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utility company is responsible. Declarant's right to grant and create easements as described herein shall be transferred and shall devolve upon the Association upon conveyance by Declarant or a Limited Declarant of the last Lot owned by Declarant or a Limited Declarant to the first Owner (other than Declarant or a Limited Declarant).

10.10 Declarant's Rights to Convey Property to Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey real property and Improvements thereon to the Association at any time and from time to time in accordance with this Declaration.

10.11 Declarant's Right to Annex Additional Property to Community Area. Declarant shall have, and hereby reserves the right, but shall not be obligated, from time to time, to annex to the Community Area any part or all of the real property described on Exhibit B attached hereto and by this reference made part hereof (the "Additional Property"); provided that Declarant shall not be entitled to annex portions of the Additional Property (other than those dedicated for public use) not owned by Declarant without the consent of the owner thereof. In order to annex any part or all of the Additional Property to the Community Area, the Declarant shall be required to execute and record a Notice of Annexation which describes the real property being annexed, refers to this Declaration, including the date and reception number of the Recordation of this Declaration, and states that the Additional Property (or specified portion thereof) is, by such Notice of Annexation, being annexed to the Community Area. If the Additional Property or portion thereof being annexed by such Notice of Annexation is not owned by Declarant, the Notice of Annexation shall also be required to be executed by the owner thereof. Such annexation shall not require the consent of the Owners or Mortgagees of any other Units but shall, if Declarant desires to attempt to obtain FHA or VA approval of the property being annexed, be subject to a determination by FHA or VA that the annexation is in accord with a general plan approved by it and that the structures to be located thereon will be of comparable style, quality, size and cost to the existing Improvements. Any portion of the Additional Property so annexed to the Community Area shall be subject to the terms and conditions of this Declaration from and after the date of the recording of the Notice of Annexation annexing such portion of the Additional Property to the Community Area.

ARTICLE 11 MISCELLANEOUS

11.1 Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect until December 31, 2023, and thereafter shall be automatically extended indefinitely unless and until terminated. Any such termination may be adopted by the Recording of a written statement of termination executed by the Owners holding at least seventy-five percent (75%) of the Lots. The termination shall be effective on Recording of such instrument or on such later date as is specifically stated in such instrument. No such instrument shall be required to be in any particular form.

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11.2 Amendments by Declarant.

11.2.1 Amendments Before Conveyances. Until the first Lot subject to this Declaration is conveyed by Declarant to the first Owner (other than Declarant or any Limited Declarant), any of the provisions contained in the Declaration may be amended or terminated by Declarant by the Recordation of an amendment, executed by Declarant, setting forth such amendment or termination.

11.2.2 Technical Amendments. Declarant further reserves and is granted the right and power to make and Record technical amendments of the Declaration, and the Articles and By-Laws of the Association at any time prior to the earlier of the conveyance by the Declarant (or any Limited Declarant) of the last Lot owned by Declarant (or any Limited Declarant) to the first Owner (other than Declarant or any Limited Declarant) or five (5) years from the date of Recordation of this Declaration, whichever occurs first. Such amendments shall be permitted for the purposes of correcting spelling, grammar, dates, cross references, or typographical errors or as may otherwise be required to clarify the meaning of any provision of any and all such documents. No such amendment shall be permitted to make any substantive change in the provisions of this Declaration.

11.2.3 Amendments for Exercise of Reserved Rights. The Declarant may make amendments to this Declaration as necessary and as required by the Act in connection with the exercise of any rights reserved by the Declarant under this Declaration.

11.2.4 Amendments by Association. The Association may make amendments to this Declaration as necessary and as required by the Act in connection with the approval of any lot line or boundary adjustment under Section 3.20.

11.3 Amendment of Declaration by Members. Except as otherwise provided in this Declaration, including Sections 6.22 and 11.18.1, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision of this Declaration, including without limitation any covenant, condition, restriction, or equitable servitude contained in this Declaration, may be amended or repealed at any time and from time to time by the Recording of a written statement of amendment or repeal executed by the Owners of at least seventy-five percent (75%) of the Lots or by the vote of Members owning at least seventy-five percent (75%) of the Lots at duly constituted meetings of the Members and the Recording of a certificate of such vote of amendment or repeal executed by on behalf of the Association by the President of the Association or any Member of the Board of Directors. The amendment or repeal shall be effective on Recording of such instrument or on such later date as is specifically stated in such instrument. No such instrument shall be required to be in any particular form.

11.4 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provisions of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to


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any amendment or repeal shall terminate upon the conveyance by the Declarant (or any Limited Declarant) of the last Lot owned by Declarant (or any Limited Declarant) to the first Owner of such Lot (other than Declarant or any Limited Declarant) or five (5) years from the date of Recording this Declaration, whichever occurs first.

11.5 Amendment of Articles and By-Laws. The Articles of Incorporation and By-Laws may be amended in accordance with the provisions set forth in such instruments or, in the absence of such provisions, in accordance with applicable provisions of the Colorado Nonprofit Corporation Act.

11.6 Special Rights of First Mortgagees. The First Mortgagee as to any Lot in the Community Area, upon filing a written request therefor with the Association, shall be entitled to: (a) written notice from the Association of any default by the Mortgagor of such Lot in the performance of the Mortgagor's obligations under this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; and (b) examine the books and records of the Association during normal business hours.

11.7 First Mortgagee Exemption from Rights of First Refusal. Any such First Mortgagee who obtains title to any Lot pursuant to the remedies provided in the Mortgage held by such First Mortgagee or pursuant to any foreclosure of Mortgage or by deed or assignment in lieu of foreclosure shall be exempt from any right of first refusal if any such right of first refusal is ever contained in this Declaration or any Supplement to this Declaration.

11.8 Priority of First Mortgage Over Assessments. Subject to Section 38-33.3-316 of the Colorado Revised Statutes, the First Mortgagee as to any Lot who obtains title to such Lot pursuant to the remedies provided in the Mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such holder acquires title to such Lot.

11.9 First Mortgagee Right to Pay Taxes and Insurance Premiums. Any First Mortgagee or any such First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may or have become a charge against any of the Association Properties and may pay any overdue premiums on hazard insurance policies for any Association Properties, and the First Mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

11.10 Amendment Required by Government Mortgage Agencies. Notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration or to the Articles of Incorporation or By-Laws of the Association shall be necessary in order for existing or future Mortgages to be acceptable to any Government Mortgage Agencies, such amendments may be made solely by Declarant. "Government Mortgage Agencies" shall mean the FHA, the VA, the FHLMC, the GNMA, the FNMA, or any other governmental or quasi-governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently



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performed by such entities. "FHA" shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development, including such department or agency of the United States Government as shall succeed to the FHA in insuring notes secured by mortgages and deeds of trust on residential real estate. "VA" shall mean the Veterans Administration of the United States of America, including such department or agency of the United States Government as shall succeed to the VA in its present function of issuing guarantees with respect to notes secured by Mortgages on residential Lots. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation or The Mortgage Corporation created by Title III of the Emergency Home Finance Act of 1970, including any successor thereto. "FNMA" shall mean the Federal National Mortgage Association, a governmental-sponsored private corporation established as such pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto. "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, including any successor thereto. Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment shall be made, if at all, by Declarant prior to the conveyance of the last Lot owned by Declarant to the first Owner (other than Declarant or any Limited Declarant) and each such amendment shall be subject to the written approval of the VA or FHA.

11.11 HUD or VA Approval. During the Declarant Control Period, the following actions shall require the prior approval of HUD, the FHA or the VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee on one or more Mortgages encumbering a Lot: (a) annexation of additional real property into the Association; (b) amendment of this Declaration or material amendment of the Articles of Incorporation or By-Laws of the Association; (c) termination of the Community Area; or (d) merger or consolidation of the Association.

11.12 Notices. Any notice permitted or required to be given under this Declaration or under the By-Laws, including any notice by the Association to any Member or Owner and any notice by any Member or Owner to another Member or Owner required by this Declaration or the By-Laws, shall, unless otherwise specified in this Declaration or in the By-Laws, be in writing and may be given either personally, by regular mail, certified mail, registered mail, local or national commercial courier or delivery service, successful and confirmed facsimile transmission, or by any other means that is then commonly in use in the United States as a means of giving important notices and which is designated by the Board of Directors as an appropriate means for giving notices hereunder. All notices given by regular mail shall be deemed to have been received on the third business day after being mailed and all other notices shall be deemed to have been received on the date actually delivered unless the Board of Directors shall adopt a universally applicable rule as to any specific method of giving notices, in which case such rule shall be applicable to all notices given by such method. All notices shall be to any Person at the address given by such Person to the Association for the purpose of service of such notice or to the Lot of such Person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association; provided that all such notices shall be at addresses located in the United States and no more than two Persons and addresses (other than the First Mortgagee) may be designated as being entitled to notices with respect to

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any Lot. If directions for notice are given to the Association that are inconsistent with the foregoing, the Association may ignore such directions.

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

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

11.15 Enforcement by Self-Help. Declarant (for so long as Declarant as a Member of the Association is entitled to enforce the Declaration) or the Association, or any authorized agent of either of them, may enforce, by self-help, any of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration. Violation of the provisions of covenants contained in Section 3 by an Owner shall permit the Association to enter onto the Lot of the Owner and cure the violation or cause compliance with this provision and to levy and collect a Specific Assessment for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of a Residence without the consent of the Owner thereof or a court order unless a clear emergency exists.

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

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

11.18 Claims against Declarant or any Limited Declarant; Arbitration.

11.18.1 Claims against Declarant or any Limited Declarant as to Association Owned Properties.

11.18.1.1 Limitation on Nature of Claims Against Declarant or any Limited Declarant; Waiver and Release of Claims. To the extent permitted by Section 6.22, the Association may bring claims against Declarant or any Limited Declarant with respect to Association Owned Properties; provided that any such claims shall be limited as follows:

11.18.1.1.1 Nature of Claims. No claim may be brought against Declarant or any Limited Declarant on any basis except for a


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claim that any Improvement or other work done by Declarant or such Limited Declarant, respectively, on Association Owned Properties was not performed in accordance with applicable building code or similar legal requirements or was not performed in a good and workmanlike manner in accordance with normal industry standards for such type of work or improvement in similar situations.

11.18.1.1.2 Limitation on Relief. No claim may be brought against Declarant or any Limited Declarant for any relief other than for an (i) order requiring Declarant or such Limited Declarant to correct any Improvement or other work done by Declarant or such Limited Declarant on Association Owned Properties was not performed in accordance with applicable building code or similar legal requirements or was not performed in a good and workmanlike manner in accordance with normal industry standards for such type of work or improvement in similar situations or (ii) if the Association has already corrected the same at the Association's expense after giving notice thereof to Declarant or such Limited Declarant, respectively, and Declarant's or such Limited Declarant's failure to correct the same or to commence the correction of the same within a reasonable time (which shall not in any event be less than one hundred twenty (120) days), the reasonable costs incurred in by the Association in correcting the same.

11.18.1.1.3 No Other Claims. The Association shall not be permitted hereby to bring any other claims against Declarant or any Limited Declarant with respect to Association Owned Properties. The Association shall not be permitted to bring any claim hereunder for any consequence of any defect in any construction by Declarant or such Limited Declarant, respectively, on any Association Owned Properties, including without limitation any claims for any warranty or representation, express or implied, including, without limitation, those of workmanlike construction, habitability, suitability for habitation, compliance with building code or other requirements, absence of expansive soils, absence of adverse soils and adverse conditions, design, condition, quality, merchantability, fitness for a particular purpose, absence of radon, absence of mold, negligence in the design or construction of any Improvements, or any consequence thereof, including, without limitation, any claims for consequential or punitive damages, emotional distress, mental or physical illness, bodily injury and death, medical, hospital, and rehabilitation costs, pain and suffering, loss of salary, wages, and employment, loss of use, loss of value, loss of opportunity, loss of inflationary increases in value or the time value of money, stigma damage, economic loss of any kind, any similar loss, personal injury, and damage to real or personal property.



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11.18.1.1.4 Limitation on Time to Initiate Claims Against Declarant. Any claim by the Association against the Declarant or any Limited Declarant permitted by this Section 11.18.1 shall be brought, if at all, on or before the first to occur of (i) the expiration of the statute of limitations with respect to the work on the Association Owned Property or Improvement thereto performed by Declarant or such Limited Declarant, respectively, that is the subject of the Association's claim or (ii) the last to occur of (a) the second anniversary after the substantial completion of the work on the Association Owned Property or Improvement thereto performed by Declarant or such Limited Declarant, respectively, that is the subject of the Association's claim and (b) the first anniversary of the transfer of such Association Owned Property or Improvement by Declarant or such Limited Declarant, respectively, to the Association.

11.18.1.2. Dispute Resolution. Any claim brought by the Association against Declarant or any Limited Declarant with respect to any Association Owned Properties shall be governed by and subject to all the restrictions contained in Section 11.18.2. Declarant and all Limited Declarants hereby consents to the provisions of this Section 11.18.1.

11.18.1.3. No Joinder. Any claim by the Association against Declarant or any Limited Declarant under this Section 11.18.1 shall be limited to issues described in Section 11.18.1.1 relating to the Association Owned Properties, and no such claim shall be joined with or otherwise combined with any other claim or with issues relating to any other aspect of any Lot, Residence or the Community Area or any other property. Without limiting the generality of the foregoing, no other claim by or on behalf of the Association may be combined in any proceeding with or joined with any claim or claims regarding one or more Association Owned Properties.

11.18.1.4. No Amendment. Notwithstanding any other provision of this Declaration, the provisions of this Section 11.18.1 may not be amended, modified, or repealed except by the Recording of a written statement of amendment executed and acknowledged before a Notary Public by (i) Declarant and (ii) all of the Owners of all of the Lots not then owned by Declarant.

11.18.2 Dispute Resolution.

11.18.2.1. Arbitration Is Exclusive Method of Dispute Resolution. Any claim that the Association is permitted to bring against Declarant or any Limited Declarant under Section 11.18.1, any dispute as to whether Section 11.18 or Section 6.22 is applicable to any claim by the Association, and any dispute between Declarant and the Association as to any similar matter shall be resolved exclusively by binding arbitration initiated and conducted in accordance with the


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provisions of this Section 11.18.2. The Association shall be bound by the Final Award entered in such an arbitration and shall abide thereby.

11.18.2.2. Initiation of the Proceeding. In the event of any dispute between the Association and Declarant or any Limited Declarant hereunder, either party may initiate an arbitration proceeding (the "Proceeding") to resolve such dispute. The Association Owned Property or Association Owned Properties which is or are the subject of a Proceeding are hereinafter referred to as the "Proceeding Property." The Proceeding shall be initiated in the manner provided by the Construction Industry Arbitration Rules or any replacement therefor (the "Construction Rules") of the American Arbitration Association (the "AAA"), as in effect at the time the Proceeding is initiated. The demand initiating the Proceeding shall request that the AAA, acting through its Regional Office, designate a five-member panel from the National Panel of Construction Industry Neutrals as the potential arbitrators. The demand for arbitration shall specifically call the attention of the AAA to the procedure for selecting the Arbitrator provided for in Section 11.18.2.4. If the Association initiates a Proceeding, Declarant or such Limited Declarant, respectively, shall, within twenty (20) days after receiving notice thereof, reimburse the Association for the amount paid by the Association to AAA to initiate the Proceeding, not to exceed \$750.00. Such payment and reimbursement shall be subject to the provisions of Sections 11.18.2.9 and 11.18.2.10 so as to be subject to being recovered by the Prevailing Party.

11.18.2.3. No Joinder or Consolidation; No Surrogate Party. Unless otherwise agreed in writing by the Association and Declarant or such Limited Declarant, respectively, the Proceeding shall be limited to issues relating to or arising out of Section 11.18.1 of this Declaration and/or the Proceeding Property and shall not be combined with issues relating to any other Declaration, structure, or property or to any claims or issues involving any party other than the Association and Declarant or such Limited Declarant, respectively.

11.18.2.4. Selection of Arbitrator. The AAA shall promptly select the five panel members from the National Panel of Construction Industry Neutrals and notify both parties in writing of the names and addresses of the five panel members. Within twenty-one days after the date of the AAA's notice of the names of the five panel members, the parties shall meet at a mutually agreeable time and place to select the arbitrator from such panel. If no such time and place is agreed to by the parties, the time shall be on the tenth (10th) day following the date of the AAA's notice or, if such day is not a regular business day in the Denver metropolitan area, on the next regular business day, at ten o'clock in the morning, local time, at the Declarant's or Limited Declarant's principal place of business in Colorado. At such meeting, the parties shall select one arbitrator for the Proceeding (the "Arbitrator") from the five panel members, by mutual Declaration, or, if the parties do not agree on a single arbitrator, the Arbitrator shall be selected in the following manner:



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11.18.2.4.1 The Association shall eliminate one of the five members of the panel; then Declarant or Limited Declarant shall eliminate two of the remaining members of the panel; and then the Association shall eliminate one of the remaining members of the panel, at which point the last remaining member of the panel shall have been selected as the Arbitrator; or

11.18.2.4.2 The Association's option, Declarant or Limited Declarant shall eliminate one of the members of the panel; then the Association shall eliminate two of the remaining members of the panel; and then Declarant or Limited Declarant shall eliminate one of the remaining members of the panel, at which point the remaining member of the panel shall be selected as the Arbitrator.

The parties shall immediately execute a notice to the AAA, advising of the selection of the Arbitrator, which shall in turn promptly give notice advising the parties and the Arbitrator of such selection. If the person selected as the Arbitrator does not qualify (because of a conflict, inability to act, or other reason), the process shall be repeated.

11.18.2.5. Time for Hearing. Promptly after the Arbitrator has been appointed and notified of the Proceeding, the Arbitrator shall notify the parties of the time and place of the hearing (the "Hearing"). The Hearing shall take place in the metropolitan area of Denver, Colorado. The Arbitrator shall schedule the Hearing to occur promptly, and, if possible, during the thirty (30) day period commencing after the expiration of seventy-five (75) days after the selection of the Arbitrator.

11.18.2.6. Limited Discovery. The parties shall be entitled to take limited discovery only as follows:

11.18.2.6.1 Detailed Statement of Claims. Within fifteen (15) days after the proceeding is commenced, the Association shall provide Declarant or such Limited Declarant with a detailed statement of each of the Association's claims, specifying in each case the nature of the claimed defect in the specific Proceeding Property.

11.18.2.6.2 Inspections of Proceeding Property. Declarant or such Limited Declarant (and its professional consultants) shall from time to time be permitted access to the Community Area and to each Proceeding Property and to conduct inspections thereof, to conduct tests thereon and thereof, and to take samples therefrom, upon reasonable advance notice to the Association, and the Association shall arrange for the same with Owners as necessary.

11.18.2.6.3 Depositions of Parties. Declarant or such Limited Declarant may conduct one deposition of each of two representatives of the Association with knowledge about the Proceeding Property who are designated by the Association. Association may conduct one deposition of two representatives of Declarant or such Limited Declarant with knowledge about the Proceeding Property who are designated by Declarant or such Limited Declarant. All such depositions shall pertain only to the specific Proceeding Property. Except as otherwise provided herein, the depositions shall be limited to no more than four (4) hours. Except as provided for herein, the depositions shall be taken pursuant to the Colorado Rules of Civil Procedure.

11.18.2.6.4 Production of Documents from Parties. Declarant or such Limited Declarant and the Association may each submit no more than ten (10) requests for the production of documents, each of which shall consist of a single request, upon the other side. All such requests for production of documents shall pertain only to the Proceeding Property. Responsive documents shall be served within fifteen (15) days of the date of service. Except as otherwise provided herein, requests for production of documents shall be governed by the Colorado Rules of Civil Procedure.

11.18.2.6.5 Identification of Third-Party Experts and Third-Party Expert Reports. To the extent that either of the parties intend to offer expert testimony at the Hearing, the party who intends to offer such testimony shall identify all such expert witnesses at least forty-five (45) days prior to the Hearing. The identification shall be accompanied by an expert disclosure in compliance with Colo. R. Civ. P. 26(a)(2)(B).

11.18.2.6.6 Discovery from Experts. With respect to each expert identified by a party pursuant to Section 11.18.2.6.5, the opposing party may conduct one deposition of each such expert (including any such experts who are employees of Declarant or such Limited Declarant or the Association). Each such deposition of a expert shall be limited to no more than one day. Except as otherwise provided herein, the depositions shall be taken pursuant to the Colorado Rules of Civil Procedure.

11.18.2.6.7 Discovery from Third-Party Fact Witnesses. The parties may request that third-party fact witnesses produce documents relevant to the dispute pursuant to a Subpoena to be issued by the Arbitrator; provided, however, that all such Subpoenas for production of documents shall pertain only to the specific Proceeding Property which is the subject of the dispute. Each party shall be limited to no more than two third-party subpoenas.



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11.18.2.6.8 Identification of Witnesses for Hearing. At least sixty-five (65) days prior to the Hearing, the parties shall identify all of the witnesses that they intend to present at the Hearing and present a summary of the testimony expected to be provided by each witness.

11.18.2.6.9 Identification of Exhibits for Hearing. At least fifteen (15) days prior to the Hearing, the parties shall identify, and provide copies of, all of the exhibits that they intend to offer at the Hearing.

In the event of any dispute regarding discovery, the Arbitrator shall resolve such dispute promptly upon the request of either party in a telephone or face-to-face hearing at the time and place specified by the Arbitrator. In the event of a discovery dispute, the Arbitrator may order any sanctions which a District Judge could enter under the Colorado Rules of Civil Procedure as then in effect and shall, at least, order any party found not to be cooperating, found to be causing delays, or found to be using discovery for purposes of harassment to pay the Arbitrator's fee for time spent in resolving such discovery dispute and reimburse the other party for attorneys' fees and costs incurred in connection with, or resulting from, such discovery dispute.

11.18.2.7. No Official Stenographic Record. No official stenographic or other records will be made of the Hearing or any other stage of the Proceeding. Each party shall be free to have such records made as it determines. Neither party shall be entitled to make any submission after the Hearing.

11.18.2.8. Substantive Award. The Arbitrator shall resolve all disputes in accordance with the terms and provisions of this Declaration. Within ten days after the end of the Hearing, the Arbitrator shall notify both parties in writing of his award relating to the issues presented by the Proceeding (the "Substantive Award"). If the Arbitrator determines that Declarant or such Limited Declarant is required to perform corrective work hereunder and has failed to perform corrective work hereunder in the time and manner required hereby, the Substantive Award shall list such corrective work and require Declarant or such Limited Declarant to perform such work. The Substantive Award shall not require Declarant or such Limited Declarant to pay damages to the Association for, or to reimburse the Association or otherwise pay the Association for the cost of, work required to be performed hereunder which Declarant or such Limited Declarant has failed to perform in the time and manner required hereby unless the Association has already performed such work after Declarant or such Limited Declarant failed to perform such work in the time and manner required hereby in accordance with the provisions of Section 11.18.1, in which case the Substantive Award shall require Declarant or such Limited Declarant to pay to the Association, the actual out-of-pocket cost reasonably incurred by the Association in having such work performed. The Arbitrator is not authorized to award punitive, exemplary, treble, or any similar damages or penalties and shall not do



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so. If the Substantive Award requires Declarant or such Limited Declarant to perform any work within the Community Area and if the Arbitrator determines that the cost of the work required to be performed by Declarant or such Limited Declarant has been or will be increased by reason of any failure of the Association to timely perform the Association's obligations hereunder, the Arbitrator shall determine the portion of the cost of the work so required which is attributable to the Association's failure and require the Association to pay such portion promptly when billed by Declarant or such Limited Declarant. The Substantive Award may include any sanctions imposed by the Arbitrator in accordance with this Section 11.18.2 but shall not include the determination of the Prevailing Party, which shall be determined in accordance with Section 11.18.2.9. Copies of the Substantive Award, executed by the Arbitrator, shall be forwarded by the Arbitrator to the Association, to Declarant, to the AAA, and otherwise as may be required by the Construction Rules.

11.18.2.9. Prevailing Party. The Prevailing Party in the Proceeding shall be entitled to reimbursement from the other party (the "Losing Party") of its attorneys' fees and disbursements and the costs of the Proceeding. Which Party is the Prevailing Party shall be determined only in accordance with this Section 11.18.2.9 and Section 11.18.2.10. At any time prior to the commencement of the Hearing, either party may make a written offer to the other of the corrections, restorations, cost reimbursements for corrections already made, and other considerations which it is willing to make (in the case of Declarant) or which it is willing to accept (in the case of the Association) to resolve the issues giving rise to the Proceeding. Any such offer, to be considered for purposes hereof, shall be headed, or identified, as "Confidential Offer to Resolve Dispute." If the other party accepts such offer, this matter shall be settled in accordance with such offer, or, if the offer is not accepted, the Prevailing Party and Losing Party shall be determined in the following manner. If the Substantive Award made by the Arbitrator at the end of the Proceeding (not including any sanctions imposed in accordance with this Section 11.18.2) is not substantially more favorable to the offeree than the offer, the offeror shall be the Prevailing Party. If the Substantive Award is substantially more favorable to the offeree than the offer, the offeree shall be the Prevailing Party. If more than one such offer is made, the determination of the Prevailing Party shall be based on that offer delivered closest to, but before, the third (3rd) business day before the commencement of the Hearing. If both the Association and Declarant or such Limited Declarant make an offer and the Association would be the Prevailing Party as to one offer and Declarant or such Limited Declarant would be the Prevailing Party as to the other offer, the Arbitrator shall determine that there is no Prevailing Party. If neither party makes an offer, and a substantial award is made in favor of the Association in the Substantive Award, the Association shall be the Prevailing Party. If neither party makes an offer and no award is made in favor of the Association in the Substantive Award or an award is made in favor of the Association in the Substantive Award that is not substantial, Declarant or such Limited Declarant shall be the Prevailing Party. Whether an award is substantial or is substantially



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better than an offer shall be determined with reference to the magnitude of the award made in the Substantive Award and the relief requested. The notices containing offers made under this Section 11.18.2.9 shall not be introduced into evidence or otherwise disclosed to the Arbitrator until after the Arbitrator has issued the Substantive Award.

11.18.2.10. Attorneys' Fees; Costs. If either Declarant or such Limited Declarant or the Association seeks to obtain reimbursement of its attorneys' fees and costs as the Prevailing Party, such party shall, within fourteen (14) days after the receipt of its copy of the Substantive Award, file a notice with the Arbitrator, and forward a copy to the other party, requesting that it be designated Prevailing Party and requesting that its attorneys' fees and costs be awarded. Any such request shall include:

11.18.2.10.1 A copy of the offer on which entitlement to designation as Prevailing Party is based.

11.18.2.10.2 For any attorneys' fees and disbursements requested, (a) an itemization of (i) attorney hours spent on a daily basis (which shall also show, on a daily basis, a description of the services performed), (ii) normal hourly rates, and (iii) total fees for attorney services (which shall be based only on such normal hourly rates and time spent), all reimbursable attorney disbursements, and all reimbursable costs of the Proceeding (such as AAA fees) and (b) the certificate of the lawyer for the submitting party certifying that the hours shown and descriptions of services are accurate and that the hourly rates stated are the normal hourly rates charged by such lawyer.

Failure to make such a submission within such period shall be a waiver of the right to recover attorneys' fees and costs. If a request for attorneys' fees and costs is made, the other party may object by written notice to any portions or all thereof within fourteen days after receiving such copy. Such written notice shall specify the grounds for such objection (which may include the objection that the seeking party is not the Prevailing Party and the parts or all of the fees or disbursements to which such party objects and any other appropriate objection) and shall be given to the Arbitrator and the requesting party. If the other party does not give notice objecting in such time, the Arbitrator shall determine that the requesting party is the Prevailing Party and the other party is the Losing Party and order the Losing Party to pay the attorneys' fees and disbursements of the Prevailing Party as so requested. If the other party objects, or if both parties submit requests, the Arbitrator shall schedule a hearing for such length as the Arbitrator determines as promptly as reasonably possible. At the end of such hearing, the Arbitrator shall resolve the respective claims and objections of the parties, determine the Prevailing Party, if any, and Losing Party, if any, and, if there is a Losing Party, order the Losing Party to pay the Prevailing Party's reasonable attorneys' fees and reimbursable disbursements (including the fees of the AAA and of the Arbitrator



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already paid by the Prevailing Party) in the amount determined by the Arbitrator in accordance herewith. If there is no Prevailing Party, each party shall pay its own attorneys' fees and costs, and neither party shall be required to reimburse the other for costs and fees (including the AAA fee, except to the extent required by Section 11.18.2.2).

11.18.2.11. Arbitrator's Fees and Expenses. The Arbitrator's fees and expenses shall be determined in accordance with the Construction Rules. If there is no Prevailing Party and no Losing Party, the Arbitrator's fees and other costs of the Proceeding shall be paid equally by the parties. Otherwise, the Arbitrator's fees and all costs of the Proceeding (including the fees of the AAA) shall be paid by the Losing Party, and any portion thereof already paid by the Prevailing Party shall be reimbursed by the Losing Party. With his Final Award, the Arbitrator shall submit a final billing for his fees and costs, and the Losing Party shall promptly pay any additional amount due, or, if there is no Losing Party and no Prevailing Party, the parties shall each promptly pay one half of the Arbitrator's fees and costs. If the Losing Party objects to the Prevailing Party's attorneys' fees or disbursements or to the request for designation as Prevailing Party, the fees of the Arbitrator for resolving such dispute shall be paid either by the Prevailing Party or the Losing Party, or shared equally, as determined by the Arbitrator in the Arbitrator's discretion. In exercising such discretion, the Arbitrator shall attempt to allocate such fees for payment by the party which does not prevail in connection with any dispute about Prevailing Party, attorneys' fees, and disbursements.

11.18.2.12. Final Award; Effect of Arbitrator's Award. When the matters referred to in Sections 11.18.2.9, 11.18.2.10, and 11.18.2.11 have been resolved, the Arbitrator shall issue a final award ("Final Award") which shall incorporate the Substantive Award and also incorporate any decisions made by the Arbitrator pursuant to Sections 11.18.2.9, 11.18.2.10, and 11.18.2.11 and any decision as to attorneys' fees and costs made pursuant to Section 11.18.2.6. The Final Award shall, as provided in Colorado Uniform Arbitration Act of 1975, C.R.S. § 13-22-201 et seq. (the "Arbitration Act"), be held adjudicated, settled, and not open for review, either directly or indirectly, and may be used for any purpose contemplated by the Arbitration Act, including without limitation the entry of a judgment thereon. If the Arbitrator orders Declarant or such Limited Declarant to perform work on the Proceeding Property, the Arbitrator shall retain jurisdiction of the Proceeding in order to resolve any disputes that may arise about the performance of such work. Any such retention of jurisdiction shall be set forth in the Final Award, which shall otherwise be final. If jurisdiction of the Proceeding is so retained, either party may, by motion to the Arbitrator, present any issue that may thereafter arise in connection with such retention of jurisdiction. Provisions of Section 11.18.2.6 (except Section 11.18.2.6.3, 11.18.2.6.4, 11.18.2.6.5, 11.18.2.6.6, and 11.18.2.6.7), 11.18.2.9, 11.18.2.10, and 11.18.2.11 shall be applicable to any determinations that the Arbitrator makes in connection with such retention of jurisdiction.



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11.18.2.13. Applicability of Rules and Statute. The Proceeding (and any additional proceedings after the Arbitrator issues the Final Award pursuant to a retention of jurisdiction by the Arbitrator as contemplated hereby) shall be conducted in accordance with this Declaration, the Construction Rules, the Arbitration Act, and any other portions of the Colorado Rules of Civil Procedure which may be applicable. To the extent of any conflict among any of the foregoing, the one first mentioned above shall control.

11.18.2.14. No Amendment. Notwithstanding any other provision of this Declaration, the provisions of this Section 11.18.2 may not be amended, modified, or repealed except by the Recording of a written statement of amendment executed and acknowledged before a Notary Public by (i) Declarant and (ii) all of the Owners of all of the Lots not then owned by Declarant.

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

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

11.21 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or any Limited Declarant or any of the agents or employees of any of them in connection with any portion of the Community Area, or any Improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing in a separate instrument executed by such Person.

11.22 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

11.23 Conflict of Provisions. Except to the extent any provision of this Declaration is inconsistent with the Act, in case of any conflict between this Declaration, the Articles of Incorporation, or By-Laws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the By-Laws of the Association, the Articles will control.

11.24 Governing Law. The validity and effect of this Declaration shall be determined in accordance with the laws of the State of Colorado.

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



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

11.27 Disclaimer Regarding Safety. DECLARANT AND EACH LIMITED DECLARANT HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY AREA. ANY OWNER OF PROPERTY WITHIN THE COMMUNITY AREA ACKNOWLEDGES THAT DECLARANT AND EACH LIMITED DECLARANT IS ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BY-LAWS, AND IS NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY AREA.

11.28 Use of the Words "Johnstown Farms". No Person shall use the words "Johnstown Farms," or any derivative or any other term which Declarant may select as the name of this development or any component thereof in any printed or promotional material without the Declarant's prior written consent during the Declarant Control Period, or the Association's prior written consent thereafter. However, Owners may use the words "Johnstown Farms" in printed or promotional matter solely to specify that particular property is located within the Community Area, and the Association shall be entitled to use the words "Johnstown Farms" in its name.

11.29 Recorded Easements. The Community Area, and all portions thereof, shall be subject to the easements as shown on the Plat and all easements and rights of way of record at or before the Recording of this Declaration.

[Remainder of page intentionally left blank.]



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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the 11th day of November, 2003.

DECLARANT:

JOHNSTOWN FARMS, LLC, a Delaware limited liability company

By: *John K. Pierret*
John K. Pierret, Executive Vice President

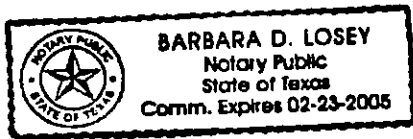
Address: 5495 Beltline Road, Suite 225
Dallas, Texas 75240

STATE OF TEXAS)
COUNTY OF Dallas) ss.

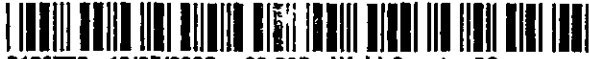
The foregoing was acknowledged before me this 10th day of November, 2003 by John K. Pierret, as Executive Vice President of Johnstown Farms, LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: _____



Barbara D. Losey
Notary Public



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EXHIBIT "A"

Legal Description

Lots 1 through 9 and Lot 18, Block 3,
Lots 1 and 18, Block 4,
Lots 1 and 18, Block 5,
Lots 35 through 53, Block 10,
Lots 1 through 16, Block 14,
Lots 1 through 16, Block 15,
Lots 1 through 16, Block 16,
Tract A,
Johnstown Farms Filing No. 1,
Town of Johnstown,
County of Weld,
State of Colorado.



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EXHIBIT "B"

Legal Description

Lots 10 through 17, Block 3,
Lots 2 through 17, Block 4,
Lots 2 through 17, Block 5,
Lots 1 through 18, Block 6,
Lots 1 through 18, Block 7,
Lots 1 through 18, Block 8,
Lots 1 through 34, Block 10,
Lots 1 through 24, Block 11,
Lots 1 through 16, Block 12,
Lots 1 through 16, Block 13,
Johnstown Farms Filing No. 1,
Town of Johnstown,
County of Weld.
State of Colorado.

FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR JOHNSTOWN FARMS
TOWN OF JOHNSTOWN, COUNTY OF WELD, COLORADO

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR JOHNSTOWN FARMS (this "Amendment") is made as of January 23, 2004, by Johnstown Farms, LLC, a Delaware limited liability company ("Johnstown LLC").

RECITALS

This Amendment is made with respect to the following facts:

A. A planned community commonly known as "Johnstown Farms" was created pursuant to the Declaration of Covenants, Conditions and Restrictions for Johnstown Farms, which was recorded on December 5, 2003, in the real property records of Weld County, Colorado at Reception No. 3132756 (the "Declaration"). Capitalized terms used in this Amendment without definition have the meanings given to them in the Declaration.

B. Johnstown LLC is the "Declarant" under the Declaration.

C. Pursuant to Section 11.2.1 of the Declaration, until the first Lot subject to the Declaration is conveyed by Declarant to the first Owner (other than Declarant or any Limited Declarant), any of the provisions contained in the Declaration may be amended or terminated by Declarant by recordation of an amendment executed by Declarant setting forth such amendment or termination.

D. Pursuant to Article 2 of the Declaration, Engle Homes Colorado, a division of TOUSA Homes, Inc., a Florida corporation ("Engle") is a "Limited Declarant." As of the date of this Amendment, Declarant has conveyed Lots only to Engle and to no other Owner.

E. Johnstown LLC, as Declarant, now desires to amend the Declaration in accordance with Section 11.2.1 of the Declaration and as set forth below.

AMENDMENT

NOW, THEREFORE, the Declaration is amended as set forth below.

1. **Section 5.4.** Section 5.4 of the Declaration, Voting, is amended by inserting the following language at the end of such section:

Notwithstanding anything contained in this Section 5.4 to the contrary, the Association shall not have a vote for any Lot it owns.



2. **Section 6.4.** Section 6.4 of the Declaration, Power to Pay Taxes, is deleted in its entirety and in its place the following language is inserted:

[Intentionally deleted.]

3. **Section 6.18.** Section 6.18 of the Declaration, Power to Convey and Dedicate Property to Government Agencies, is deleted in its entirety and in its place the following language is inserted:

Power to Convey and Dedicate Property to Government Agencies.

The Association shall have the power to grant, convey, dedicate, or transfer any Association Properties or facilities to any public, governmental, or quasi-governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate. Any such transfer shall require the approval of Members owning Lots to which at least sixty-seven percent (67%) of the votes in Association matters are allocated (including 67% of the votes allocated to Lots not owned by Declarant).

4. **Section 6.19.** Section 6.19 of the Declaration, Power to Borrow Money and Mortgage Property, is deleted in its entirety and in its place the following language is inserted:

Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and, with the approval of Members owning Lots to which at least sixty-seven percent (67%) of the votes in Association matters are allocated (including 67% of the votes allocated to Lots not owned by Declarant), to encumber Association Properties as security for such borrowing, subject to provisions elsewhere contained in this Declaration with respect to required approvals and consents to such action.

5. **Section 6.20.** The first sentence of Section 6.20 of the Declaration, Power to Merge or Consolidate, is deleted in its entirety and in its place the following language is inserted:

The Association shall have the power to merge or consolidate with another association with the approval of Members owning Lots to which at least sixty-seven percent (67%) of the votes in Association matters are allocated (including 67% of the votes allocated to Lots not owned by Declarant).

6. **Section 7.5.** The first three sentences of Section 7.5 of the Declaration, Association Duties if Damage, are deleted in their entirety and in their place the following language is inserted:

Association Duties if Damage. In the event of damage to Association Properties by fire or other casualty for which the Association is required to carry insurance pursuant to the Act and/or Section 6.5, the Association shall have the duty to repair, reconstruct, or replace the

same unless (a) this Declaration and the community created hereby are terminated in accordance with Section 11.1; (b) sixty-seven percent (67%) of the Owners, including every Owner of an assigned limited common element under the Act (if any) that will not be rebuilt, vote not to rebuild; or (c) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety. Subject to the foregoing, any insurance proceeds payable by reason of damage or destruction of Association Properties by fire or other casualty shall be paid to the Association and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction, or replacement of improvements damaged or destroyed, the Association may, in order to make up any deficiency in the insurance proceeds, levy a Special Assessment in accordance with Section 8.8, or if a Member or group of Members is liable for such damage, levy a Specific Assessment against the Member or group of Members responsible therefor, to provide the additional funds necessary.

7. **Section 7.7.** The first sentence of Section 7.7 of the Declaration, Title to Association Properties on Dissolution of Association, is deleted in its entirety and in its place the following language is inserted:

In the event of dissolution of the Association in connection with a termination under Section 11.1, the Association Properties shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association.

8. **Section 10.1.** The first sentence of Section 10.1 of the Declaration, Period of Declarant's Rights and Reservations, is deleted in its entirety and in its place the following language is inserted:

Declarant shall have, and Declarant hereby retains and reserves, certain rights as hereinafter set forth with respect to the Association and the Association Properties for a period of time (the "Declarant Control Period") commencing on the date hereof and ending no later than the earlier of (a) sixty (60) days after the date on which seventy-five percent (75%) of the Lots that may be created are conveyed to Owners other than Declarant or Limited Declarants; (b) two (2) years after the last conveyance by Declarant (or any Limited Declarant) of a Lot in the ordinary course of business; or (c) two (2) years after the right to add new Lots was last exercised by Declarant or a Limited Declarant.

9. **Section 10.2.** Section 10.2 of the Declaration, Declarant's Right to Appoint Board of Directors, is deleted in its entirety and in its place the following language is inserted:

Declarant's Right to Appoint Board of Directors. During the Declarant Control Period, Declarant shall have the right to appoint the Members of the Board of Directors; provided that (i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Owners other than Declarant or any Limited Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by Owners other than Declarant and any Limited Declarant; (ii) not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Owners other than Declarant or any Limited Declarants, not less than thirty-three and one-third percent (33 %) of the members of the Board of Directors must be elected by Owners other than Declarant and any Limited Declarant; and (iii) not later than the termination of the Declarant Control Period, the Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom shall be Owners other than Declarant or any Limited Declarant or designated representatives of Owners other than Declarant or any Limited Declarant.

10. **Section 10.4.** The initial paragraph of Section 10.4 of the Declaration, Requirements for Turnover of Declarant Control, is deleted in its entirety and in its place the following language is inserted:

Requirements for Turnover of Declarant Control. Within sixty (60) days after Owners elect a majority of the Members of the Board of Directors, Declarant shall deliver to the Association all property of the Owners and the Association held by or controlled by Declarant, including without limitation the following items:

11. **Section 11.1.** Section 11.1 of the Declaration, Term of Declaration, is deleted in its entirety and in its place the following language is inserted:

Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect until December 31, 2023, and thereafter shall be automatically extended indefinitely unless and until terminated. Any such termination may be adopted by the agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in Association matters are allocated. Such agreement must be evidenced by the execution of a termination agreement in accordance with Section 218 of the Act.

12. **Section 11.3.** The first sentence of Section 11.3 of the Declaration, Amendment of Declaration by Members, is deleted in its entirety and in its place the following language is inserted:

Except as otherwise provided in this Declaration, including Sections 6.22 and 11.18.1, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision of this Declaration, including without limitation any covenant, condition, restriction, or equitable servitude contained in this Declaration, may be amended or repealed at any time and from time to time by the Recording of a written statement of amendment or repeal executed by the Owners of Lots to which at least seventy-five percent (75%) of the votes in Association matters are allocated or by the vote of Members owning Lots to which at least seventy-five percent (75%) of the votes in Association matters are allocated at a duly constituted meeting of the Members and the Recording of a certificate of such vote of amendment or repeal executed on behalf of the Association by the President of the Association or any Member of the Board of Directors.

13. **Section 11.4.** Section 11.4 of the Declaration, Required Consent of Declarant to Amendment, is deleted in its entirety and in its place the following language is inserted:

[Intentionally deleted.]

14. **Effect.** Except as expressly provided in this Amendment, the Declaration has not been amended or modified, and, as modified by this Amendment, the Declaration remains in full force and effect.

IN WITNESS WHEREOF, Johnstown LLC, as Declarant, has executed this Amendment as of the date first written above.

JOHNSTOWN FARMS, LLC, a Delaware limited liability company

By: _____

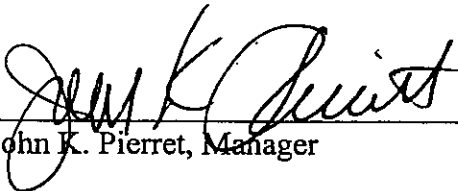

John K. Pierret, Manager

EXHIBIT C

[Declaration]

See the Document Attached