

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR
SADDLER RIDGE COMMERCIAL PARK**

After recording return to:
WHITE BEAR ANKELE TANAKA & WALDRON
2154 E. Commons Avenue, Suite 2000
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SADDLER RIDGE COMMERCIAL PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SADDLER RIDGE COMMERCIAL PARK (the "**Declaration**" as hereinafter more fully defined) is made and entered into this 28th day of November, 2018, by Liberty Savings Bank, F.S.B, a Federal Savings Bank (the "**Declarant**" as hereinafter more fully defined).

RECITALS

A. The Declarant is the owner of that certain real property in Weld County, Colorado, which is described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "**Property**").

B. The Declarant desires to subject and place upon the Property certain covenants, conditions, restrictions, easements, architectural guidelines, reservations, rights-of-way, obligations, liabilities and other provisions.

C. This Declaration does not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act at C.R.S. § 38-33.3-103(8). Therefore, this Declaration shall not be governed by the Colorado Common Interest Ownership Act.

E. The Declarant imposes the covenants, conditions, restrictions and easements set forth in this Declaration on the Property, and pursuant to C.R.S. § 32-1-1004, and other provisions of Title 32 of C.R.S., the Declarant empowers the Metropolitan District (as hereinafter defined) with the authority to furnish covenant enforcement, design review and other services (collectively, the "**Services**," as hereinafter more fully defined) for the Property, using revenues that are derived from the Property (as hereinafter defined), as more fully set forth in this Declaration.

ARTICLE 1. DECLARATION

Section 1.1 Declaration of Covenants.

The Declarant declares that the Property is subject to this Declaration and shall be owned, held, sold, encumbered, leased, improved, used, occupied, enjoyed, transferred, conveyed, maintained and altered subject to the covenants, conditions, restrictions, easements, architectural guidelines, reservations, rights-of-way, obligations, liabilities, and other provisions, as set forth in this Declaration. The terms of this Declaration touch and concern the Property, and (a) run with the land, (b) benefit and burden the Property as an equitable servitude, (c) bind all Persons having or acquiring any interest in the Property or any part of the Property, (d) inure to the benefit of and bind every part of the Property and every interest in the Property, and (e) inure to the benefit of and are

enforceable by the Declarant and the Metropolitan District, and their respective designees, assigns, and successors in interest.

Section 1.2 Planned Community.

The Declarant intends to develop the Property as an industrial, retail and commercial park, with related uses. The name of the industrial, retail and commercial park to be developed on the Property is Saddler Ridge Commercial Park. All of the Property is located within the Metropolitan District. Because ownership of any portion of the Property does not obligate the owner to pay for real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration, the Property is not and will not be a “common interest community” as defined in the Colorado Common Interest Ownership Act (“Act”), and therefore the Property and this Declaration are not subject to or required to comply with the Act. The Declarant confirms its intention that the Act will not apply to the Property or this Declaration.

Section 1.3 Purposes of Covenants.

This Declaration is executed (a) to further a common and general plan for the development of the Property; (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 of Parcels (as defined herein) within the Property.

ARTICLE 2. DEFINITIONS

Section 2.1 Definitions.

In this Declaration, except as otherwise expressly provided or where the context indicates, the following capitalized terms shall have the respective meanings set forth below:

2.1.1 “**Affiliate**” means any Person that, directly or indirectly, is in control of, is controlled by or is under common control with the Person for whom an affiliate is being determined. For purposes hereof, control of a Person means the power, direct or indirect, to (i) vote 20% or more of the ordinary voting power of such Person, or (ii) direct or cause the direction of the management and policies of such Person whether by contract or otherwise, and either alone or in conjunction with others.

2.1.2 “**Applicable Laws**” means the laws, orders, ordinances, regulations, rules and statutes of all federal, state and local, jurisdictions having authority over the Property, including the Metropolitan District, Weld County, and any other statutorily created governing body including, without limitation, associations.

2.1.3 “**ARC**” means the Architectural Review Committee, which shall be appointed by the Declarant during the Declarant Development Period (as defined in Section 2.1.7), and upon expiration of the Declarant Development Period, appointed by the Metropolitan District, all as provided in Section 3.1 of this Declaration. The ARC shall review, consider and approve, or disapprove, requests for architectural approval, as more fully provided in this Declaration. To the extent a representative has been appointed by the ARC to act on its behalf, as provided in Section 3.1.2, then the actions of such representative shall be deemed to be the actions of the ARC.

2.1.4 “**Benefited Parties**” means the Declarant, the Metropolitan District, the ARC, and each of their respective parents, subsidiaries, and Affiliates, and each of their agents, directors, employees, members, managers, officers, partners, and shareholders, and their respective heirs, successors, and assigns.

2.1.5 “**Builder**” means (i) any Person who acquires one or more Parcels within the Property for the purpose of constructing a building thereon for subsequent sale, and (ii) is designated by the Declarant in writing as a “Builder.”

2.1.6 “**Declarant**” means Liberty Savings Bank, F.B.S, a Federal Savings Bank, and/or any other Person to whom the Declarant assigns one or more of the Declarant’s rights under this Declaration (which assignment will only be the extent of the Declarant rights to which such assignee succeeds); provided, that no assignment of any Declarant rights shall be effective unless such assignment is duly executed by the assignor Declarant and recorded in the office of the Clerk and Recorder of Weld County, Colorado.

2.1.7 “**Declarant Development Period**” means the period of time commencing on recordation of this Declaration in the Recorder’s Office, and expiring the first to occur of: (a) fifty (50) years after recording of this Declaration, (b) the date of conveyance of all the Parcels currently subject to this Declaration to the first Owners thereof other than: (i) the Declarant, or (ii) any Builder; or (c) the surrender by the Declarant of its rights hereunder, which surrender must be evidenced by a written instrument executed by the Declarant and recorded in the Recorder’s Office, which instrument shall detail which rights are thereby being surrendered.

2.1.8 “**Declaration**” means this Declaration of Covenants, Conditions and Restrictions for Saddle Ridge Commercial Park, as amended from time to time.

2.1.9 “**Design Guidelines**” means a manual of design guidelines for the Property, or other design or architectural guidelines, to interpret and/or implement any provision of Article 3 of this Declaration, specifically, and this Declaration in general, as more fully provided for in Section 3.3 of this Declaration.

2.1.10 “**Established Drainage Pattern**” means the drainage pattern that exists at the time of the completion of the overall grading of any Parcel which may be reflected on a

grading plan or an as-built civil engineer plan for such Parcel and the drainage certificate, if any, provided to the Parcel Owner.

2.1.11 “**Fees**” means, collectively, (i) any type of charge to any portion of the Property and/or to any Parcel for any services or facilities provided through the Metropolitan District to such portion of the Property and/or any Parcel, or (ii) any fees imposed by the Metropolitan District or the ARC for design review and/or enforcement services.

2.1.12 “**Fines**” means any monetary penalty imposed by the Metropolitan District or the Enforcement Committee, if any, against an Owner due to a violation of the Governing Documents by such Owner or any Occupant of the Owner’s Parcel.

2.1.13 “**Governing Documents**” means this Declaration, any Design Guidelines, any Rules and Regulations and any other documents, rules, regulations or guidelines now or hereafter adopted by or for the Declarant, the Metropolitan District or the ARC, as may be amended and supplemented from time to time.

2.1.14 “**Improvements**” means all exterior improvements, structures, buildings and any appurtenances thereto or components thereof of every type or kind, any and all landscaping improvements or features, outbuildings, satellite dishes, antennas, patios, patio covers, awnings, solar collectors, roof materials, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, plantings, trees, shrubs, flowers, sod, gravel, groundcover, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment, if any. Improvements include, without limitation, all initial Improvements constructed on any Parcel and all subsequent changes, modifications, alterations or adjustments to any previously approved Improvement, including any change of exterior appearance, color, or texture, other than any changes, modifications, alterations or adjustments to the interior of a Unit. Improvements do not include any Metropolitan District Property.

2.1.15 “**Metropolitan District**” means the Saddle Ridge Metropolitan District, and/or any other metropolitan district(s) to which the 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 Weld County, Colorado, of a document of transfer or assignment, duly executed by the Metropolitan District. In addition to the authority to provide the Services (as defined in Section 2.1.25), the Metropolitan District has such other authority with respect to the provision of the 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.

2.1.16 “**Metropolitan District Property**” means any real or personal property, including any infrastructure or other Improvements, owned, leased or being constructed by or on behalf of the Metropolitan District in connection with the Property. Notwithstanding anything to the contrary, including the location of the Metropolitan District Property within the Property, the Metropolitan District Property shall not be subject to this Declaration.

2.1.17 “**Occupant**” means any Person, other than the Declarant, the Declarant’s Affiliates, a Builder, the Metropolitan District, the ARC or the Enforcement Committee, if any, that uses or occupies any portion of a Parcel or Unit under an ownership right or any lease, sublease, license or concession or other use and occupancy agreement, any guests and invitees of any Owner or Occupant and any other Person that uses any portion of the Property.

2.1.18 “**Owner**” means each fee simple title holder of a Parcel, including the Declarant, the Declarant’s Affiliates and/or, any Builder, but does not include a Person having a security interest in a Parcel, including, without limitation, a mortgagee. If there is more than one fee simple holder of title, “Owner” includes each such Person, jointly and severally.

2.1.19 “**Parcel**” means any portion of the real property within the Property that is described and identified as a separate lot, parcel or tract on a recorded plat including any portion of the Property, and which may be sold or conveyed without violation of Applicable Laws.

2.1.20 “**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.

2.1.21 “**Plans and Specifications**” means complete plans and specifications of a proposed Improvement, in the requisite number and format, and containing such information as required by the Design Guidelines, and any other information and materials as may be required by the ARC. By way of example, the Design Guidelines may require plans and specifications to show exterior design, height, materials, color, and location of the Improvement, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan.

2.1.22 “**Property**” means the real estate described on the attached **Exhibit A**, as supplemented and amended from time to time, including any property annexed to this Declaration by the Declarant as set forth in 7.4 of this Declaration, as the same may now or hereafter be improved, and as the Declarant, any Builder or Owner may now or hereafter subdivide or re-subdivide, or any portion thereof, provided, however, Property does not include any property that has been withdrawn as provided in Section 7.5 of this Declaration or any Metropolitan District Property.

2.1.23 “**Recorder’s Office**” means the Clerk and Recorder’s Office for Weld County, Colorado.

2.1.24 “**Rules and Regulations**” means rules and regulations concerning, without limitation, (i) the use of the Property, (ii) certain use restrictions on the Parcels, (iii) other restrictions governing the conduct of Owners and/or Occupants, and/or (iv) rules and regulations specific to Parcels and/or Units, as such rules and regulations are adopted, amended, repealed or modified by the Declarant during the Declarant Development Period, or by or the Metropolitan District thereafter. Rules and Regulations are binding upon all Owners and Occupants.

2.1.25 “**Services**” means the services that the Metropolitan District is empowered to provide pursuant to C.R.S. §32-1-1004, as amended, and other provisions of Title 32 of C.R.S., as amended, including but not limited to covenant enforcement, design review, and trash collection.

2.1.26 “**Supplemental Declaration**” means any supplement to this Declaration that amends this Declaration, or adds or withdraws real property to the Property, and is recorded in the Recorder’s Office.

2.1.27 “**Unit**” means any industrial, retail or commercial structure constructed on a Parcel.

ARTICLE 3. ARCHITECTURAL REVIEW

Section 3.1 Composition of ARC.

3.1.1 The ARC will consist of three (3) or more natural persons as provided herein. The Declarant has the authority to appoint and remove the members of the ARC during the Declarant Development Period. After expiration of the Declarant Development Period, the governing board of the Metropolitan District has the authority to serve as, appoint and remove the members to the ARC. The power to “appoint” the ARC, as provided herein, shall include without limitation the power to: constitute the initial membership of the ARC; appoint member(s) to the ARC on the occurrence of a vacancy therein, for whatever reason; and remove any member of the ARC, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the entity which then as the power to appoint the ARC.

3.1.2 The ARC may at any time, from time to time, with the consent of the entity then authorized to appoint the members of the ARC, appoint a representative to act on its behalf. If the ARC does so, then the actions of such representative shall be the actions of the ARC, subject to the right of appeal as provided below. However, if such representative

is appointed by the ARC, then the ARC shall have full power over such representative, including without limitation the power to at any time withdraw from such representative any of such representative's authority to act on behalf of the ARC and the power to at any time remove or replace such representative, subject to the approval of the entity which then has the authority to appoint the ARC.

Section 3.2 Architectural Review Requirements; Authority of the ARC.

3.2.1 Subject to the provisions of this Declaration, no Improvement may be constructed, erected, placed, altered, planted, applied, installed or modified upon any Parcel unless the Improvement is in full compliance with all provisions of the Governing Documents. Prior to constructing, erecting, placing, altering, planting, applying, installing or modifying an Improvement upon any Parcel, the Owner of the Parcel must submit Plans and Specifications of the proposed Improvement to the ARC for review and consideration, and then receive approval in writing from the ARC, all in accordance with the Design Guidelines. An Owner may designate in writing a Person other than Owner to submit Plans and Specifications as a co-applicant with Owner.

3.2.2 The ARC shall endeavor to exercise its judgment in an attempt to provide for each proposed Improvement to generally harmonize with the existing surroundings, buildings, landscaping and structures. Neither the Declarant nor the ARC will review or approve any proposed Improvements in relation to whether the same complies with Applicable Laws.

3.2.3 The Design Guidelines may provide for the payment of a fee to accompany each request for approval of any proposed Improvement submitted to the ARC. Any such fee shall be uniform for similar types of proposed Improvements or shall be determined in any other reasonable manner. Additionally, in its review of such plans, specifications and other materials and information, the ARC may require that the applicants reimburse the ARC for the actual expenses incurred by the ARC in the review and approval process. Such fee and amounts, if any, shall be the personal obligation of the Owner requesting approval from the ARC and shall be part of the Metropolitan District's lien as described in Section 6.5.2.5 and shall be collectible by the Metropolitan District in the same manner as other fees authorized to be charged and collected by the Metropolitan District pursuant to Colorado law.

Section 3.3 Guidelines.

During the Declarant Development Period, the Declarant shall have the authority to enact, issue promulgate, modify, amend, repeal, and re-enact the Design Guidelines. Thereafter, the governing board of the Metropolitan District shall have such authority. Without limiting the generality of the foregoing, such provisions may contain guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the ARC, may state procedural requirements, or may specify acceptable

Improvements that may be installed without prior approval of the ARC. The Design Guidelines may permit the Metropolitan District to send demand letters and notices, levy and collect Fees, Fines and interest, and negotiate, settle and/or take any other actions with respect to any violation or alleged violation of any of the Governing Documents. Any Design Guidelines so adopted shall be consistent, and not in conflict, with this Article and this Declaration. In addition, the Design Guidelines may provide for blanket approvals, interpretations, or restrictions. By way of example, and not by way of limitation, the Design 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.

Section 3.4 Procedures.

The ARC will review and approve in writing (which may be with conditions and/or requirements), or disapprove, each request for architectural approval within forty-five (45) days after the complete submission of Plans and Specifications to the ARC, along with other materials and information which the ARC may require in conjunction therewith in accordance with the design review procedures set forth in the Design Guidelines. If the ARC fails to review and approve in writing (which may be with conditions and/or requirements), or disapprove, a request for architectural approval within forty-five (45) days after the complete submission of the Plans and Specifications and other information requested with respect thereto, such request is deemed approved by the ARC.

Section 3.5 Vote.

The affirmative, majority vote of the members of the ARC is required for approval (which may be with conditions and/or requirements) of each matter, unless the ARC has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the ARC decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to appeal such decision to the full ARC, upon a written request therefor submitted to the ARC within thirty (30) days after such decision by the ARC's representative.

Section 3.6 Prosecution of Work after Approval.

After approval (which may be with conditions and/or requirements) of any proposed Improvement, the Owner is required to complete and construct the Improvement promptly and diligently, and in complete conformity with all conditions and requirements of the approval and any provision of the Design Guidelines relating to construction. Except for the Declarant or the Declarant's Affiliates, failure to complete the proposed Improvement within one (1) year after the date of approval of the application (the "**Completion Deadline**"), or to complete the Improvement in complete conformance with the conditions and requirements of the approval, constitutes noncompliance with the provisions of this Declaration; 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 provided that the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made.

Section 3.7 Notice of Completion.

Upon the completion of any Improvement, the Owner will submit a written "**Notice of Completion**" to the ARC (in form and substance acceptable to the ARC, or on forms provided by the 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 for which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

Section 3.8 Inspection of Work.

The ARC, the Metropolitan District, and the Enforcement Committee, if any, and/or any duly authorized representative of the same, has the right to inspect any Improvement at any time, including prior to or after completion, 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.

Section 3.9 Notice of Non-Compliance.

If, as a result of inspections or otherwise, or following receipt of a Notice of Completion, the ARC, the Metropolitan District or the Enforcement Committee, if any, determines that any Improvement has been constructed without obtaining all required approvals (which may be with conditions and/or requirements), or was not constructed in substantial compliance with the approval that was granted, or has not been completed by the Completion Deadline, subject to any extensions of time granted pursuant to Section 3.6 hereof, then the Metropolitan District or the Enforcement Committee, if any, will notify the applicant in writing of the non-compliance, specifying the particulars of the noncompliance (the "**Notice of Noncompliance**").

Section 3.10 Correction of Non-Compliance.

If it has been determined that non-compliance exists, the Owner responsible for such non-compliance must remedy or remove the same, and return the subject property or structure to a condition acceptable to the Metropolitan District or the Enforcement Committee, if any, within the period specified in the Notice of Noncompliance. If such Owner does not comply with the Notice of Noncompliance by amending the condition within the period specified, the Metropolitan District may, at its option, record a notice of non-compliance against the Parcel on which the non-compliance exists, may impose Fees, Fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Owner responsible for such non-compliance shall reimburse the Metropolitan District, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto. Such fees, costs and expenses shall be the personal obligation of the Owner and shall be part of the Metropolitan District's lien as described in Section 6.5.2.5 and shall be collectible by the Metropolitan District in the same manner

as other fees authorized to be charged and collected by the Metropolitan District pursuant to Colorado law.

Section 3.11 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. Cooperation may include, without limitation, collection, payment, and disbursement of Fees, Fines or charges.

Section 3.12 Access Easement.

The Declarant hereby reserves, and each Owner hereby grants, to the ARC, the Metropolitan District and the Enforcement Committee, if any, including the agents, employees and contractors of the same, on, over, under and across each Parcel, excluding any habitable structure and the interior of any Unit thereon, easements for performing any of the actions contemplated in the Governing Documents, including inspections and enforcement of each of the terms and provisions of the Governing Documents. The rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owners and/or Occupants of any affected Parcel; except that no such notice is required (i) in connection with any exterior, non-intrusive inspections and maintenance; and (ii) in emergency situations. The interior portions of any Unit are not subject to the easements provided for in this Section.

Section 3.13 No Liability.

The Benefitted Parties are not liable 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 whether for damage or in equity. In reviewing or approving any matter, the Benefitted Parties are not be responsible for any issue related to the Improvements, whether structural or otherwise, and whether submitted for review or otherwise. The Benefitted Parties are not responsible for any matter related to safety. The Benefitted Parties are not responsible for the conformance of Improvements with Applicable Laws or compliance with any other standard or regulation, and any approval (which may be with conditions and/or requirements) of any Improvement by the ARC will not be deemed an approval of any such matters, will not be deemed to represent that the Improvement conforms to Applicable Laws or complies with any other standards or regulations, and will 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 Benefitted Parties. The ARC will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to property with respect to architectural requests and the Benefitted Parties shall not be liable for any disputes relating to the same. Each

Owner (i) waives and releases the Benefitted Parties from all claims related to approval of any Improvements and (ii) waives and releases all claims against the Benefitted Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The ARC members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The ARC members, acting in that capacity, have no personal liability with respect to any contract or other commitment made or action taken on behalf of the ARC.

Section 3.14 Variance.

The ARC may, but under no circumstances is obligated to, grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration or by the Design 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 will be granted in the ARC's sole discretion and may only be granted if such variance does not impose a material detriment or injury to the other property or improvements within the Property 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 applicant, 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 shall constitute a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants/Owners.

Section 3.15 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 shall any such approval or consent be deemed to constitute a precedent as to any other matter. Any changes in Plans and Specifications previously approved by the ARC must be reviewed and approved by the ARC in the same manner as the initial Plans and Specifications.

Section 3.16 Declarant and Builder Exemption.

3.16.1. Notwithstanding anything to the contrary, the Declarant, the Declarant's Affiliates, and the Metropolitan District are exempt from any and all provisions of the Governing Documents that require ARC review and/or approval.

3.16.2. Notwithstanding anything to the contrary, as long as, and to the extent that, a Builder has received written architectural approval from the Declarant, which approval must be granted by the Declarant, if at all, during the Declarant Development Period, such

Builder shall, as to Declarant-approved Improvements, be exempt from this Article and all provisions of the Governing Documents that require ARC review and/or approval.

ARTICLE 4. RESTRICTIONS

Section 4.1 Restrictions Imposed.

The Parcels 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 and in the Governing Documents.

Section 4.2 Commercial and Industrial Use.

4.2.1 No Parcel within the Property may be built upon, altered, occupied or used for any purpose or use unless said purpose is in accordance with Applicable Laws. The kinds of uses deemed appropriate include manufacturing, assembling, processing, warehousing, office, retail or other commercial uses.

4.2.2 Notwithstanding anything contained herein to the contrary, no Parcel shall be used for residential or dwelling purposes.

Section 4.3 Signs.

All signs to be displayed on a Parcel or a Unit must first be approved by the ARC as provided herein. The Design Guidelines may establish standards related signs, including but not limited to size, design, color and location.

Section 4.4 Parking.

Parking on each Parcel shall be sufficient to support the ordinary parking requirements of the particular business(es) conducted on the Parcel, and shall be in accordance with any requirements of Weld County, Colorado in relation to the number of parking spaces required. The Design Guidelines may establish standards related to parking areas, including acceptable parking surface materials, curbs, and striping. The Rules and Regulations may establish rules related to parking behaviors of Owners, Occupants and visitors, including but not limited to rules regulating overnight parking, prohibited vehicles and towing.

Section 4.5 Nuisances.

No Owner or Occupant will permit a nuisance on its Parcel. Owners and Occupants will not permit any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any other Parcel or Unit. Owners and Occupants will not permit any noxious or

offensive activity upon any Parcel or Unit. This Section 4.5 does not apply to any activities of the Declarant, the Declarant's Affiliates or a Builder.

Section 4.6 Restrictions on Trash and Materials.

No Owner or Occupant will permit any refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind to be kept, stored, accumulated on its Parcel, nor will such items be deposited on any parking area or street unless placed in a suitable, tightly covered container that is suitably located solely for the purpose of garbage pickup, recycling or composting. Further, no Owner or Occupant will permit any trash or materials to accumulate in such a manner as to be visible from any other Parcel or Unit. Owners and Occupants will keep all equipment for the storage or disposal in a clean and sanitary condition. No Owner or Occupant will permit any garbage or trash cans or receptacles to be maintained in an exposed or unsightly manner.

Section 4.7 Trash Removal and Recycling Services.

The Metropolitan District is authorized to provide centralized trash removal and recycling services to the Property, and if the Metropolitan District elects to do so, the Metropolitan District shall have the exclusive right to engage such trash removal and/or recycling contractor on behalf of the Owners and Owners shall not be entitled to engage individual trash removal and/or recycling contractors on their own behalf. If the Metropolitan District does provide centralized trash removal and/or recycling services to the Property, it may levy and collect fees, charges, and other amounts to be imposed upon the Parcels and/or Units for such trash removal and recycling services; provided, however that such fees, charges and other amounts must be derived from within the applicable Metropolitan District boundaries where the trash removal and/or recycling services are required or performed. The scope, frequency, and all other matters with respect to such trash removal and recycling services shall be determined by the Metropolitan District. Without limiting the generality of the foregoing, the Metropolitan District may, for example, as a part of establishing Rules and Regulations related to trash removal and recycling services, elect to provide for regularly scheduled trash and recycling pick-ups, but may require each Owner to be responsible for scheduling, and paying for, any extraordinary trash and/or recycling pick-ups and may limit the items eligible for trash pick-up and/or recycling from time to time. In the event the Metropolitan District does not elect to provide centralized trash removal and/or recycling services for the Property, each Owner shall be responsible for the removal of trash and/or recyclables from its Parcel in a manner to comply with Section 4.6 above.

Section 4.8 Maintenance.

All Parcels, whether occupied or unoccupied, and any Units or other Improvements placed thereon, shall at all times be maintained by the Owner thereof in such a manner as to prevent their becoming unsightly by reason of unattractive growth, the accumulation of rubbish or debris thereon, or the unsightly condition of Units or other Improvements thereon. No Unit or other Improvement on any Parcel shall be permitted by its Owner to fall into disrepair, and each such Unit or

Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise finished. If, in the sole discretion of the Metropolitan District, proper maintenance is not being undertaken, the Metropolitan District may, at any time after prior written notification to the Owner, contact for the completion of such maintenance work, and shall have the right to charge the costs of such maintenance work to the Owner, which costs shall be the personal obligation of the Owner of the Parcel on which such work is performed and shall be part of the Metropolitan District's lien as described in Section 6.5.2.5 and shall be collectible by the Metropolitan District in the same manner as other fees authorized to be charged and collected by the Metropolitan District pursuant to Colorado law.

Section 4.9 Grade and Drainage.

Each Owner shall maintain the Established Drainage Pattern on such Owner's Parcel. Any alteration in the Established Drainage Pattern for any Parcel will result in the full release of the Benefited Parties as to any and all liabilities or obligations with respect to the Established Drainage Pattern for any Parcel. Each Owner agrees to indemnify and hold the Benefited Parties harmless from any and all claims, liabilities, expenses, damages, and attorney fees, arising out of or relating to any alteration the Established Drainage Pattern.

Section 4.10 Landscaping.

All portions of a Parcel not improved with a Unit or improved for parking, loading, driveways or walkways, shall be landscaped with trees, shrubs, planted ground cover or other suitable materials as approved in writing by the ARC. The Design Guidelines may set forth specific landscaping requirements or guidelines.

Section 4.11 Damage or Destruction of Structures on Parcels.

Any damage to or destruction of any structure, Unit or Improvement located on a Parcel shall be promptly repaired and replaced by the Owner of the Parcel, in accordance with this Declaration. "Repaired and replaced," as used in this Section 4.11, means restoring the structure, Units or Improvement to substantially the same condition in which it existed immediately prior to such damage or destruction. The cost of such repair or replacement shall be the personal obligation of the Owner of the Parcel on which such work is to be performed and shall be part of the Metropolitan District's lien as described in Section 6.5.2.5 and shall be collectible by the Metropolitan District in the same manner as other fees authorized to be charged and collected by the Metropolitan District pursuant to Colorado law.

Section 4.12 Further Restrictions in the Rules and Regulations.

The Rules and Regulations may set forth further restrictions, limitations or regulations related to the improvement, maintenance, appearance or use of the Parcels and the Units. Rules and Regulations concerning and governing the Property, may be promulgated, adopted, enacted, modified, amended, repealed, and re-enacted by the Declarant during the Declarant Development

Period, and thereafter by the Metropolitan District, and such actions shall not be construed as an amendment to this Declaration requiring Owner approval under Section 9.4, hereof. The Rules and Regulations, if any, may state procedural requirements, interpretations, clarifications and applications of any provision(s) of this Declaration or the Design Guidelines and law, and may include blanket requirements, blanket interpretations, and blanket applications. The Declarant, during the Declarant Development Period, and the Metropolitan District thereafter, has the authority to adopt or vary one or more Rules and Regulations that are different for different types of Parcels or Units, if any. Any Rules and Regulations that are adopted may add to the restrictions contained herein, but shall not be inconsistent with or contrary to this Declaration.

ARTICLE 5. EASEMENTS

Section 5.1 Easements for Access.

The Declarant declares, establishes, grants, and reserves easements over each Parcel in favor of the Declarant, its Affiliates, the Metropolitan District, the Enforcement Committee, if any, and the ARC, including each of their respective agents, contractors and employees, for performing maintenance, repair, or replacement or other services, including, without limitation, enforcement of any provision in the Governing Documents. The access easements granted in this Section 5.1 may be exercised only during reasonable hours after reasonable notice to the Owner and/or Occupant of any affected Parcel or Unit; provided, however, that no such notice is required in connection with any exterior, non-intrusive maintenance and in emergency situations entry upon a Parcel may be made at any time, provided that Owner and/or Occupant is notified of impending emergency entry as early as is reasonably possible. The interior of any Unit is not subject to the easements provided for in this Section 5.1.

Section 5.2 Additional Easements.

Until such time, if any, as the Declarant subjects any additional property to this Declaration, and after such time, if any, as the Declarant withdraws any portion of the Property from this Declaration, the Declarant and the Declarant's Affiliates shall have whatever easements are reasonably necessary or desirable across the Property for access to and to provide utility services to the additional property added to, or the portion of the Property withdrawn from, the Property, as the case may be.

Section 5.3 Limitations on Easements.

The easements established pursuant to this Declaration (a) shall in no way affect, avoid, extinguish, or modify any other covenants, easements, limitations, reservations, or restrictions affecting all or part of the Property recorded prior to this Declaration, and (b) shall not be interpreted or construed as preventing or precluding the construction, operation and use of any Parcel or Unit which is otherwise permitted by the terms of this Declaration.

Section 5.4 Recorded Easements.

In addition to all easements and rights-of-way of recorded at or before this Declaration, the Property, and all portions thereof, are subject to the easements shown on any plat of the Property or as recorded in the Recorder's Office.

Section 5.5 Acknowledgment of Inconvenience.

Each Owner agrees that there are inconveniences which will accompany the construction and development of the Property, including, without limitation, construction noise, portable toilets, construction traffic, uncompleted buildings, areas not landscaped, potholes and construction supplies stored in plain view and general inconvenience associated with construction sites and related issues. Each Owner, by taking title to any Parcel or Unit, waives any claims against the Benefited Parties associated with the inconveniences, nuisance and hazards associated with such construction.

ARTICLE 6. COVENANT ENFORCEMENT

Section 6.1 Enforcement, Generally.

Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Rules and Regulations, the Design Guidelines and any other Governing Documents, as at any time amended, may be by any proceeding at law or in equity against any Persons violating or attempting to violate any such provision, and possible remedies include all of those available at law or in equity. The Declarant and the Metropolitan District have the right, but not the duty, to institute, maintain and prosecute any such proceedings. No remedy shall be exclusive of other remedies that may be available. Subject to the provisions of Article 8 of this Declaration, in any action instituted or maintained under this Declaration or any other such documents, the prevailing party shall be entitled to recover its costs and attorneys' fees incurred in asserting or defending the claim, as well as any and all other sums. Failure by the Declarant, the Metropolitan District, the ARC, and/or the Enforcement Committee, if any, 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. Each Owner, by its acceptance of title to a Parcel, assigns and delegates and consents to the assignment and delegation to the Metropolitan District, in their own name as an Owner of a Parcel within the Property, the authority, power, right, and responsibility to enforce the Governing Documents. The foregoing shall include the right of the Metropolitan District to send demand letters and notices, to charge interest and/or late charges, to levy and collect Fines, to impose liens (as provided in C.R.S. Section 32-1-1001(j)(1), as amended), to 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 6.2 Enforcement Committee.

The governing board of the Metropolitan District shall have the right to establish a committee to enforce the Governing Documents (the “**Enforcement Committee**”) and, upon its establishment, the members of the Enforcement Committee will be appointed and removed by the governing board of the Metropolitan District and shall have the same rights as the Metropolitan District under this Article 6 and as elsewhere set forth in this Declaration in relation to the enforcement of the Governing Documents. The Metropolitan District shall be responsible for the ministerial administration and enforcement of the Governing Documents, and has the right to: (a) accept complaints for violations of the Governing Documents; (b) submit complaints regarding violations of the Governing Documents; (c) inspect the Property for violations of the Governing Documents; (d) issue various notices to Owners regarding the Governing Documents; and (e) provide all ministerial administration and enforcement of the Governing Documents.

Section 6.3 Purpose and General Authority.

The Metropolitan District or the Enforcement Committee, if any, shall review all complaints and notifications provided by the Declarant, a Builder, an Owner, a resident within the Property, or the ARC regarding any alleged violation of the Governing Documents. The Metropolitan District or the Enforcement Committee, if any, also has the right to make an investigation on its own regarding potential violations. The Metropolitan District or the Enforcement Committee, if any, has the authority to determine whether a violation has occurred by any Owner or Occupant, and upon such determination, may issue to an Owner a notice of violation identifying the particular circumstances or conditions of the violation and require Owner to take such action as may be necessary to correct, remedy or otherwise remove the violation, including the time period in which the violation is to be remedied as further set forth in Section 6.5.

Section 6.4 Fees and Expenses.

All expenses of the Metropolitan District or the Enforcement Committee, if any, must be paid by the Metropolitan District with revenues derived from that portion of the Property with respect to which the Metropolitan District’s or the Enforcement Committee’s services are required or performed. The Metropolitan District has the right to charge Fees and Fines for costs of enforcement of the Governing Documents and the costs incurred to correct, remedy or otherwise remedy violations, in amounts which may be established by the Metropolitan District from time to time.

Section 6.5 General Inspections; Violation Identified by Another Owner; Notice and Hearing; Remedies.

6.5.1 Any member or authorized agent or consultant of the Enforcement Committee or the ARC, or any authorized officer, director, employee or agent of the Metropolitan District may enter upon any Parcel, at any reasonable time after notice to Owner and/or Occupant, as more fully provided in Section 5.1, without being deemed guilty

of trespass, in order to investigate or inspect any portion of the Property for alleged violations of the Governing Documents, or to read a utility meter or to verify any utility matter.

6.5.2 If any part or portion of a Parcel is not in compliance with the Governing Documents or any action is being taken in violation of the Governing Documents, the Metropolitan District shall have all remedies available to it at law or in equity, including, without limitation, the following remedies and any other remedies set forth herein:

6.5.2.1 The Metropolitan District may record a notice of violation against the Lot on which the violation exists;

6.5.2.2 The Metropolitan District has the right to remove, correct or otherwise remedy any violation in any manner the Metropolitan District deems appropriate;

6.5.2.3 The Metropolitan District may file an action for injunctive relief to cause an existing violation to be brought into compliance with the Governing Documents and the Metropolitan District shall recover all costs and attorneys' fees associated with bringing the action;

6.5.2.4 The Metropolitan District may levy and collect Fees, charges, penalties and Fines for the violation of any provisions of the Governing Documents. Prior to the imposition of any Fines, the Metropolitan District or the Enforcement Committee, if any, shall give the Owner to be subject to the Fine notice and the opportunity for a hearing before the governing board of Metropolitan District or the Enforcement Committee, if any. The Rules and Regulations may further define the process by which such Fines may be imposed, including but not limited to establishing the schedule of Fines to be imposed.

6.5.2.5 The Metropolitan District may collect, and shall have a statutory perpetual lien pursuant to § 32-1-1001(1)(j)(I), C.R.S. against the Parcel subject to the violation to secure, (1) payment for reimbursement by the violating Owner for any remedial work performed by the Metropolitan District to remove, correct or otherwise remedy the violation, (2) payment for expenses incurred in obtaining injunctive relief, including costs and attorneys' fees, (3) payment of any Fines levied by the Metropolitan District against such Parcel, plus the following amounts, to the extent not inconsistent with applicable laws, (4) interest on such amount at a rate equal to eighteen percent (18%), and (5) all costs and expenses of collecting the unpaid amount, including, without limitation, reasonable attorneys' fees.

Section 6.6 No Liability.

The Benefitted Parties are not liable to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter whether for damages or in equity. In reviewing any alleged violation, the Benefitted Parties are not responsible for any issue related to the alleged violation. 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 Benefitted Parties. Each Owner (i) waives and releases the Benefitted Parties from all claims related to the actions of the Benefitted Parties and (ii) waives and releases all claims against the Benefitted Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The members of the governing board of the Metropolitan District, the ARC, and the Enforcement Committee members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The members of the governing board of the Metropolitan District, the ARC, and the Enforcement Committee members, acting in that capacity, shall have no personal liability with respect to any contract or other commitment made or action taken on behalf of the District, the ARC and/or the Enforcement Committee, if any.

ARTICLE 7. SPECIAL DECLARANT RIGHTS

Section 7.1 Development Rights.

The Declarant hereby reserves for itself and its successors and assigns, during the Declarant Development Period, the following rights, herein after the “**Development Rights**”:

- 7.1.1 The right to add real estate to the Property, as more fully provided in Section 7.4 herein;
- 7.1.2 The right to create Parcels within the Property;
- 7.1.3 The right to subdivide Parcels as provided in Section 7.6 herein; and
- 7.1.4 The right to withdraw Parcels from the Property as provided in Section 7.5 herein.

Section 7.2 Special Declarant Rights.

In addition to the Development Rights reserved above, the Declarant further reserves the rights hereinafter set forth for the benefit of the Declarant and its Affiliates (collectively, the “**Special Declarant Rights**”):

7.2.1 To build and complete Improvements on any portion of the Property owned by the Declarant;

7.2.2 To exercise any Development Right;

7.2.3 To maintain sales offices, construction offices, management offices, and signs advertising the Property and the sale of the Parcels;

7.2.4 To use easements through the Property for the purpose of making Improvements within the Property or within real property which may be added to the Property;

7.2.5 To grant or create easements for access, utilities, drainage, water and other purposes incidental to the development and sale of the Property, located in or across Parcels owned by the Declarant, provided such easements do not create a permanent, unreasonable interference with the rights of any Owners at the time such easement is created;

7.2.6 To select and hire a third-party manager for the management, administration or operation of the Property or any portion thereof;

7.2.7 To alter any condition (including the size and location of any Improvements) on any Parcel or Unit owned by the Declarant, whether with respect to sales and marketing efforts or otherwise;

7.2.8 To adopt initial Rules and Regulations;

7.2.9 To amend this Declaration or any plat as necessary, without Owner consent or approval, in connection with the exercise of any Development Rights or Special Declarant Rights;

7.2.10 To enter into, establish, execute, amend and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of the Property;

7.2.11 To use potable or non-potable water, from whatever source, for any of the following purposes: (i) dust control in connection with constructing and completing Improvements within the Property, (ii) establishment of landscaping, and/or (iii) any other use necessary for the development of the Property by the Declarant;

7.2.12 To review and approve, in its sole discretion, prior to recording in the Recorder's Office by any party other than the Declarant, any subordinate covenants or restrictions affecting the Property or any portion thereof;

7.2.13 To subject portions of the Property owned by the Declarant or its Affiliates to additional or different covenants, conditions, terms and restrictions, as the Declarant may determine; and

7.2.14 To exercise any additional reserved right created by any other provision of this Declaration.

Section 7.3 Exercise of Development Rights or Special Declarant Rights.

All of the Development Rights and Special Declarant Rights may be exercised by the Declarant with respect to any portion of the Property now or hereafter subject to this Declaration. The Declarant may exercise any or all of the Development Rights or Special Declarant Rights at any time and from time to time. Unless otherwise provided herein, the Development Rights and Special Declarant Rights shall terminate upon the expiration of the Declarant Development Period.

Section 7.4 Addition of Real Estate.

During the Declarant Development Period, the Declarant may annex additional property to this Declaration. Each such annexation shall be effected, if at all, by the recording of a Supplemental Declaration in the Recorder's Office, which Supplemental Declaration shall provide for annexation to this Declaration of the property described in such Supplemental Declaration, shall state that the Declarant (or other Person) is the owner of the Parcel(s) thereby created, shall assign an identifying number to each new Parcel, and may include such other provisions as the Declarant deems appropriate. All provisions of this Declaration shall apply to annexed property immediately upon the recording of any such Supplemental Declaration. Upon recordation, each Parcel being annexed by such Supplemental Declaration shall be deemed included on **Exhibit A** of this Declaration and shall become part of the Property as defined herein.

Section 7.5 Withdrawal of Real Estate.

During the Declarant Development Period, the Declarant may withdraw the Property, or any portion thereof, including one or more Parcels, from this Declaration, so long as the Declarant owns the portion of the Property to be withdrawn. Each withdrawal, if any, shall be accomplished by the recording of a Supplemental Declaration in the Recorder's Office. 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 of such Supplemental Declaration, the real estate (including Improvements) so withdrawn shall not be part of the "Property".

Section 7.6 Subdivision or Replatting of Parcels.

During the Declarant Development Period, the Declarant hereby reserves the right to subdivide or replat any Parcel(s) owned by the Declarant. Each such subdivision or replatting may change the number of Parcels in the Property. The foregoing reservation includes the right to move

any lot line(s) on Parcels(s) for the purpose of accommodating Improvements which are, or may be constructed. During the Declarant Development Period, any Builder or Owner may subdivide or replat any Parcel owned by such Builder or Owner with the prior written approval of the Declarant, and subject to any other approvals of any local municipality or otherwise as required by Applicable Laws. Thereafter, any Parcel may be subdivided or replatted by the Owner thereof with the prior written approval of the Metropolitan District, and subject to any other approvals of any local municipality or otherwise as required by Applicable Laws.

Section 7.7 Rights Transferrable/Rights Transferred.

Any rights created or reserved under this Article for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in the Recorder's Office. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements stated herein and in accordance with any Applicable Laws, but without the consent of the Declarant, the ARC, the Metropolitan District, or any Owners of any Parcels, unless otherwise provided by Applicable Laws.

Section 7.8 No Further Authorizations Needed.

The consent of the Owners of the Parcels shall not be required for the exercise of any reserved Declarant rights, and the Declarant or its assigns may proceed without limitation at its sole option. The Declarant or its assignees may exercise any reserved rights on all or any portion of the Property in whatever order determined. The Declarant or its assigns shall not be obligated to exercise any reserved rights.

ARTICLE 8. ALTERNATIVE DISPUTE RESOLUTION

Section 8.1 Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.

8.1.1 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 this Article.

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

8.1.3 Any applicable statute(s) of limitations shall apply to the alternative dispute resolution procedures set forth in this Article.

Section 8.2 Definitions Applicable to this Article.

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

8.2.1 "**Bound Party**" means each of the following: the Declarant, each Builder, each contractor, subcontractor, supplier, and laborer, the Metropolitan District, to the extent permitted by law, 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, if such Persons have jointly 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 between such Persons shall apply with respect to such Claim, unless such Persons mutually agree to submit such Claim to the provisions of this Article.

8.2.2 "**Claimant**" means any Bound Party having a Claim.

8.2.3 "**Claim**" means, except as exempted by the terms of this Article, any claim, grievance or dispute between one Bound Party and another, regardless of how the same may have arisen or on what it might be based, including those arising 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.

8.2.4 "**JAG**" means the Judicial Arbitrator Group or any other Person agreed to by the Claimant and Respondent in writing for the purpose of performing the functions of the Judicial Arbitrator Group under this Declaration.

8.2.5 "**Notice**" means the written notification given by a Claimant to a Respondent which complies with Section 8.5.1 of this Declaration.

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

8.2.7 "**Respondent**" means any Bound Party against whom a Claimant asserts a Claim.

8.2.8 "**Termination of Mediation**" means a period of time expiring thirty (30) days after submission of the matter to mediation (or within such other time as determined by the mediator or otherwise agreed to by the Parties) and upon the expiration of which the Parties have not settled the applicable Claim.

8.2.9 “**Termination of Negotiations**” means a period of time expiring thirty (30) days after the date of the Notice (or such other period of time as may be agreed upon by the Parties) and upon the expiration of which the Parties have not resolved a Claim.

Section 8.3 Commencement or Pursuit of Claim against Bound Party.

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

8.3.2 Prior to any Bound Party commencing any proceeding against another Bound Party, the Respondent shall have 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 otherwise correct the alleged dispute.

Section 8.4 Claims.

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

8.4.1 Any action by the ARC, the Metropolitan District, the Enforcement Committee, if any, or the Declarant, to enforce any provision(s) of the Governing Documents, including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief), and such other ancillary relief as a court may deem necessary;

8.4.2 Any suit between or among Owners, which does not include the Declarant, a Builder, the Metropolitan District, the governing board of the Metropolitan District, the Enforcement Committee, if any, or the ARC as a Party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

8.4.3 Any suit in which any indispensable party is not a Bound Party.

Section 8.5 Mandatory Procedures.

8.5.1 *Notice.* 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:

- (a) The nature of the Claim, including all Persons involved and Respondent’s role in the Claim;
- (b) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(c) The proposed remedy; and

(d) 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 sooner than thirty (30) days after such inspection to discuss in good faith ways to resolve the Claim.

8.5.2 *Negotiation and Mediation.*

(a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in the Notice, the Metropolitan District may appoint a representative to assist the Parties in negotiation.

(b) Upon the Termination of Negotiations, Claimant shall have thirty (30) days to submit the Claim to mediation under the auspices of JAG in accordance with the rules of JAG in effect on the date of the Notice that is provided for Section 7.5.1 of this Declaration.

(c) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(d) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator shall issue a notice of Termination of Mediation. The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(e) Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

(f) If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Section and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Article. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or

if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including attorneys' fees and court costs.

Section 8.6 Final, Binding Arbitration.

8.6.1 Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of JAG, in accordance with the then-current rules of JAG in effect as of the date of the Notice provided in accordance with Section 8.5.1 of this Declaration. 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 shall be one arbitrator who shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

8.6.2 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 non-contesting Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

8.6.3 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 9. GENERAL PROVISIONS

Section 9.1 Powers and Authority.

The Metropolitan District is authorized to perform covenant enforcement and design review services as set forth in this Declaration, and the Metropolitan District has agreed to perform covenant enforcement and design review services as set forth in this Declaration. The Metropolitan District may exercise with regard to the Property, all powers and authority reasonably necessary to administer the rights and duties of the Metropolitan District under this Declaration, including, without limitation: (a) the power to adopt and amend budgets for revenues, expenditures, and reserves; (b) the power to collect taxes and Fees from Owners to administer its duties and obligations provided in this Declaration; (c) the power to manage and enforce the Governing Documents; (d) the power to contract with a third-party property manager for the management of the Property and/or for all other duties and responsibilities related to the overall operation of the Property; and (e) all other rights, powers and authority necessary to enforce this Declaration. The Metropolitan District has the power to levy Fees, Fines and other penalties for violations of the Governing Documents, as allowed by applicable law and as set forth in this Declaration.

Section 9.2 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 9.3 Conflict of Provisions.

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

Section 9.4 Duration, Revocation and Amendment.

9.4.1 Each and every provision of this Declaration shall run with and bind the Property perpetually from the date of recording of this Declaration. Unless otherwise provided herein, 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 Parcels then subject to this Declaration, with each Parcel being allocated one vote. 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 governing board of the Metropolitan District receives a recorded copy of such amendment, supplement and/or termination.

9.4.2 Notwithstanding anything to the contrary, during the Declarant Development Period, no amendment, supplement or termination of this Declaration shall be effective, without the prior written approval of the Declarant, which may be with conditions and/or requirements.

9.4.3 Notwithstanding anything to the contrary, during the Declarant Development Period, this Declaration may be amended in whole or in part by the Declarant, 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.

9.4.4 Notwithstanding anything to the contrary, during the Declarant Development Period, this Declaration may be amended in whole or in part by the Declarant, 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.

Section 9.5 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 Parcel 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 Design 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 Parcel 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 9.6 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 Parcel.

Section 9.7 Limitation on Liability.

The Declarant, any Builder, the Metropolitan District, the Enforcement Committee, if any, the ARC, and their respective directors, officers, shareholders, members, partners, agents and employees, shall not be 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, the Enforcement Committee, if any, and the ARC do not waive, and no provision of this Declaration shall be deemed 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, C.R.S. §24-10-101, *et seq.*, as amended. The release and waiver set forth in Section 9.11 shall apply to this Section.

Section 9.8 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 the Declarant, any Builder, the Metropolitan District, the Enforcement Committee, if any, 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 8.12 shall apply to this Section.

Section 9.9 Disclaimer Regarding Safety.

THE DECLARANT, THE BUILDERS, THE METROPOLITAN DISTRICT, THE ENFORCEMENT COMMITTEE, IF ANY, 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 PARCEL WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT THE DECLARANT, THE BUILDERS, THE METROPOLITAN DISTRICT, THE ENFORCEMENT COMMITTEE, IF ANY, 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 9.11 SHALL APPLY TO THIS SECTION.

Section 9.10 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 Parcels, 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 Parcel, each Owner accepts title to such Parcel subject to the foregoing, and waives and releases any claim against the Declarant, 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 9.11 shall apply to this Section.

Section 9.11 Waiver.

By acceptance of a deed to a Parcel, each Owner hereby releases, waives, and discharges the Declarant, each Builder, the Metropolitan District, the Enforcement Committee, if any, 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, those contained in Sections 9.7, 9.8, 9.9, and 9.10.

Section 9.12 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 9.13 Gender.

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

Section 9.14 Action.

Any action that has been or may be taken by the Declarant, any Builder, the Metropolitan District, the Enforcement Committee, if any, 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 9.15 Sole Discretion.

All actions which are to be taken by, or on behalf of, the Declarant, any Builder, the Metropolitan District, the governing body of the Metropolitan District, the Enforcement Committee, if any, the ARC, or any other Person, shall be deemed to be taken "in the sole discretion" of such Person.

Section 9.16 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 9.17 Runs with the Land; Binding upon Successors.

The benefits, burdens, and all other provisions contained in this Declaration shall be 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 shall be binding upon, and inure to the benefit of the Declarant, the Builders and all Owners, and upon and to their respective heirs, personal representatives, successors and assigns; but, no Person shall become a "Declarant" or a "Builder" under this Declaration, except by written assignment or designation, as more fully provided in Sections 2.1.5 and 2.1.6 of this Declaration, respectively.

[The remainder of this page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein and the Owner of the Property, has hereunto set its hand and seal this 28th day of November, 2018.

DECLARANT:
LIBERTY SAVINGS BANK, F.S.B.
a Federal Savings Bank

By: Beth Kelsey Beth Kelsey
Its: Asst. Vice President

STATE OF COLORADO Ohio)
) ss.
COUNTY OF CLINTON)

The foregoing instrument was acknowledged before me this 28th day of November, 2018, by BETH KESEY as ASST VICE PRESIDENT of Liberty Savings Bank, F.S.B, a Federal Savings Bank.

Witness my hand and official seal.



LISA DYKSTRA RUBIO
Notary Public, State of Ohio
My Commission Expires: Nov. 17, 2019
Recorded in Greene County

Lisa Dykstra Rubio
Notary Public
My Commission expires: _____

CONSENT OF SADDLER RIDGE METROPOLITAN DISTRICT

The undersigned, Saddler Ridge Metropolitan District, hereby consents to the aforesaid Declaration of Covenants, Conditions and Restrictions of Saddler Ridge Commercial Park.

SADDLER RIDGE METROPOLITAN
DISTRICT,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: [Signature]
Its: PRESIDENT

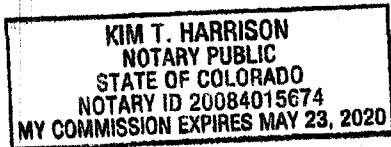
STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 17th day of October, 2018, by Gene Osborne as President of Saddler Ridge Metropolitan District, a Colorado quasi-municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

{SEAL}

[Signature]
Notary Public
My Commission expires: 10/17/18



**EXHIBIT A
TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SADDLER RIDGE COMMERCIAL PARK**

(Property)

Tracts 2, 3, 4, 5 and 6, Saddler Planned Unit Development, recorded in the real property records of Weld County, Colorado on August 3, 2006, at Reception Number 3409109.