("Private Roads"). Common Area Expenses for Private Roads shall be limited Common Area allocable only to those Lots to which a Private Road abuts. With respect to any Lot to which a private road is appurtenant, each Lot's share ("Limited Share") shall be a fraction, the denominator of which is the square footage of the Private Road, and the numerator of which for each Lot is the square footage of the portion of the Private Road adjacent to its Lot from the boundary of such Lot to the centerline of such Private Road.

1.18 Pro Rata Share. With respect to each Lot, a fraction, the numerator of which is the number of square feet of such Lot and the denominator of which is the number of square feet contained in all of the Property, excluding the square footage of the Common Area.

1.19 Property. As shown on **Exhibit A** hereto, including Lots and Common Area.

1.20 Users. All persons granted permission to utilize the Common Area, including without limitation, Occupants, Owners, employees and service people, licensees, invitees, customers, owners, contractors, agents, leasees, subleasees, tenants and concessionaires.

1.21 Transfer. The sale or other conveyance by any Owner of its interest in the Property or any Lot or any portion thereof. The following shall not be considered a Transfer: (i) the

Owner elects to transfer an interest in such Owner to an entity controlled by or in control of the Owner or its affiliates; or (ii) the Owner transfers to a lender with a lien on the Property.

1.22 Other Terms. Certain other terms shall have the meaning set forth for each such term in this Declaration.

2. Purpose, Declaration and Grant of Reciprocal Easements.

2.1 Purpose. The Property is made subject to the conditions, covenants, restrictions and easements set forth herein, all of which shall be deemed to run with the Property and each and every Lot thereof (a) to provide for mutual, common and reciprocal rights and easements in certain portions of the Property constituting Common Area; (b) to provide for the management, operation, maintenance, repair and replacement of the Common Area; (c) to ensure a reasonably consistent development of the Property; and (d) to protect and enhance the quality, value, desirability and attractiveness of the Property.

2.2 Declaration. Declarant, for itself, its successor and assigns, hereby declares that the Property and each part thereof shall from and after the date of this Declaration, 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, easements, equitable servitudes and other provisions set forth in this Declaration for the duration hereof, all of which shall run with the title to such Property and be binding upon all parties having any right, title or interest in the said Property or any part thereof and upon their heirs, personal representatives, successors and assigns and shall inure to the benefit of each party having any such right, title or interest in said Property or any part thereof and to and for the benefit of Declarant so long as it owns a Lot, and the Common Area Manager all as hereinabove or hereinafter defined, and their successors and assigns.

2.3 Not a Common Interest Community. The Property has not been established as a Common Interest Community and is not a Common Interest Community by virtue of this Declaration.

2.4 Common Area Easements. The Common Area shall be used only for the following purposes related to the businesses and activities conducted in the Property.

(a) Ingress and Egress. Ingress and egress by any Users and any motor vehicles of such Users to and from any portion of the Common Area and the public streets adjacent to the Common Area, including, without limitation, service and delivery vehicles.

(b) Public Utilities. Installation, maintenance, repair, replacement and operation of public utilities and services for the Common Area or Lots, together with and including, without limitation, vaults, manholes, meters, transformers, pipelines, valves, pumps, generators, hydrants, sprinkler controls, conduits, sewage facilities, and all related facilities, all of which shall whenever and wherever reasonably feasible be located below the surface of the Common Area, or the surface of any other above ground improvements located thereon; provided, however, that in any event, (i) all of the foregoing permitted public utilities and installations, which are located above the surface of the Common Area, shall be placed so as not to interfere with, restrict, or impede other uses of Common Area provided for herein; and (ii) no such public utilities and installations, which must be located above the surface of the Common Area, shall be placed upon any Lot without the prior written consent of the Owner whose Lot is affected, which consent shall not be unreasonably withheld.

(c) Pedestrian Traffic. Pedestrian traffic by Users upon the Lots, between the Lots and between the Lots and the adjoining public or private streets.

(d) Temporary Construction Activity. Construction, maintenance, repair, replacement, rearrangement and remodeling of Improvements, Lots, and landscaping, pedestrian walkways and other Improvements in the Common Area that may include benches, mailboxes and public telephones not substantially affecting or changing the Common Area except as permitted or required herein. All such work shall be conducted in the most expeditious manner reasonably possible to minimize the interference with use of Common Area, shall be diligently prosecuted to completion, and shall otherwise be performed in compliance with the provisions of Section 2.8 hereof. In connection with work of construction performed within Lots, incidental encroachment upon Common Area may occur as a result of the use of ladders, scaffolding, store-front barricades and similar facilities resulting in temporary obstruction of portions of the Common area, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work expeditiously pursued, but in no event shall any public or private road that serves as an entrance to the Property be closed for construction-related purposes without the prior written consent of the Declarant. Common Area may be utilized for ingress and egress of vehicles transporting construction materials and equipment and persons employed in connection with any work provided for herein and temporary storage of materials and vehicles being utilized in connection with such construction, subject to all of the other terms of this Agreement.

2.5 Lot Easements. The Lots shall be subject to use for the benefit of other Lots relating to connection to or with utility installations; provided, however, that no such use shall be allowed in a manner which unreasonably burdens the affected Lot, results in interference with the Improvements thereon, or inconveniences unreasonably the Users or Occupants thereof.

2.6 Grant of Easements by Declarant. Declarant hereby grants and conveys the following easements:

(a) Declarant as the Owner of the Property hereby grants, bargains, sells and conveys to the Owners of the Lots and their respective successors and assigns a perpetual, non-exclusive easement for ingress, egress, access to the Common Area, and for the purposes set forth in Sections 2.1, 2.2 and 2.3,.

(b) Declarant hereby grants and conveys to each Owner of a Lot a nonexclusive easement appurtenant to the Common Area for the purpose of permitting the drainage of water from, over and across the Property in accordance with a drainage plan established by Declarant and if such approval is required, by the City of Fort Collins.

2.7 Use and Duration of Easements. Each easement granted herein shall be used by the Owners as an appurtenance to their respective Lot and solely for the purposes of developing and operating the Property. Subject to the provisions of Section 16.2 hereof relating to the amendment of this Declaration, the easements herein granted in each instance shall be perpetual and shall be appurtenant to each Lot owned by the Owner of each such Lot, and in each instance such easement shall be non-exclusive and for use in common with the granting Owner by the other Lot Owners, Users and Occupants.

2.8 Construction and Installation.

(a) Construction Work Generally. All construction, alteration or repair work, undertaken by any Owner upon any Lot it does not own pursuant to any easement granted herein, any other provision of this Declaration or otherwise shall be accomplished promptly using due diligence so to do. The Owner undertaking such work shall take all necessary measures to minimize any disruption or inconvenience caused by such work to the other Owners, Occupants or Users of the affected Lot. The Owner undertaking such work shall repair at its own cost and expense any and all damage caused by such work and shall restore the affected portion of the Lot upon which such work is performed to a condition equal to or better than the condition existing prior to beginning such work. In addition, the Owner

undertaking such work shall pay all costs and expenses associated therewith. All such work shall be undertaken only after giving the Owner of the affected Lot thirty (30) days prior written notice of the work to be undertaken, the scope and nature of the work, the duration of the work, and the area in which the work is to be performed. Such notice shall include any plans or specifications for the work which is to be accomplished on the affected Lot.

(b) Utility Connections. Any work performed by an Owner to connect to, repair, relocate, maintain or install any storm drain, utility line, sewer, water line, gas line, telephone conduits or any other public utility service to the extent not a shared utility line maintained by the Common Area Manager, shall be the responsibility of the Owner of the affected Lot and shall be performed so as to minimize interference with the provisions of such services to any other Owner, Occupant or other Lot. No Owner shall interfere with any such public utilities and services if such interference would disrupt the orderly development and operation of the businesses conducted by any other Owners or Occupant on any other Lot unless notice is provided pursuant to subsection (a) hereof of the nature and extent of the work to be undertaken in connection with such utilities and services, together with an offer to the Owner notified to permit that Owner to require that such work be carried on at such times as would minimize or prevent the disruption of the orderly development and operation of any business conducted on the other Owner's Lot. If an Owner elects to require performance of such work in such a manner so as to minimize or prevent such disruption, the Owner undertaking such work shall bear the cost of any overtime or other additional expenses necessitated by such request. Any work of installation, alteration, replacement or repair of utility installations which requires interference with the paving in the Common Area shall be undertaken with particular care so as to minimize the impact upon traffic circulation within the Common Area and access of all Users to the various businesses established in the Property.

(c) Obstruction. No construction work shall be undertaken or caused to be undertaken, by any Owner which would interfere with or prevent ingress, egress and access by service or delivery vehicles to the service driveways upon each Lot.

(d) Emergency Work. Notwithstanding any other notice provision contained in this Section 2.8, in the event of emergency conditions, any Owner may undertake the necessary construction work on another Owner's Lot to remedy the emergency condition, provided that the Owner undertaking such work does so in good faith, gives notice thereof to the other Parties, Declarant, and the Common Area Manager upon the occurrence of the emergency condition or as soon thereafter as possible, and otherwise conforms to the applicable provisions of this Section 2.7. As used herein, an emergency condition is one that poses an imminent risk of damage to property or injury to persons.

3. Use and Restrictive Covenants.

3.1 Use. The Property shall be used for purposes allowed under the Harmony Technology Park Overall Development Plan for approved by the City of Fort Collins ("ODP"), as the same may be amended from time to time.

3.2 Lot and Height Limitations. Buildings and structures shall only be placed or constructed only upon the Lot(s) in accordance with the building code of the City of Fort Collins, as the same may be amended from time to time.

3.3 Remodeling and Replacement. Improvements located within a Lot may be remodeled, demolished, removed and replaced upon compliance with the provisions of this Declaration.

3.4 Upkeep and Maintenance. All Owners shall provide for appropriate upkeep and maintenance for the Improvements upon each such Owner's Lot to ensure that the Property and each part

hereof is maintained in a good condition and retains at all times the appearance of a first class commercial complex. Such upkeep and maintenance shall include, without limitation, appropriate measures to protect wood, stucco and concrete surfaces from weathering, deterioration and aging, and to protect from and immediately remove graffiti or other defacement from such surfaces; installing and maintaining landscaping and signage consistent with the Design Guidelines; removal of snow and ice; maintenance, repair or replacement of all paving, including sidewalks and parking areas; removal of trash; installation and maintenance of exterior lighting; and other items as necessary to maintain the Lot and Improvements in a first-class condition. All required maintenance shall be performed whenever reasonably necessary in order to comply with the provisions of this Section 3.4. Declarant shall have a license over each Lot to perform the maintenance required by this Section 3.4 if the Owner of such Lot fails to comply with this Section 3.4 after reasonable notice and opportunity to cure, and the Owner shall reimburse Declarant upon demand for all costs incurred by Declarant therefor.

3.5 Nuisances. No Owner, Occupant or User shall use or permit the use of its Lot, or any portion thereof, (i) for the conduct of any offensive, noisy or dangerous trade, activity or occupation, (ii) for the maintenance of any nuisance or the conduct of any activity which violates public policy, (iii) for any activity which interferes with the business of any other Owner or Occupant of the Property, (iv) in violation of any governmental law, ordinance, rule or regulation of any governmental authority having jurisdiction over the Property or any portion thereof.

3.6 Rules and Regulations. Declarant may, from time to time, adopt reasonable rules and regulations pertaining to the use of all Common Area by Owners, Occupants and Users, including the monument signs for the Property.

3.7 No Walls, Fences or Barriers. No walls, fences or barriers of any sort or kind shall be constructed or erected in the Property, or any portion thereof, by any Owner or Occupant which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement of Owners, Occupants and Users, including without limitation pedestrians and vehicular traffic, between the various Property; provided, however, curb stops and other reasonable traffic controls, including without limitation, directional barriers and parking stops and as may be necessary to guide and control the orderly flow of traffic, may be installed so long as access to the Lots and the Property are not closed or blocked except to limit access to exclusive parking areas on the Lots, and the traffic circulation driveways of the Common Area, as shown on the Site Plan, is not changed or affected in any substantial way.

3.8 Fencing off Construction. Each Owner at its own cost and expense shall fence off or cause to be fenced off any development, construction, repair, alteration or remodeling work performed by the Owner on any Lot under this Declaration, that could adversely affect the other Property. Fencing shall be of a height and construction sufficient to protect existing facilities in the Property from inconveniences occasioned by such work.

3.9 Signs. No freestanding, monument or pylon signs shall be located on the Common Area or Lot except as shown on **Exhibit B** hereto. No such signs shall be erected without the prior written approval of the DRC as to size, style, priority and arrangement of names, wording and height, including but not limited to real estate signs (e.g. "for sale" or "for rent" or similar signs, whether installed by an Owner or its broker or agent), which approval shall not be unreasonably withheld. All signs within the Property shall conform to the Sign Criteria set forth in the Design Guidelines.

3.10 Lighting. If "special" lighting (other than necessary for Property security) is required by any Owner or Occupant of the Property, such special lighting shall comply with this Declaration, the Design Guidelines, and the applicable requirements of the City of Fort Collins. The electricity to service said lighting requirements shall be separately metered and all expenses thereof shall

be paid by such Owner or Occupant which requires the special service. If such separate metering is not reasonably feasible, then the cost of such special lighting shall be determined on a pro rata basis in accordance with the special usage and all such pro rated expenses shall be paid by such Owner or Occupant which requires the special service.

4. Design Review Covenants.

4.1 General Purposes. The DRC shall perform the aesthetic, architectural and design review functions provided for in this Declaration so as to further the purposes set forth in the recitals and other provisions of this Declaration. The Declarant reserves the right from time to time to replace the members serving on the DRC and appoint new members to serve as the DRC or appoint an entity or board to serve as the DRC as provided in Section 4.3(a) below. If the Declarant appoints an entity or board to serve as the DRC, the Declarant may from time to time replace the entity or board serving the DRC and appoint a new entity or board or individual members to serve as the DRC.

4.2 Authority. The business affairs of the DRC shall be managed by the Declarant. The Declarant may, by written resolution, delegate authority to a manager or managing agent.

4.3 Design Review Committee.

(a) Members. The initial DRC shall consist of a committee appointed by the Declarant consisting of at least three (3) members but no more than seven (7) members.

(i) All of the members of the DRC shall be appointed by the Declarant. The Declarant may appoint any Person or entity to succeed to its appointment powers set forth in this Section. Appointed members of the DRC, or other entity or board serving as the DRC, may be removed by the party or parties with appointment power, as provided for above.

(ii) Each member of the DRC or entity or board serving as the DRC shall serve until such time as such member, entity or board has resigned and a successor has been appointed or until such time that the member, entity or board is removed.

(iii) Each and every member of the DRC shall possess experience in the practice of real estate/land development (not to include real estate sales), or in the practice of architecture, urban design, land use planning, or other similar professional design practice.

(b) Division of Duties of the DRC Among Subcommittees. The DRC may, at any time and from time to time, create subcommittees and divide among such subcommittees the duties, responsibilities, and obligations of the DRC where such division is deemed in the best interest of the DRC.

(c) Meetings of the DRC. The DRC shall meet from time to time as it determines to perform its duties. The DRC may from time to time by resolution unanimously adopted in writing designate one or more of its members to take any action or perform any duties for and on behalf of the DRC, except the granting of waivers or variances pursuant to this Section. In the absence of such designation, the vote of the majority of a quorum of present and voting members of the DRC at a meeting, or the written consent of a majority of all of the members of the DRC taken without a meeting, shall constitute an act of the DRC. A quorum for any DRC meeting or action shall be two-thirds (2/3) of the members.

(d) Indemnification. Each member of the DRC shall be and are hereby indemnified by Declarant and its successors hereunder against all expenses and liabilities, including attorneys' fees and costs, 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 a member of the DRC, or any settlements thereof, whether or not they are a member of the DRC at the time such expenses are incurred; except in such cases wherein such member is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties. Such indemnification shall extend to the individuals serving for an entity or board that is acting as the DRC.

(e) Liability Insurance. The DRC may obtain and maintain adequate comprehensive policy of professional liability insurance in such limits as the Declarant may from time to time determine.

(f) No Liability of DRC Members. No DRC member shall be liable to any Owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the under this Declaration unless due to the wanton and willful misconduct of that person, party or entity.

(g) Compensation of Members. The members of the DRC may, at the sole discretion of the DRC, be entitled to reasonable compensation for services rendered, together with reimbursement for expenses incurred by them in performance of their duties. Any decision to provide such compensation may be determined and memorialized in writing by formal action of the DRC.

(h) Records. The DRC shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records may be open and available for inspection by any interested party, subject to reasonable advance notice, during reasonable hours of the business day.

4.4 Aesthetic Covenants, Restrictions and Equitable Servitudes

(a) Restriction on Improvements. Prior to commencement of construction of any Improvement upon any portion of the Property, including but not limited to signs and lighting as described in Sections 3.9 and 3.10 hereof and including any renovation or alteration to any existing Improvement, the Plans and Specifications therefor shall be submitted to the DRC, and construction thereof may not commence unless and until the DRC has approved such Plans and Specifications in writing. This requirement shall not apply to subsequent renovations or alterations to the interior of any Improvements after substantial completion of their initial construction, provided such substantial completion of their initial construction is consistent with and in compliance with the approvals of the DRC as required under this Declaration.

(b) Design Guidelines. The DRC, after or with any recommendations of the DRC, may, from time to time, publish, amend, and promulgate Design Guidelines, to implement the spirit and intent of this Declaration and to encourage and achieve efficient, coordinated, and high quality use of the property within the Property. The Design Guidelines may be amended from time to time as provided by the Design Guidelines and this Declaration. The Design Guidelines may contain standards, requirements, recommendations, or limitations in addition to those expressly set forth or referred to in this Declaration and more stringent standards, requirements or limitations than the specific standards, requirements or limitations set forth or referred to in this Declaration.

(c) Review Process. All Real Property shall be subject to the review process set forth in this Declaration and the Design Guidelines.

(d) Review Standards. Whenever in this Declaration or any Design Guidelines the approval of the DRC is required, the DRC shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which the DRC deems

relevant. The submittal requirements, specific procedures, form of approval process for waivers and variances, and timing of each decision shall be provided in the Design Guidelines. The DRC shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated in the locations indicated are in compliance with this Declaration and the Design Guidelines.

The DRC may condition its approval of Plans and Specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. The DRC may consider and review any and all aspects of construction, construction of other Improvements and locations, quality and quantity of landscaping, and may disapprove aspects thereof which may, in the opinion of the DRC, adversely affect the living, work, educational or other environment or enjoyment of one or more Owner(s) or of the general value of property within the Property. The DRC is also permitted to consider technological advances in design, materials and construction and such design, materials and construction may or may not be permitted in accordance with the opinion of the DRC.

(e) Requirements of Submitted Plans and Specifications. The DRC may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the DRC of all required or requested Plans and Specifications and other information, the DRC may postpone review of any material submitted for approval. Any material modification or change to an approved set of Plans and Specifications must again be submitted to the DRC for its inspection and approval.

(f) Fee for Review. The DRC may only levy a fee upon application for design review, or upon approval of an Owner's proposed Improvements. Except for fees imposed for architectural and design review as allowed for in this Declaration, the DRC shall not have the authority to impose or levy assessments for common expenses. In all events, fees imposed for architectural and design review shall not be deemed as an assessment for a common expense under the Act.

(i) Effect of Non-Payment of Fees. Any fee, including any charge or fee provided for in this Declaration, which is not fully paid within ten (10) days after the due date thereof, as established by the DRC, shall bear interest at the rate of interest as may be determined, from time to time, by the DRC, and the DRC may assess a reasonable late charge thereon as determined by the DRC. Further, the DRC may bring an action at law or in equity, or both, against the person(s) personally obligated to pay any overdue fees and charges. An action at law or in equity against an Owner to recover a money judgment for unpaid fees or charges may be commenced and pursued by Declarant in accordance with applicable law.

(g) Reply and Communication. The DRC is under no obligation to reply to all submittals of Plans and Specifications; flexibility in response being expressly reserved to the DRC. All communications and submittals shall be addressed to the DRC at such address as the chairman of the DRC may designate. The DRC shall have no obligation or liability to any applicant or other party for the timing of its response to any submittal.

(h) Variances. The DRC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration or in the Design Guidelines in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or any Design Guidelines. For items in any submittal which are not contemplated in the Design Guidelines, the DRC may use its reasonable discretion in evaluating and responding to such items.

(i) Waivers Not Implied. The approval or consent of the DRC, or appointed representative thereof, to any application for approval or any Improvement shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the DRC as to any application or other matters subsequently or additionally submitted for approval or consent.

(j) No Waiver of Future Approvals. The approval or consent of the DRC to any Plans or Specifications, to any work completed or proposed for performance or completion, or to any other matter that requires the approval or consent of the DRC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter subsequently or additionally submitted for approval or consent by the same or a different Person, including subsequent renovation or remodeling of an Improvement.

(k) No Deemed Approval. The DRC's failure to approve or disapprove any submittal or any portion thereof shall in no event be deemed the DRC's approval thereof. All approvals of the DRC will be given in writing to the applicant.

4.5 Enforcement. Declarant and each Owner of any portion of the Property shall comply with this Declaration, as amended, supplemented or modified from time to time. Failure to comply with this Declaration shall be grounds for an action by the DRC to recover sums due for damages or injunctive relief, or both. Failure to enforce this Declaration shall in no event be deemed a waiver of the right to do so at a later date or in a similar event.

4.6 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 by the DRC whether or not the relief sought is for negative or affirmative action.

4.7 Declarant-Retained Rights. Notwithstanding anything in this Declaration to the contrary, in the event of a Termination Transfer or other expiration or termination of the Declarant Control Period, Declarant shall nevertheless retain the rights to appoint or remove the members of the DRC in its sole discretion. Notwithstanding anything in this Declaration to the contrary, the terms and conditions of this Section 4 may not be amended, modified or terminated without Declarant's consent, which shall be at Declarant's sole discretion.

5. Common Area Maintenance.

5.1 Common Area Maintenance. Except as set forth herein, the Common Area Manager shall operate, manage, replace, repair, resurface, maintain and make necessary improvements to the Common Area unless prohibited from so doing by any governmental authority having jurisdiction and shall keep the same in a clean condition, including but not limited to, Private Roads, sidewalks, landscaping, drainage, monument signs, public utilities and lighting facilities. In the event of a Termination Transfer as defined in Section 1.5 herein, the Common Area Manager shall not operate the Common Area but instead each Owner shall be obligated to maintain and operate the Common Area located on the Lot each may own in full compliance with the following:

(a) Paved Areas. Maintaining all paved surfaces and curbs of the Common Area in a smooth and evenly covered condition, which maintenance work shall include without limitation, cleaning, sweeping, restriping, repairing, and resurfacing of any Private Roads, driveway areas and curbs, using surfacing material of quality equal or superior to the original surfacing material.

(b) Debris and Refuse. Removal of papers, debris, snow, ice, filth and refuse; and sweeping the Common Area to the extent necessary to keep the Common Area in a clean and orderly condition.

(c) Signals and Markers. Placing, keeping in repair and replacing any appropriate directional signs, markers and lines.

(d) Lighting. Operating, keeping in repair and replacing when necessary, such lighting facilities as may be reasonably required.

(e) Landscaped Areas. Maintaining all present and future landscaped areas, repairing automatic sprinkler systems or water lines in the Common Area, and making replacement of shrubs and other landscaping as necessary; provided, however, and if any Owner requires or installs "special" landscaping other than that normal and consistent with the landscaping requirements of the remainder of the Property, the maintenance and cost thereof shall be borne solely by such Owner without cost or expense to the other Owners and shall not be included in the cost of maintaining the Common Area hereunder.

(f) Utilities. Maintaining and repairing any and all common storm drains, utility lines, sewers and other utility systems and services located in the Common Area which are necessary for the operation of the Common Area and the Lots, and any Improvements thereon within the Property.

(g) Obstructions. Keeping Common Area free from obstructions not required or permitted hereunder, specifically (but without limitation) keeping Common Area free from any obstructions except in areas within the Property specifically designated by the Owners for such purposes.

(h) Property Monument Signs. Maintaining and repairing any free-standing, monument or pylon signs in the Common Area which advertise the Property by its name. The only Property monument sign meeting this criteria is located where shown on **Exhibit B** hereto. The entire cost of installing and maintaining any portion of such signs which advertise the presence or business of any Owner or Occupant, together with an appropriate pro rata share of the cost of maintenance of the sign structure, shall be borne by such Owner or Occupant without cost or expense to the other Owners, and shall not be included in the cost of maintaining the Common Area hereunder.

(i) Governmental Requirements. Complying with all applicable requirements of governmental agencies pertaining to the Common Area, including without limitation, any alterations or additions required to be made to, or safety appliances and devices required to be maintained in or about the Common Area under any laws, ordinances, rules, and regulations or orders now or hereafter adopted, enacted or made and applicable to the Common Area.

(j) Personnel. Employment of such personnel, contractors, subcontractors, managers and other persons reasonably necessary for operation and maintenance of the Common Area, including employment of persons required to regulate and administer parking regulations, to provide for security in the Common Area. The Common Area Manager shall pay all Social Security, Workmen's Compensation, State Disability Insurance and other payments required to be made in connection with any such employment or for the benefit of such employees and contractors.

5.2 Insurance. Subject to the provisions herein contained, the Common Area Manager shall maintain commercial general liability insurance for the Common Area against the risks of

bodily injury, property damage and personal injury liability with a limit of not less than \$2,000,000.00 for each occurrence.

5.3 Cost of Operation and Maintenance of Common Area.

(a) Payment by the Common Area Manager. All costs incurred in the operation and maintenance of the Common Area shall be promptly paid directly by the Common Area Manager when incurred. The Common Area Manager shall expend only the monies reasonably necessary for the operation, maintenance and insurance of the Common Area. Notwithstanding anything to the contrary herein contained, the Owners of the Property shall reimburse the Common Area Manager for their Pro Rata Share of all Common Area Expenses.

(b) Payment. Owners' Pro Rata Share of Common Area Expenses shall be payable within thirty (30) days after a reasonably detailed statement of actual Common Area Expenses is presented to Owners by the Common Area Manager. At the Common Area Manager's option however, an amount may be estimated by the Common Area Manager from time to time of each Owner's Pro Rata Share of Common Area Expenses and the same shall be payable monthly as the Common Area Manager shall designate during each calendar year on the first day of each month. If during any calendar year there is a change in the information on which the Common Area Manager based the estimate upon which Owners are then making their estimated payments so that such estimate furnished to Owners is no longer accurate, the Common Area Manager shall be permitted to revise such estimate from time to time by notifying the Owners and there shall be adjustments made in the monthly amount of Owners' Pro Rata Share on the first day of the month following service of such statement to Owners. The Common Area Manager shall also, within one hundred twenty (120) days after the end of each calendar year, submit to the Owners a reasonably detailed statement summarizing all Common Area Expenses during the previous calendar year, together with the total amount paid by the Owners during such year hereunder. The Common Area Manager shall in accordance with good bookkeeping practices maintain a complete record of each and every item of Common Area Expenses shall make such records available during normal business hours at the Common Area Manager's office in the metropolitan Denver area for inspection or audit by the Owners or their designated representatives, accountants, agents or attorneys. If an Owner shall dispute the amount of its Pro Rata Share of Common Area Expenses submitted by the Common Area Manager, such Owner shall give the Common Area Manager written notice of such objection within one hundred twenty (120) days after the Common Area Manager's notice of adjustment. If Owners do not give the Common Area Manager such written notice within such time, Owners shall have waived their right to the dispute the amounts so determined. If an Owner timely objects, the Common Area Manager's accountants and Owner's accountants shall endeavor to agree upon the manner, failing which the parties shall settle the dispute by judicial action or in such other manner as they agree. All costs incurred by an Owner in obtaining its own accountants shall be paid for by such Owner. Notwithstanding the pendency of any dispute over any particular statement, such Owner shall continue to pay the Common Area Manager the amount of the monthly installments of Common Area Expenses determined by the Common Area Manager until the adjustment has been determined to be incorrect. If it is determined that any portion of the Common Area Expenses were not properly chargeable to the Owners, then the Common Area Manager shall promptly credit or refund the appropriate sums to Owners. All information disclosed to or discovered by an Owner or its accountant must be kept strictly confidential and may not be disclosed except in judicial action, required securities disclosure, or governmental action including audits.

(c) Major Repairs or Replacements. Notwithstanding anything to the contrary contained in subsection (a) and (b) hereof in the event the Common Area Manager is required to incur extraordinary cost or expense for a major repair or replacement of any portion of the Common Area, and in the event the estimated average Pro Rata Share of the cost of which is anticipated to exceed \$100,000.00 (which amount shall be adjusted annually based on the then-current CPI Index for the

Denver metropolitan area), the prior written consent of the Owners of the Property shall be required. The Common Area Manager shall notify the Owners of the Property of the nature of the major repair or replacement and the estimated Pro Rata Share of the cost of such repair or replacement for each Lot. Each Owner shall have fourteen (14) business days after written notice to disapprove of such expenditure by providing written notice to the Common Area Manager. Should an Owner not respond within such fourteen (14) business day period, the repair or replacement shall be deemed approved as to such Owner's Lot. Should at least 85% of the Owners timely object, the repair or replacement will not be undertaken; provided, however, (i) such repair or replacement may be undertaken in the event of an emergency condition described in subsection 2.8(d) herein; and (ii) if the parties cannot agree on the expense and specifications for such major repair or replacement within six (6) calendar months after the month of the Common Area Manager's first notice, the Common Area Manager shall be entitled to proceed with such repair or replacement and bill each Lot its Pro Rata Share provided such amount does not exceed the estimate originally contained in the Common Area Manager's first notice. The Pro Rata Share of such cost and expense shall be billed by statement to the Owners immediately upon being incurred by the Common Area Manager, and shall be due and payable within thirty (30) days from the date of mailing thereof. In addition to setting forth the Pro Rata Share due from the Owners the statement shall contain an appropriate description of the major repair or replacement, together with a complete itemization of cost or expense incurred by the Common Area Manager for the major repair or replacement and shall summarize the totals of all such costs and expenses.

(d) Remodeling, Change or Modification of Common Areas. If at any time Declarant or its successor desires to or is required to make modifications, additions, releases, remodels or other changes to the Common Areas, Declarant shall give reasonable notice of the same to the Owners. The Pro Rata Share of such cost and expense shall be billed by statement to the Owners immediately upon being incurred by the Common Area Manager, and shall be due and payable within thirty (30) days from the date of mailing thereof. In addition to setting forth the Pro Rata Share due from the Owners the statement shall contain an appropriate description of the modification, addition, release, or remodel or other change, together with a complete itemization of cost or expense incurred for the same and shall summarize the totals of all such costs and expenses. Unless the change is (i) required by any governmental authority, the ODP, the Site Plan, or further development of the Property or (ii) reasonably necessary to maintain the Property in a first-class condition, the Owners shall have the same approval rights as described in Section 5.3(c) above.

(e) In the event of a Termination Transfer, the cost of operation and maintenance of the Common Area on each Lot shall be solely the responsibility of the Lot Owner without reimbursement from any other Owner whether or not the items to be maintained or repaired serves only that Owner's Lot or serves both Property. As of the date of such Termination Transfer, Sections 5.3(a), (b), (c) and (d) shall be of no further force and effect.

6. Property Taxes.

6.1 Payment of Property Taxes. The Owners and any successors in interest, shall each pay or cause to be paid directly when due all real property taxes and other special taxes and assessments which may be levied or assessed against their respective Lots and the Improvements thereon, including without limitation, any tax or assessment attributable to any interest created by this Declaration, any and all real property taxes and other special assessments levied or assessed against that portion of the Common Area lying within their respective Property and any and all taxes assessed pursuant to law or ordinance hereinafter enacted, by way of substitution for or in addition to all or any part of the taxes or assessments levied or assessed against the Property and/or Common Area.

6.2 Contest of Property Taxes. The Owners, individually or collectively, may contest in good faith any real property tax or other special tax or assessment levied upon its own Lot.

