

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
CROSSROADS BUSINESS PARK**

**PREAMBLE**

THIS DECLARATION (“Declaration”) is made on the date hereinafter set forth by Trollico, Inc., a Colorado corporation (“Declarant”).

**RECITALS**

A. Declarant is the owner of the real property (“Property”) located in the City of the Loveland, Larimer County, Colorado, and described in Exhibit A attached hereto and incorporated herein.

B. This Declaration shall create legally enforceable restrictions, conditions, liens, and protective covenants on the Property and shall convey certain interests therein.

C. This Declaration and all such restrictions, conditions, liens, covenants, and conveyances are made in the best interests and for the mutual benefit of all current and future owners and occupants of the Property and to protect and preserve the Property for appropriate and complementary commercial users.

**DECLARATION**

NOW, THEREFORE, Declarant, for itself, its successors and assigns, hereby declares that the Property be made subject to this Declaration, in the manner provided herein, and each part thereof shall, from the date the same becomes subject to this Declaration, be owned, held, transformed, conveyed, sold, leased, rented, used, hypothecated, encumbered, occupied, maintained, altered, and improved subject to the covenants, conditions, easements, rights-of-way,

restrictions, reservations, and other provisions set forth in this Declaration for the duration hereof, all of which shall run with the title of the Property and every part thereof and shall be binding upon all persons or entities possessing any interest in the Property and upon their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each person or entity having any such interest in said Property or any part thereof.

## **ARTICLE I**

### **NAME**

**Section 1.1 Name.** The name by which the Property shall be known is Crossroads Business Park.

## **ARTICLE II**

### **DEFINITIONS**

**Section 2.1 Terms Defined.**

Architectural Committee means the architectural committee established pursuant to Article VII.

Articles of Incorporation or Articles means the duly filed Articles of Incorporation for the Crossroads Business Park Association.

Association means the Crossroads Business Park Association, its successors, and assigns.

Lots refer to each of the following twenty-nine (29) numbered, identified, and described lots, respectively, as shown upon the Plat:

Block 2, except Lot 2 thereof, Block 3, Block 4 and Block 5, except Lots, 1,2,3 and 4 thereof, of Crossroads Business Park First Subdivision; and  
Block 1 Crossroads Business Park Second Subdivision  
City of Loveland, County of Larimer, State of Colorado

Improved Lot means a Lot upon which a Building has been constructed.

**Board** means the duly elected Board of Directors of the Association.

**Building** means a completed, principal structure or structures on a Lot constructed in compliance with approved Plans, including all projections or extensions thereof, and all garages, outside platforms, outbuildings, loading docks, canopies, and porches.

**Bylaws** mean the duly adopted Bylaws of the Association.

**Common Elements** are all interests in real property and improvements thereon located within the Property, but not within any Lot, which are for the common use, benefit and enjoyment of the Owners and have been conveyed to the Association.

**Common Element Assessment** means that portion of the annual assessment allocated to each Lot equal the total Common Element Budget amount divided by the number of Lots existing on the first day of the current allocation period.

**Common Expenses** are all costs and reserves incurred or required by the Association in connection with its existence and operation, in connection with its exercising all rights and responsibilities related to the Common Elements, and all other costs and expenses lawfully incurred by the Association pursuant to this Declaration, the Articles, and Bylaws.

**Declarant** is Trolco, Inc., a Colorado corporation, and its successors and assigns.

**Declaration** means this Declaration of Covenants, Conditions, and Restrictions for Crossroads Business Park.

**Director** means any duly elected member of the Board.

**His** and **He** as used herein shall be gender neutral and shall mean he, she, it, they, his, hers, its, and theirs, as the text may require or as may be appropriate to any specific circumstances.

**Improvements** include any Building, fence, landscaping, wall, driveway, sidewalk, or other improvement of whatever kind of nature.

**Landscape Plan** means formal drawings completed under the supervision of a landscape supervisor designated by the Architectural Committee which identify and describe the type and location of all landscape and related improvements including not by limitation all grass, trees, hedges, shrubs, flowers, planting beds and bedding materials, paths, sidewalks, driveways, fences, gardens, playground equipment, sprinkling system, and every other item constituting any part of any Improvements to be made on or to that portion of the Lot from the exterior surface of any building, not including such exterior surface, to the edge of the Lot.

**Member** means any member of the Association; **Membership** refers to all Members.

**Mortgage** means any mortgage deed, deed of trust, or other security instrument creating a lien against any Lot;

**First Mortgage** refers to the Mortgage having first and paramount priority under application Colorado law.

**Mortgagee** means any grantee, beneficiary, or assignee of a Mortgage; **First Mortgagee** refers to any grantee, beneficiary, or assignee of a First Mortgage.

**Notice** means notice in writing either hand delivered or sent prepaid by the United States mail to the mailing address of each applicable Lot or alternatively to any other address designated in writing by the Owner of any such Lot. If mailed, Notice shall be deemed effective when deposited in the mail, properly addressed, and postage prepaid.

**Owner** means the record owner, whether one or more persons or entities, of fee simple title to any Lot as shown in the records of Weld County, Colorado.

**Plans** means two (2) full sets of all plans, drawings, color boards, specifications, and sample materials showing the nature, kind, shape, height, materials, colors, finishes, and location of all Improvements.

**Plat** means the final recorded plat of the Property as approved by the City of Loveland and recorded on June 1, 1987 as Reception No. 87031933 of the records for the Larimer County, Colorado, as amended by the final recorded plat of Crossroads Business Park Second Subdivision recorded on August 5, 1988 as Reception No. 88036637, and by the final recorded plat of Crossroads Business Park Third Subdivision recorded on January 25, 1995, as Reception No. 9905008, and as such Plat may be amended from time to time.

**Proposed Budget** means an annual budget providing for all Common Expenses, whether current or past, stating the total annual assessment required to meet such budget, and stating the allocated assessments for each Lot, adopted by the Board and submitted to the Members for ratification pursuant to Article V.

**Rules and Regulations** means those rules regulations adopted by the Board, if any, concerning the use and enjoyment of the Property.

**Title Matters** means all rights in and to any portion of the Property either conveyed, created, or reserved by virtue of this Declaration or the Plat, or otherwise of record in the records for Larimer County, Colorado, as of the date of recording this Declaration in such records.

### **ARTICLE III**

#### **RIGHTS RESERVED BY DECLARANT**

**Section 3.1 Rights Reserved.** In addition to other rights reserved herein, the Declarant expressly reserves unto itself, its employees, agents, representatives, contractors, and their

employees the right to use the Common Areas to facilitate and complete the development of the Project including, without limitation, the use of the Common Area for (i) construction, excavation, grading, landscaping, parking and/or storage; (ii) the maintenance and operation of a sales office and model units for sales purposes; (iii) the showing to potential purchasers of any unsold lot, dwelling, or improvement within the Project; (iv) the display of signs to aid in the sale of any unsold Lots and Dwelling; (v) the right of the Declarant to assign to the Association either a temporary or permanent maintenance obligation which has been imposed by the City of Loveland for detention area that may have been annexed and conveyed to the Association; and (vi) to operate and maintain all or any portion of Common Area owned by Declarant, prior to conveying to the Association as provided herein. All rights reserved to Declarant in this Article shall terminate as provided in Section 3.2 of this Article, or at an earlier date by an express statement of termination executed by the Declarant and recorded in the real estate records of the Clerk and Recorder of Larimer County; Colorado.

**Section 3.2 Assignment by Declarant.** No successor or assignee of the Declarant shall have any right or obligation of the Declarant hereunder unless such right or obligation pass by operation of law or are specifically set forth in an instrument of succession or assignment. The rights and obligations set forth in this Article III shall terminate when development of the Lots is substantially completed and shall be construed as development rights which are independent of any rights that the Declarant may have by membership in the Association.

## **ARTICLE IV**

### **COMMON ELEMENTS**

**Section 4.1 Common Elements.** All Common Elements shall be owned, operated, maintained, repaired, replaced, and otherwise cared for by the Association and all costs thereof shall be a Common Expense.

**Section 4.1.1 Conveyance of Common Elements.** The Common Elements shall be conveyed by Declarant to the Association prior to the conveyance of the first Lot by Declarant. The Common Area shall be conveyed subject to all Title Matters.

## **ARTICLE V**

### **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**Section 5.1 Organization; Membership.** The Association shall be organized no later than the date the first Lot is conveyed by Declarant to an Owner other than Declarant. The Association shall be organized as a nonprofit corporation in accordance with the laws of the State of Colorado. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 5.2 Member Bound to Articles, Bylaws and Rules and Regulations.** In addition to these Declarations, each Member and other affected person shall be bound by the Articles of Incorporation and Bylaws of the Association. Further, the Association shall have power to adopt reasonable rules and regulations governing the use of the Common Elements and the occupancy and use of all the Property, provided however, that any rules affecting the particular ownership of the Property must be approved by Owners of at least sixty-seven percent

(67%) of the Property, excluding governmental agencies, if any. Written copies of such rules and regulations shall be furnished to the Owners. The rules and regulations may be more restrictive than these Declarations but shall be effective to eliminate any restriction or covenant contained herein.

**Section 5.3 Voting Rights; Owners Comprised of Multiple Persons or Entities.** The Association shall have a single class for voting. The Owner of each Lot, whether comprised of one or more persons or entities, shall be entitled to one (1) vote for that Lot. In no event shall more than one vote be cast with respect to each Lot. Fractional votes cannot be cast. When the Owner is comprised of more than one person or entity and only one is present, in person or by proxy, at any meeting of the Association, such person or entity may cast the vote for the Lot. If more than one of the multiple persons or entities comprising the Owner are present at any such meeting, the vote for such Lot shall be exercised as determined by a majority of them. There is deemed a majority agreement if any one of the persons or entities comprising the Owner casts the vote without protest being made immediately to the person presiding over the meeting by any of the other persons or entities comprising the Owner. If a majority cannot agree on how their single vote is to be cast, the vote will not be counted, but the Lot shall be counted as present for purpose of determining whether a quorum is present.

Unless a written objection to notice is received by the Association from an absent Owner at or prior to the meeting, the presence of one of the multiple persons or entities comprising Owner, in person or by proxy, shall constitute the presence of all such persons or entities and shall constitute a waiver of notice as to all such persons or entities who are absent. A signed waiver of notice by any one of the persons or entities comprising an Owner shall constitute a waiver for all such persons or entities who are absent.

Without affecting the validity of any action taken at a meeting of the Association, if there are conflicting votes cast, objections made, or other conflicting actions taken by any multiple persons or entities comprising an Owner, whether in person, by written notice, or by proxy, and the person presiding over that meeting cannot with reasonable certainty determine whether a majority or the persons or entities are in agreement as to any such vote, objection, or other action, the vote, objection, or other action by such persons or entities may be ignored and not counted.

**Section 5.4 Proxies.** Any vote may be cast pursuant to a proxy duly executed by an Owner. Subject to the provisions of Section 5.3, if a Lot is owned by more than one person or entity, each such person or entity may vote as to how the Lot's vote is to be cast, object to notice, or register protest to the casting of votes by the other persons or entities comprising Owner through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over the meeting. A proxy is void if it is not dated or purports to be revocable without notice. A proxy must be dated and shall terminate eleven (11) months after its date unless it expressly provides otherwise.

**Section 5.5 Suspension of Voting and Other Authority.** The Association shall suspend the voting rights (both as an Owner and Director) of any Owner, as well as suspend all authority that Owner may have by virtue of his holding any office or his being a Director of the Association, for any period during which any assessment against his Lot remains past due and unpaid and for any period that he is either causing or permitting any infraction of this Declaration, the Articles, Bylaws, or any Rules and Regulations.

**ARTICLE VI**  
**ASSESSMENTS**

**Section 6.1 Creation of Lien and Personal Obligation of Assessments.** Each Owner of any Lot agrees to pay to the Association annual assessments and special assessments established and collected as hereinafter provided. All annual and special assessments, all costs of collection of same including reasonable attorney's fees, and all other amounts so designated herein, together with interest thereon at the rate of fifteen percent (15%) per annum, compounded annually, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each assessment together with costs of collection, reasonable attorney's fees, and all other amounts so designated herein including interest, shall also be the personal obligation of the Owner of such Lot at the time when the assessment or other amount for which collection is sought first became due. No Owner shall be exempt from such liability by waiver of the use or enjoyment of any of the Common Elements, Association Maintenance Area, or by abandonment of his Lot.

**Section 6.2 Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for payment of Common Expenses.

**Section 6.3 Date of Commencement of Annual Assessments; Due Dates.** Declarant shall determine the date on which the first monthly installment on the first annual assessment shall be due, but such date shall be the first of the month. The First such installment shall commence as to all Lots on the same date. Declarant shall furnish all Owners with at least ten (10) days advance Notice of the date of commencement of the first monthly installment. Thereafter, each monthly installment shall be due on or before the first day of each succeeding month.

**Section 6.4 Accounting Year; Assessment Period.** Unless and until the Board may determine otherwise, the Association shall operate on a calendar accounting year (i.e., January through December ), and the assessment period shall likewise be the calendar year. The Board shall adopt a budget, determine the total assessment required to meet that budget, and set the allocated assessments for each Lot for each assessment period beginning with the accounting year/ assessment period commencing January 1, 2002 or the first day of any partial accounting year/ assessment period.

**Section 6.5 Budgeting.** Within fifty (50) but not less than fourteen (14) days prior to each annual meeting of Members (as provided within the Bylaws), the Board shall adopt a Proposed Budget for the then current accounting year which shall provide for all Common Expenses, which shall state the total annual assessment required to meet such budget, and which shall state the allocated assessments for each Lot.

**Section 6.6 Common Element Assessments.** Every Lot regardless of classification shall be allocated a Common Element Assessment. The allocated Common Element Assessment for each Lot shall equal the total Common Element Budget amount divided by the number of Lots existing on the first day of the current allocation period. The monthly installment on each Lot's allocated Common Element Assessment shall equal its allocated Common Element Assessment minus any Common Element Assessment payments on such Lot's account made in and for the current assessment period (such payments will continue at the previous year's monthly installment rate pending ratification of a new budget; would not include any payments in current assessment period for assessments due prior to current assessment period) divided by the number of monthly installments remaining in the current assessment period following estimated ratification and notice as required below.

**Section 6.7 Budget Ratification.** Within the period provided within Section 6.5, the Board shall either hand deliver or sent prepaid by the United States mail to the mailing address of each Lot or to any other address designated in writing by the Owner of any such Lot a copy of such Proposed Budget. Ratification of the Proposed Budget shall then be considered at the annual meeting. Unless at that meeting at least a majority of all Owners reject the Proposed Budget, it is ratified, whether or not a quorum is present. Until the Proposed Budget is ratified, or if the Proposed Budget is rejected at the annual meeting, the last ratified budget shall be continued until any subsequent budget proposed by the Board shall be ratified. Ratification of any subsequent proposed budgets shall be considered at on or more special meetings, as necessary, called for such purpose. At any such special meeting, ratification shall occur unless at least a majority of all Owners reject the revised proposed budget, whether or not a quorum is present.

**Section 6.8 Notice of Assessment.** Once a budget is ratified, the Board shall provided Notice thereof and of the allocated assessments for all Lots to all Owners at least fifteen (15) days in advance of the due date for the first monthly installment on the new annual assessment.

**Section 6.9 Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment period, one or more special assessments applicable to that period only for the purpose of defraying, in whole or in part, unbudgeted costs and liabilities, payment of any deficit remaining from the previous period, and the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon or constituting a Common Element, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the Owners to be assessed, who are present in person or by proxy, at either the annual meeting of Members or any special meeting of Members called for such

purpose and whereat a quorum is present. Any special assessment for any item as would be included in the Common Element Budget shall be allocated as provided within Section 6.6.

**Section 6.10 Quorum for any Action Authorizing Special Assessment.**

Notwithstanding any contrary provision herein or within the Bylaws, at any meeting called for the purpose of approving a special assessment, the presence of Owners who would be assessed or their proxies entitled to cast twenty percent (20%) of all votes of such Owners shall constitute a quorum.

**Section 6.11 Delinquent Payments; Remedies.** If any Owner does not pay the Association an assessment or other charge when due, the Board shall be entitled to charge the delinquent Owner interest at such lawful interest rate as the Board determines. Unless otherwise determined by the Board, for any Owner who is in default of any monthly payment for twenty (20) days or more, the Board shall collect interest thereon at the rate of fifteen percent (15%) per annum from the original due date. Further, the Board is fully authorized to undertake whatever collection remedies are necessary to collect the same, including legal action and foreclosure of lien. In the event such collection and/or foreclosure procedures are required, the costs thereof, including attorney fees, shall be added to the amount due the Association from the delinquent Owner.

**Section 6.12 Lien, First Mortgage or Deed of Trust; Notice of Lien; Foreclosure; Waiver.** Annual and special assessments, together with interest, costs and reasonable attorney fees, as above provided, shall be a charge on the land and ownership of each Lot Owner and shall be a continuing lien upon said property against which each such assessment is made, now and in the future. Such lien shall be subordinate to the lien of any First Mortgage, except to the extent provided for in C.R.S. 38-33.3-316(2). Sale or transfer of any Lot shall not affect the assessment

lien, except in the case of the sale or transfer of any Lot pursuant to foreclosure of the first mortgage or deed of trust or any proceeding in lieu thereof, which shall extinguish the personal obligation of the Owner. The Association shall have the power to foreclose upon the Lot of any delinquent Owner in the following manner. At any time after an assessment is delinquent and the Association intends to foreclose, the Association shall record a Notice of Lien setting forth the amounts then due and then serve the same on the delinquent Owner by mean of certified mail, return receipt requested, at his last known address. Thereafter, the Association may initiate a foreclosure proceeding in the manner substantially similar to the foreclosure of a mortgage. The Association shall have the power to bid in the amounts due it in such foreclosure as if it were a mortgage.

**Section 6.13 Rights of Mortgagees.** Upon written notice to the Association, any Mortgagee of a Lot or other Improvement may receive notice of assessments due form the Association. Further, any such Mortgagee may pay any assessment due on account of the property subject to its mortgage or deed of trust.

**Section 6.14 Estoppel Certificate Against Lien.** Upon reasonable notice, any Owner shall be entitled to obtain from the Association, at a reasonable fee, a certificate duly executed by an officer of the Association, with the officer's signature notarized, stating all assessments or other charges due the Association by said Owner as of a specific date or that such amounts have been satisfied or waived as of a specific date. The recording of such certificate shall preclude or estop any claim of the Association to any unpaid assessments or charges prior to the date established in the certificate other than those so stated. The recording of the certificate shall constitute a release of the Association's lien for all assessments or charges on or prior to the stated date, except to the extent the certificate contains statement of amounts still due.

## ARTICLE VII

### ARCHITECTURAL CONTROL

**Section 7.1 Architectural Review & Approval-Architectural Committee.** No

Improvements shall be constructed, replaced, altered, painted, or otherwise located or changed upon any portion of any Lot without first obtaining the written approval of the Architectural Committee. Except as provided herein, the Architectural Committee shall be made up of not less than three (3) individuals appointed by, and serving at the sole discretion of, the Board. Such individuals may, but need not, be Owners/Members, and may include Declarant and any agent, employee, or other representative thereof.

Notwithstanding the foregoing, if at any time and for so long as Rocky Mountain Crossroads, LLC, a Delaware limited liability company ("RMC") or H&S Distributing Co., a Colorado corporation ("H&S"), owns any interest in the Property, then each such entity owning an interest in the Property shall have the right to designate one (1) individual who shall serve as a member of the Architectural Committee. In addition, at any time RMC or H&S owns an interest in the Property, Martin Lind ("Lind") of Windsor, Colorado, or one (1) individual designated by Lind, shall, at Lind's option, be a member of the Architectural Committee. If, at this time RMC, H&S, and/or Lind is entitled to fill a position on the Architectural Committee and positions on the Architectural Committee are filled by individuals other than Lind or the designee of RMC, H&S, and/or Lind, all individuals who are the members of the Architectural Committee, but who are not Lind or the designee of RMC, H&S or Lind, shall be deemed removed from the Committee and replaced by the individual or individuals entitled to serve under this Section 7.1

If an Architectural Committee is appointed, a majority of such committee shall constitute a quorum of the committee, and a majority of committee members present at any meeting whereat a quorum is present shall be required for committee action. Notice of all Architectural Committee meetings shall be furnished to each member thereof; however, failure to furnish such notice shall not effect the validity of any otherwise valid action taken at a meeting.

**Section 7.2 Contractor Suitability.** The Architectural Control Committee shall have the right to disapprove the choice by an Owner or any construction contractor (including the Owner) of the construction of any Improvements. The grounds for such disapproval shall be only one or both of the following: (1) reasonable belief that the contractor is not financially responsible, and (2) a reasonable belief based on prior undertakings of contractor that contractor cannot complete construction in accordance with the standards set by the Architectural Control Committee. This Declaration establishes no duty upon Declarant or the Architectural Control Committee to investigate the financial responsibility of the contractors or the performance by the contractor of construction work, and this Declaration vests no rights in Owners, any contractor, or other third party as against Declarant, the Architectural Control Committee, or the Association with respect to approval or disapproval of construction contractors.

**Section 7.3 Approval of Contractor and Inspection of Construction.** No Owner shall commence construction of any Improvement to be placed on any Lot until the Owner has obtained a building permit, if necessary, from the City of Loveland, Colorado, or from any governmental subdivision having jurisdiction over building permits on Crossroads Business Park and until the approved building permit and improvement plans have been submitted to the Architectural Control Committee for approval of contractor suitability as specified in Section 7.2, above.

**Section 7.4 Approval of Plans and Specifications—Standard for Review.** To assure that (a) Property is developed and maintained in order to maximize and protect the value of all property therein, and that (b) a general plan of construction and design is maintained, the Architectural Committee is vested with the broadest authority available under law in reviewing and approving or rejecting all Improvements. Every purchaser of a Lot takes such Lot subject to these restrictive covenants and with the understanding, agreement, and acknowledgement that the Property is intended to be an industrial business park with high standards for architectural design and quality of construction and materials. It is likewise understood, agreed, and acknowledged that in order to achieve such intents and purposes, the extent to which the Architectural Committee shall exercise control over issues of design, construction, and materials, shall be maximized, thereby affording the Architectural Committee the greatest latitude and discretion available. Any approval or rejection of any Improvements shall not be deemed a waiver or estoppel with respect to the Architectural Committee's subsequent approval or rejection of any similar Improvements. Each request for approval or Improvements shall be evaluated individually on a case-by-case basis and no prior or subsequent action by the Architectural Committee shall limit its broad discretion and authority in approving or rejecting each request.

**Section 7.5 Design/Construction/Material Standards.** In furtherance of the broad discretion vesting the Architectural Committee herein, these restrictive covenants intentionally do not provide for general guidelines or standards of design, construction, or materials. However, without limiting the broad authority and discretion vested in the Architectural Committee herein, the Architectural Committee may, but shall not be required to, establish guidelines or standards for design construction, and materials in connection with any

Improvements. However, such guidelines and standards shall be merely a tool for the use by any Owner in preparing his Plans in connection with obtaining Architectural Committee approval as required herein and compliance with any such guidelines or standards shall not constitute satisfaction of any minimum or other standard without also having obtained actual Architectural Committee approval as required herein.

**Section 7.6 Plan Review Procedure.** Prior to commencement of any site work, construction, replacement, alteration, or other work upon or to any Improvement, written approval of the Architectural Committee must be obtained. The Owner wishing to make such Improvement(s), or such Owner's designated representative (submitting party referred to as "Applicant"), must submit to the Architectural Committee at least two (2) full sets of Plans and Landscape Plan. The Architectural Committee may thereafter require additional or modified Plans be submitted for review. The Architectural Committee may require a processing fee be paid by the Applicant the time of submission of Plans to exceed Five Hundred and no/100 Dollars (\$500.00).

Upon receipt of all required Plans and any required fee, the Architectural Committee shall thereafter have thirty (30) days to furnish Applicant with written Notice of approval or rejection of the Plans as submitted. If rejected, the Architectural Committee shall furnish a written explanation of the basis for its rejection, and shall, if practical, furnish suggested modifications which would render the Plans acceptable—subject to resubmission for review and approval upon completion of any such modifications. The Architectural Committee may condition its approval upon certain modifications being made to the Plans, in which event, such Plans shall be deemed approved only upon submission to the Architectural Committee of one (1) complete set of all revised Plans and/or Landscape Plan fully incorporating and reflecting all

such required modifications. Whether approved or rejected, the Architectural Committee shall return one set of Plans as approved/rejected together with written Notice thereof, and shall keep the second set of Plans.

If for any reason the Architectural Committee has not responded to the Applicant in writing within the thirty-day period as provided above, the Applicant shall notify the Architectural Committee of such failure in writing by certified mail. Thereafter, unless the Architectural Committee furnishes written Notice of approval/rejection as required above within fifteen (15) days of receipt of said notice from the Applicant, the Plans as submitted shall be deemed approved.

**Section 7.7 Governmental Requirements; Adequacy of Plans.** The review and approval process provided for herein is separate from, and in addition to, all approvals, permits, and other requirements as may be required by any government, governmental agency, quasi-governmental entity, or public or private utility having any jurisdiction over the Property. Approval of any Plans by the Architectural Committee shall not be deemed an assurance or guarantee that any Plans as approved comply with any governmental or other requirements, nor that any such plans are adequate in terms of design, engineering, or other respect. Neither the Architectural Committee nor any member thereof shall be liable to Applicant or any other party in connection with the existence or operation the review/approval/rejection process provided for herein unless any such liability is a direct result of any willful and wonton misconduct by such party.

**Section 7.8 Building Location.** No Building shall be located on any part of the above described real property nearer than twenty (20) feet to the street which it faces or nearer than twenty (20) feet to any side street. No Building shall be located nearer than twenty (20) feet to

any side line or nearer than twenty (20) feet to the rear line of the ground area provided for such Building. For the purpose set forth in this paragraph, eaves, steps and entry covers shall not be considered as part of the Building; provided, however, that this shall not be constructed to permit any portion of a building on a lot to encroach upon another lot; and further provided that on corner lots where the frontage has been reversed, no Building shall be closer than twenty (20) feet to the rear.

**Section 7.9 Notice of Completion.** Upon completion of any construction, replacement, alteration or other location or change of any Improvement(s), the Applicant shall furnish written notice to the Architectural Committee of the same. Thereafter, the Architectural Committee or its designee shall have the right to inspect the Improvement(s) to assure compliance with the approved Plans and the Applicant shall cooperate with the Architectural Committee or its designee to arrange same. If the Applicant fails or refuses to permit such inspection, or if upon inspection it is determined that such Improvements do not comply with the approved Plans, the Architectural Committee may furnish Applicant with written Notice of noncompliance and exercise all remedies permitted herein, at law, or in equity. A failure by the Architectural Committee to make such an inspection or furnish written Notice of noncompliance following any such inspection shall not prevent the Architectural Committee from later asserting any rights against any Owner, its successors or assigns, for Improvements made in noncompliance with approved Plans or otherwise in noncompliance with any provisions within this Article.

**Section 7.10 Remedies Upon Noncompliance.** If at any time during or after construction, replacement, alteration, removal, or other work on any Improvement(s) upon any Lot, it is determined by the Architectural Committee that any such Improvement(s) are not in compliance with approved Plans, including a failure to submit Plans for approval prior to

commencing any work on such Improvement(s), the Architectural Committee shall furnish Notice of noncompliance to the Owner/Applicant. Upon such Notice, Owner shall immediately cease all work other than as required to bring the Improvement(s) into compliance with approved Plans. If the Owner fails to immediately cease all such work, or fails to bring in the Improvements into such compliance within a reasonable period of time not exceeding forty-five (45) days, the Architectural Committee shall have all rights and remedies available pursuant to this Declaration, at law, or in equity. Such rights and remedies may include and or more of the following:

(a) **Injunctive Relief.** The Architectural Committee may seek appropriate injunctive relief in order to compel the Owner to cease all work and bring the Improvements into compliance with approved Plans or authorizing the Architectural Committee to undertake all steps and actions, on the Owner's behalf and expense (said expense shall be a personal obligation of the Owner and a charge and lien against said Owner's Lot as with assessments as provided herein), necessary in order to bring the Improvements into compliance with approved Plans; and

(b) **Damages; Costs; Attorney Fees.** The Architectural Committee may recover from the Owner all damages, costs, and attorney fees suffered or incurred in connection with the existence or remedying of any Improvement(s) found by a court of competent jurisdiction to be in non-compliance with approved Plans (said damages, costs, and fees shall be a personal obligation of the Owner and a charge and lien against said Owner's Lot as with assessments as provided herein).

**Section 7.11 Building Location.** Building location must be specified in the Plans and Building location on any Lot shall be subject to Architectural Committee approval.

**Section 7.12 Landscaping Plan.**

(a) All Lots shall be landscaped only in accordance with a plan approved by the Architectural Committee prior to any development of the Lot. Such landscaping plan shall include information regarding the type and surface area of sodding, the type and surface area of seeding, types, numbers and placement of trees, hedges and shrubs and information regarding other customary landscape treatment. The landscaped area shall include that area between the curb line and the front setback line for all Lots and those Lots on a corner at the intersection of two (2) streets shall also be landscaped between the curb line and the side setback. It shall be the responsibility of the Owner of a Lot to landscape and maintain the area between the lot lines of said Owner's Lot, the curbs and any sidewalks of any public roadways adjacent to such Lot. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended or revised without submitting the revised landscaping plan for the prior written approval by the Architectural Committee.

(b) Any landscaping required hereunder or otherwise to be provided on any Lot shall be completed (completion including full payment therefore) within sixty (60) days after the substantial completion of construction of any improvements on the Lot; provided, however, if weather conditions do not permit completion within such sixty (60)-day period, such landscaping shall be completed as soon thereafter as weather conditions permit. If any Owner fails to undertake and complete landscaping within the time limits set forth herein, or if the Owner fails to properly maintain any unimproved Lot, the Architectural Committee or any other Owner, may at its option, after giving Owner ten (10) days written notice (unless said ten (10)-day period the Owner shall proceed and thereafter pursue with diligence the completion of such landscaping), undertake and complete the landscaping of the Lot in accordance with the landscaping plan, or in

the case of an unimproved Lot, the Architectural Committee may undertake necessary maintenance items. If the Architectural Committee undertakes and completes such landscaping or the maintained of an unimproved Lot after proper notice, the cost of such landscaping and/or maintenance shall be assessed against the Owner and if such assessment is not paid within thirty (30) days after notice of assessment, said assessment shall constitute a lien on the Lot and may be enforced in accordance with this Declaration.

(c) Each Owner shall be responsible for maintenance of landscaping on its Lot(s). If any Owner fails to maintain the landscaping on its Lot(s), the Architectural Committee or any other Owner may, in its sole discretion, after giving the Owner of the lot needing maintenance ten (10) days written notice, enter upon the Lot and undertake and complete such landscaping maintenance. All costs of such landscaping maintenance undertaken by the Architectural Committee or other Owner shall be assessed against the Lot upon which said landscaping maintenance is done and failure to pay such assessment shall constitute a lien against the Property, enforceable as set forth in this Declaration.

(d) For the purpose of enforcing and effecting the completion or maintenance of landscaping on a Lot, each Owner and the Architectural Committee are hereby granted an easement over and upon the Property for so long as it is reasonably required to accomplish such completion or maintenance.

**Section 7.13 Intersection Obstructions.** Subject to review and approval by the Architectural Review Committee, no Owner shall construct any fences, berm, or other improvements, or plant any shrubs, hedges, or trees, within twenty-five (25) feet of the corner of any Lot which corner is adjacent to and forms the corner of two intersecting streets, which, when

fully constructed or matured, will unreasonably obstruct the view of any driver at any such intersection.

## **ARTICLE VIII**

### **USE AND OCCUPANCY**

**Section 8.1 Use Restriction.** Subject to approval by the Board, which approval may be granted or withheld in its sole and discretion, all Lots shall be used exclusively for uses allowed under the applicable zoning for the Property, together with incidental uses permitted herein.

**Section 8.2 Restrictions on Leasing.** No Owner shall lease his unimproved Lot, and may only lease an Improved Lot for a period of one (1) year longer. All such leases shall be in writing and shall contain a covenant by the tenant or tenants that their use and occupancy of the Improved Lot are subject to the terms and conditions set forth in this Declaration, the Articles and Bylaws, and that such tenant will abide by the terms contained therein as well as any Rules and Regulations promulgated by the Board. The Owner shall remain responsible for all assessments notwithstanding his leasing his Improved Lot.

**Section 8.3 Signs, Billboards, Etc.** No signs, billboards, or similar items shall be placed or permitted to remain on any Lot or elsewhere on the Property except in compliance with plans approved by the Architectural Committee; provided, however, each Lot may have, during the ongoing and active construction of a Building, one (1) sign not more than one hundred (100) square feet in area per side, placed within ten (10) feet of the Building, identifying the contractor, lender, architect, engineer, or similar information relating to the construction of the Improvements. This Section shall not apply to any signs or other advertising of Declarant or its agents in connection with its sale of Lots or its development of the Property.

**Section 8.4 Parking of Automobiles, Etc.** No parking shall be permitted on any street or at any place other than is a designated, on-site parking space. Each Owner shall be responsible for compliance with the foregoing by his employees, tenants and invitees. Adequate off-street parking shall be provided by each Owner for customers, employees, tenants and invitees. To enhance the appearance of the Property, service areas, loading docks and roll-up doors are to be located in the rear or on either or both sides of each Building which does not front on a street and shall not be visible from Interstate 25 or Crossroads Boulevard. Loading docks or platforms will not be permitted on the street side of any Building unless, within the discretion of the Design Review Committee, they are properly screened from the street area.

All off-street parking, access drives and loading areas shall be paved and properly graded to assure proper drainage. No use of any Building shall be permitted which requires or is reasonably expected to attract parking, loading, or unloading in excess of the capacity of the facilities maintained therefore on the Lot and any other capacity existing by easements or other legal right.

**Section 8.5 Outside Storage; Fences.** Outdoor storage of waste, rubbish, materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be enclosed and concealed by a fence, shrubs, hedges, or other foliage. Materials stored shall not be visible above the height of the fence. Outside storage areas shall not be located within setback required from a front lot line.

No fence, wall hedge or shrub, plant or tree which obstructs sight lines at elevations more than two (2) feet above the roadway shall be placed or permitted to remain on any Lot within the triangular area formed by lot boundaries adjacent to streets and a line connecting them at points twenty-five (25) feet from the intersection of those lot boundaries. There shall be a fence

standard throughout the Property. Fences shall be constructed of six (6)-foot high industrial zinc or galvanized chain link fencing or approved equal; provided, however, that if a screening fence is required, it shall be constructed of standard chain link with redwood slats bound in the mesh or approved equal.

**Section 8.6 Nuisances.** No obnoxious or offensive activity shall be carried on or permitted upon any Lot, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to any occupant of the Property.

**Section 8.7 Maintenance of Improvements and Lot.** Unless maintained by the Association as a Common Element, every Owner shall be responsible for regular maintenance, repair, replacement, and other upkeep of his Lot, Building, and other Improvements. He shall control all weeds, debris, trash, dust, and mud, and otherwise keep his Lot clean and safe at all times. If any Owner fails to fully abide by this provision, the Association, after Notice to the Owner and a reasonable opportunity to perform all necessary work, may undertake such work on behalf of and at the Owner's expense. Any such expenses shall be reimbursed to the Association within thirty (30) days of Association's furnishing Notice to such Owner that such expenses are owed, and such amount, together with costs of collection thereof, attorney fees, and interest thereon, shall be a personal obligation of the Owner and a charge and lien against such Owner and a charge and lien against such Owner's Lot as provided herein for assessments.

**Section 8.8 Use of Common Elements.** All use and occupancy of the Common Elements shall be subject to and governed by the Board and Rules and Regulations. No damage or waste shall be committed to the Common Elements, nor any obstruction of the Common Elements, nor anything kept or stored on any part of the Common Elements, nor any alteration of the Common Elements, without the prior written approval of the Board.

**Section 8.9 Re-Subdivision.** Except as otherwise provided within the terms, conditions or guidelines of any other matter of record on the date of this Declaration, including, without limitation, Master Special Review Plan No. 572, no Lot shall be re-submitted into smaller lots nor conveyed or encumbered by any description or in any amount less than the full original dimensions as set forth on the Plat. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for additional easements for public utilities or similar purposes, nor conveyances correcting boundary disputes or similar problems as permitted by law.

**Section 8.10 Easements.** All utility, drainage, access, recreation, sewer, and other easements shown on the Plat are hereby granted, dedicated, and reserved for such purposes. All utilities shall be underground. No Building or other structure shall be constructed or placed upon any easement except streets, driveways, walkways, fences, and landscaping, and then only if such items do not unreasonably interfere with any proper use and maintenance of any easement. All easement area within any Lot and all Improvements thereon shall be maintained and cared for by the Owner of the Lot unless the Association or owner of such easement expressly assumes such responsibility either pursuant to this Declaration or otherwise.

**Section 8.11 Drainage.** No Owner shall modify or change the topography or contour of his Lot, including, without limitation, any drainage easement areas, from the shape, contour, drainage pattern, or plan established by Declarant or persons or entities acting on behalf of Declarant unless the Architectural Committee has duly authorized any such modification. Any Owner who in any way materially modifies the drainage pattern of a Lot without proper consent shall be liable for any and all damages stemming therefrom and may be required to return such drainage patterns to their original condition. If any Owner fails to properly return such drainage patterns to their original condition, the Association, after Notice to the Owner and a reasonable

opportunity to perform all necessary work, may undertake such work on behalf of and at the Owner's expense. Any such expenses shall be reimbursed to the Association with thirty (30) days of Association's furnishing Notice to such Owner that such expenses are owed, and such amount, together with costs of collection thereof, attorney fees, and interest thereon, shall be a personal obligation of the Owner and a charge and lien against such Owner's Lot as provided herein for assessments.

**Section 8.12 Declarant's Use.** Notwithstanding any provisions contained in this Declaration to the contrary, Declarant and Declarant's employees, agents, independent contractors, successors, and assigns involved in the development, construction, marketing, and sale of the Property or any Lots, Buildings, or other Improvements thereon, may undertake any and all activities and maintain such facilities upon the Property as may be reasonably necessary or incidental to such activities; provided, however, no such activity shall be performed not any facility maintained on any portion of the Property which unreasonably interferes with any Owner's use and enjoyment of his Lot.

**Section 8.13 Growing Crops.** No portion of any Lot shall be used for growing any crops.

**Section 8.14 Radio and Television Antennae, Satellite Dishes, Telephone Transmission/Receiving Devices, and Electrical Devices.** No exterior television antenna, radio antenna, satellite transmitting or receiving devices, telephone transmitting or receiving devices, or similar items shall be placed or maintained upon any portion of the Property without the express written consent of the Architectural Committee. No electronic devices or systems causing electrical interference with telephone, radio, satellite, television, or similar receivers within the Property shall be permitted.

**Section 8.15 Destruction of Improvements.** In the event any Improvement is wholly or partially destroyed by casualty, such structure shall either be promptly rebuilt to conform with these covenants, or all remaining portions of such structure, including foundation and all debris, shall be promptly removed from the Lot.

**Section 8.16 Mineral Exploration.** No portion of the Property including, without limitation, any are within a Lot, shall be used to explore for or to remove any water, soil, hydrocarbons, or other mineral of any kind.

## **ARTICLE IX**

### **RIGHT OF REPURCHASE**

If any Owner fails to commence construction of a building upon a Lot purchased by such Owner within two (2) years following the date of the conveyance from Declarant to such Owner, other than Declarant, Declarant shall have the right to repurchase the Lot at any time within one hundred eighty (180) days after the expiration of said two (2) - year period upon giving fifteen (15) days prior written notice of its intention to repurchase to said Owner. The repurchase price shall be the sum of the price paid by Owner for the Lot when purchased from Declarant plus reimbursement for any real property taxes paid by Owner relating to the Lot, less an amount equal to ten percent (10%) of the price paid by such Owner for the Lot and less the unpaid principle portion of the purchase price, if any. The provisions of this Article V shall be specifically enforceable as set forth in Article IV of this Declaration. If Declarant fails to give written notice exercising its right of repurchase within the one hundred eighty (180) – day period aforesaid, said right of repurchase shall be deemed waived. “Commencement of construction of a building” as defined herein means that the Owner of the Lot has (1) obtained approval of the

Design Review Committee as set forth in Article III hereof, and (2) obtained building permits from the appropriate governmental authorities authorizing construction of a building and improvements as approved by the Design Review Committee, and (3) entered into a construction contract with a contractor licensed to do business in Colorado for construction of a building; and (4) expended at least the sum of Fifty Thousand and no/100 Dollars(\$50,000.00) pursuant to such construction contract for on-site construction work.

## **ARTICLE X**

### **INSURANCE**

**Section 10.1 Property Insurance on Insurable Common Area.** The Association shall use reasonable efforts and resources to keep all insurable improvements and fixtures constituting Common Elements insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Board may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Board may deem desirable. The Association shall be the owner and beneficiary of any such insurable and any proceeds thereof shall be payable to the Association.

**Section 10.2 Replacement or Repair of Common Elements.** Any Common Element for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (i) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or
- (ii) the Owners of at least eighty percent (80%) of the Lots vote not to repair or

replace.

The cost of repair or replacement in excess of any insurance proceeds and available reserves shall be a Common Expense. Upon proper authorization, the Association may make a special assessment to cover the additional cost of repair or replacement. If any portion of the Common Elements is not repaired or replaced, the insurance proceeds shall be used to restore the damaged area to a condition compatible with the remainder of the Common Elements and any remaining proceeds shall be distributed to all Owners equally, or their Mortgagees, as their interests may appear.

**Section 10.3 Liability Insurance.** The Association shall obtain a comprehensive policy of public liability insurance insuring the Association, Board, any management agent, and their respective employees and agents, covering all of the Common Elements in an amount deemed appropriate by the Board, covering all claims for bodily injury or property damage. Such coverage shall, include, without limitation, liability, for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements. All Owners shall be included as additional insured's, but only for claims and liabilities arising in connection with the ownership, use, existence, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

**Section 10.4 Fidelity Insurance.** The Association may, but is not required to, obtain fidelity bonds to protect against dishonest acts on the part of its officers, directors, trustees, and employees and all others who handle or are responsible for handling funds or other assets of the Association.

**Section 10.5 Workmen's Compensation Insurance.** The Association shall obtain Workmen's Compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

**Section 10.6 Officers' and Directors' Personal Liability Insurance.** The Association may, but is not required to, obtain officers' and directors' personal liability insurance to protect the Association's officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

**Section 10.7 Other Insurance.** The Association may obtain insurance against such other risks as the Board shall deem prudent with respect to the Association's operations and property.

**Section 10.8 Insurance Premiums.** Insurance premiums for any of the above-described insurance shall be a Common Expense. First Mortgages shall have the right, jointly and severally, to pay all overdue premiums on hazard insurance policies, or secure comparable new hazard insurance coverage in the event of a lapse of such a policy, for the Common Elements; any such First Mortgagee making such payment shall be owed immediate reimbursement therefore from the Association.

**Section 10.9 Availability.** If the insurance required by Sections 10.1 and 10.3 above are not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained, the Association shall promptly deliver Notice of that fact to all Owners.

**Section 10.10 Casualty and Liability Insurance- Additional Requirements.** The casualty and liability policies required by Sections 10.1 and 10.3 above must provide that: (i) the insurer waives its right to subrogation against any Owner or any member of the Owner's household; (ii) no act or omission by any Owner, unless acting within the scope of such Owner's

authority on behalf of the Association, will void the policy or become a condition to recovery under the policy; and (iii) if, at any time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk, the Association's policy provides primary insurance.

**Section 10.11 Property Insurance Adjustment.** Any loss covered by the property insurance policy required by Section 10.1 above must be adjusted with the Association. The insurance proceeds for such loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owner and Mortgagees as their interests may appear. Subject to Section 10.2 above, all such proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and Mortgagees are not entitled to receive payment of any portion of such proceeds unless there is a surplus after the property has been completely repaired or restored.

The Association may adopt written, non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such settlement all deductibles paid by the Association. Any such amount shall be reimbursed to the Association within thirty (30) days of Association's furnishing Notice to such Owner that such amount is owed, and together with costs of collection thereof, attorney fees, and interest thereon, shall be a personal obligation to the Owner and a charge and lien against such Owner's Lot as provided herein for assessments.

**Section 10.12 Certificates of Insurance; Termination.** The insurer issuing property or liability policies as required by Sections 10.1 and 10.3 above shall issue certificates or

memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, any such insurer may not cancel or refuse to renew its policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been furnished.

**Section 10.13 Owner's Insurance.** No insurance policy issued to the Association pursuant to this Article shall obviate the need for Owners to obtain insurance for their own benefit. Such insurance should include, not by limitation, a comprehensive casualty and liability policy covering the Owner's entire Lot and all Improvements thereon, including all Improvements within any Association Maintenance Area.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

**Section 11.1 Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges imposed or created by the provision of the Declaration. Failure by the Association or by any Owner to enforce any provision herein shall not be deemed a waiver thereof. To the extent the Association performs any obligation on behalf of any Owner pursuant hereto, all costs thereof, costs of collection, attorney fees, and interest thereon, shall be a personal obligation of such Owner and a charge and lien against the Owner's Lot as provided for assessments herein.

**Section 11.2 Severability.** Invalidation of any provision herein shall in no way affect any other provisions which shall remain in full force and effect.

**Section 11.3 Term.** This Declaration and all provisions herein shall run with and bind the Property for an original term of twenty (20) years from the date this Declaration is first recorded, after which time it shall be automatically extended for successive terms of ten (10) years unless terminated. This Declaration may be terminated at any time by filing in the records of Weld County, Colorado, a legally sufficient instrument signed by the Owner of not less than eighty percent (80%) of all Lots.

**Section 11.4 Amendment.** Other than any provision herein which by its terms requires a higher voting percentage for any action, in which event such higher percentage would be required, this Declaration may be amended at any time by written consent of the Owners of not less than sixty- seven percent (67%) of the Lots; except, other than termination of this Declaration altogether or as otherwise provided herein, no amendment may increase, decrease, or otherwise alter any Declarant rights, increase the number or change the boundaries of any Lot, change the number of votes or the relative share of assessments allocated to any Lot, nor alter the use restrictions on any Lot without the written consent of eighty percent (80%) of all Owners of the Lots. Any amendment must be recorded in the records of Larimer County, Colorado, in a legally sufficient instrument prepared, executed, and certified on behalf of the Association by the President of the Association and must be indexed in the grantee's index to such records in the name of Crossroads Business Park.

**Section 11.5 Management of the Common Elements and Association Maintenance Area.** The Board may obtain and pay for the services of a managing agent to manage the Association's affairs, or any part thereof, to the extent it deem advisable, as well as such other persons the Board determines to be necessary or desirable for proper management, operation, and maintenance of the Common Elements and Association Maintenance Area; provided,

however, that any related contract shall terminate upon not more than ninety (90) days written notice, with or without cause, and without payment of any termination fee.

**Section 11.6 Condemnation of the Common Elements.** If all or any part of the Common Elements are condemned by any public authority or sold or otherwise disposed of in lieu or advance thereof, all compensation, damages, or other proceeds therefrom shall be payable to the Association. The Association shall use such proceeds for restoration of the remaining Common Elements, if possible, to pay any deficiencies in Common Expenses or to establish new or increased reserves as determined by the Board, or may distribute such proceeds equally among the Owners. Distributions of any such proceeds to the Owners shall be made by checks payable jointly to the Owners and their respective First Mortgagees.

**Section 11.7 Payment of Taxes by First Mortgagees.** First Mortgagees may, jointly or singly, pay taxes or other charges which are past due and which may or have become a charge against the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

**Section 11.8 Statement of Account.** The Association shall furnish to any Owner or his designee, or to any Mortgagee or its designee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt to the Association's registered agent, setting forth the amount of unpaid assessments currently levied against such Owner's or Mortgagee's Lot. The statement shall be furnished within fourteen (14) days after receipt of the request and shall be binding upon the Association, Board, and every Owner. If no statement is furnished when properly requested, the Association shall have no right to assert against the requesting party any lien upon the Lot for unpaid assessments due as of the date of the request. The Association shall keep financial records sufficiently detailed to enable the Association to

comply with this Section. All financial and other records shall be made reasonably available for examination by any Owner or his designee.

**11.9 Indemnification.** The Association shall indemnify and hold harmless Declarant, its managers, members, agents, employees, and independent contractors from and against any and all claims, lawsuits, damages, costs, or other liabilities of any kind in any way related to the Property, including the Common Elements, on any act or omission of the Association or any of its directors, officers, agents, employees, or independent contractors, unless caused directly by Declarant's or Declarant's managers', members', agents', employees', or independent contractors' gross negligence or intentional acts or omissions. The Association shall indemnify and hold harmless its directors, officers, agents, employees, and independent contractors from and against any and all claims, lawsuits, damages, costs or other liabilities of any kind in any way related to the Association or Property unless caused directly by the applicable directors', officers', agents', employees', or independent contractors' gross negligence or intentional acts or omissions.

**Section 11.10 Valuation of Common Elements Assessed to Lots.** Subject to any applicable law to the contrary, each Lot, together with its interest in the Common Elements, shall constitute a separate parcel of real estate and shall be separately assessed and taxed. Each Owner shall be responsible for all taxes so imposed against his Lot. The valuation of the Common Element shall be assessed proportionately to each Lot in accordance with its relative allocated Common Element Assessment.

**Section 11.11 Recording.** This Declaration must be recorded in the same manner as a deed in the records of Larimer County, Colorado, to be effective. In addition, a plat or map of the Property must be certified by a licensed engineer as being in compliance with the Colorado

Common Interest Ownership Act, as amended, and likewise be recorded. Upon the recording hereof, Declarant must deliver a copy of this Declaration to the Larimer County Assessor.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has made and executed this Declaration this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

Trollco, Inc.

By: \_\_\_\_\_

Martin Lind, President

STATE OF COLORADO )

)ss.

COUNTY OF \_\_\_\_\_ )

The above and forgoing instrument was acknowledged before me by Martin Lind, as President of Trollco, Inc., this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_

Notary Public

**FIRST AMENDMENT  
TO  
DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CROSSROADS BUSINESS PARK  
IN THE CITY OF LOVELAND, COUNTY OF LARIMER  
STATE OF COLORADO**

This First Amendment to the Declarations of Covenants, Conditions and Restrictions (“Amendment”) is made on the date hereinafter set forth by the undersigned, as owner of at least sixty-seven percent (67%) of the Owners of the Lots within the Crossroads Business Park.

**RECITALS**

- A. There are twenty-nine (29) lots within Crossroads Business Park.
- B. The entities executing the signature pages attached hereto own, in the aggregate, in excess of sixty-seven percent (67%) of the Lots within Crossroads Business Park that are described on such signature pages.
- C. Trollco, Inc. previously recorded the Declaration of Covenants, Conditions and Restrictions on March 7, 2001 as Reception No. 2001016703 of Larimer County Records (“Declaration”).
- D. The undersigned believe it to be in the best interests and for the mutual benefit of all current and future owners and occupants of Crossroads Business Park to amend the Declaration as provided herein.

NOW, THEREFORE, the undersigned, for themselves, their successors and assigns, hereby amend the Declaration as follows, using the capitalized terms contained in this Amendment as defined in the Declaration:

- 1. Section 7.6 – “Plan Review Procedure” is amended by amending the last sentence of the first paragraph to read its entirety as follows:

The Architectural Committee may require a processing fee be paid by each Applicant in one or more payments during the process of reviewing an Applicant’s plans not to exceed Two Thousand Five Hundred and no/100 Dollars (\$2,500.00).

- 2. Section 8.5 – “Outside Storage; Fences” is amended in its entirety to read as follows:

Outdoor storage of waste, rubbish, materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be enclosed and concealed by a fence, shrubs, hedges, or other foliage. Materials stored shall not be visible above the height of the fence. Outside storage areas shall not be located within setback required from a front lot line.

No fence, wall hedge or shrub, plant or tree which obstructs sight lines at elevations more than two (2) feet above the roadway shall be placed or permitted to remain on any Lot within the triangular area formed by lot boundaries adjacent to streets and a line connecting them at points twenty-five (25) feet from the intersection of those lot boundaries. There shall be a fence standard throughout the Property. Fences shall be constructed of six (6)-foot high industrial zinc or galvanized chain link fencing or approved equal; provided, however, that if a screening fence is required, it shall be constructed of standard chain link with redwood slats bound in the mesh or approved equal.

3. Article IX –“Right of Repurchase” is amended in its entirety to read as follows:

If any Owner fails to commence construction of a building upon a Lot purchased by such Owner within two (2) years following the date of the conveyance from Declarant to such Owner, other than Declarant, Declarant shall have the right to repurchase the Lot at any time within one hundred eighty (180) days after the expiration of said two (2) - year period upon giving fifteen (15) days prior written notice of its intention to repurchase to said Owner. The repurchase price shall be the sum of the price paid by Owner for the Lot when purchased from Declarant plus reimbursement for any real property taxes paid by Owner relating to the Lot, less an amount equal to ten percent (10%) of the price paid by such Owner for the Lot and less the unpaid principle portion of the purchase price, if any. The provisions of this Article V shall be specifically enforceable as set forth in Article IV of this Declaration. If Declarant fails to give written notice exercising its right of repurchase within the one hundred eighty (180) – day period aforesaid, said right of repurchase shall be deemed waived. “Commencement of construction of a building” as defined herein means that the Owner of the Lot has (1) obtained approval of the Design Review Committee as set forth in Article III hereof, and (2) obtained building permits from the appropriate governmental authorities authorizing construction of a building and improvements as approved by the Design Review Committee, and (3) entered into a construction contract with a contractor licensed to do business in Colorado for construction of a building; and (4) expended at least the sum of Fifty Thousand and no/100 Dollars(\$50,000.00) pursuant to such construction contract for on-site construction work.

4. This Amendment must be recorded in the same manner as a deed in the records of Larimer County, Colorado to be effective.
5. To the extent not otherwise amended hereby, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have made and executed this Amendment  
this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

American Eagle Distributing Co.

By: \_\_\_\_\_

Jerry Helgeson, President  
Owner of Lot 1, Crossroads Business Park  
Fourth Subdivision

Rocky Mountain Crossroads LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Owner of Lots 1, 3, 4 and 8 of Block 2 and  
Lots 5 and 6 of Block 4,  
Crossroads Business Park First Subdivision;  
Lots 2, 3, 4, 5, 6 and 7 of Block 1,  
Crossroads Business Park Second Subdivision; and  
Lots 1, 2, 3 and 4 of Block 1, Crossroads Business  
Park Third Subdivision.

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004  
by Jerry L. Helgeson, President of American Eagle Distributing Co.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004  
by \_\_\_\_\_, as \_\_\_\_\_ of Rocky Mountain Crossroads LLC.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_  
Notary Public