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MASTER DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
OF
16TH STREET OWNERS MASTER ASSOCIATION

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MASTER DECLARATION
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OF
16TH STREET OWNERS MASTER ASSOCIATION

THIS MASTER DECLARATION is made on the date hereinafter set forth by PEOPLE'S CLINIC DEVELOPMENT, LLC, a Colorado limited liability company ("*Declarant*").

A. Declarant is the owner and/or developer of certain real property located in Boulder County, Colorado, as more particularly described on the Plat (as defined below) attached hereto as EXHIBIT A (the "*Real Estate*");

B. Declarant has developed the Real Estate as a mixed-use common interest planned community (the "*Master Community*"), and other than Lot 15 which is already owned by People's Clinic, Inc., Declarant shall transfer fee simple ownership in and to the other lots more particularly on the Plat (each a "*Lot*" and collectively, the "*Lots*");

C. In order to protect the value and ensure the intended and proper development, improvement and use of the Lots and the Real Estate, Declarant desires to establish certain covenants, conditions and restrictions more particularly set forth herein for the mutual benefit of the Lots and the Real Estate and the present and future Owners and Related Users (as defined below) thereof; and

D. Declarant intends to create significant development rights which are more particularly described in this Declaration.

ARTICLE 1
SUBMISSION OF REAL ESTATE; DEFINED TERMS

1.1 **SUBMISSION OF REAL ESTATE.** Declarant hereby submits the 15 Lots, the Outlots and the balance of the Real Estate, together with and subject to all restrictions, reservations, easements, reciprocal easements, rights of way, and appurtenances thereto, and the buildings and improvements erected or to be erected thereon to the provisions of the Colorado Common Interest Ownership Act, C.R.S. §§38-33.3-101 et seq., as it may be amended from time to time (the "*Act*"). In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable. Declarant further declares that all of the Real Estate shall be held or sold, and conveyed subject to the easements restrictions, covenants, and conditions set forth herein which are for the purpose of protecting the value and desirability of, and which shall run with the Real Estate and be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner.

1.2 **MASTER ASSOCIATION.** The Master Association (as defined below) shall be the master association for the Master Community, with all the powers incident thereto as provided under Section 220 of the Act and this Declaration.

1.3 **SUB-ASSOCIATIONS WITHIN MASTER ASSOCIATION.** This Declaration contemplates the creation of (a) certain sub-associations (each a "*Sub-Association*" and collectively, the "*Sub-Associations*") to serve as and be the community association for certain of the Owners (as defined below) of certain of the Residential Lots (as defined below) and for the owners of certain condominium units created upon the condominiumization of certain of the Residential Lots. Each Residential Lot and any such condominium unit shall be referred to herein as a "*Residential Unit*" and collectively as the "*Residential Units*".

1.4 **DEFINED TERMS.** Each capitalized term not otherwise defined in this Declaration or in the recorded Plat for the Master Community shall have the meaning specified or used in the Act. In case of a conflict between a definition in this Declaration and the Act, the definition set forth in this Declaration shall govern.

1.4.1 “*Articles*” means the Articles of Incorporation for the Master Association (as defined below), which have been or will be filed with the Colorado Secretary of State, and any amendments which may be made to those Articles from time to time.

1.4.2 “*Association Documents*” means this Declaration, the Plat, the Articles and the Bylaws, amended from time to time. Any exhibit, schedule or certificate accompanying a document is part of such document.

1.4.3 “*Board*” means the Board of Directors of the Master Association duly elected pursuant to the Bylaws (as defined below) or appointed by Declarant in accordance with the Bylaws. The term Board as used herein is synonymous with the term “Executive Board” as such term is defined in the Act.

1.4.4 “*Building*” means each building constructed on any Lot.

1.4.5 “*Bylaws*” means the Bylaws adopted by the Master Association, as amended from time to time.

1.4.6 “*Common Area*” means (a) Outlots A, B, C and D as depicted on the Plat; (b) those portions of the Real Estate that are not included in any Lot or dedicated as rights-of-way; (c) the Drainage Easements (as defined below); and (d) the Driveway Easements (as defined below); provided, however “*Common Area*” shall not include the Parking Structures (as defined below).

1.4.7 “*Common Area Expenses*” means all expenditures made or liabilities incurred by the Master Association on its behalf or on behalf of more than one Owner, including without limitation: (a) all expenses expressly declared to be Common Area Expenses by this Declaration or any other provision of one or more Master Association Documents; (b) all other expenses incurred in connection with administering, servicing, conserving, managing, maintaining, improving and operating, repairing, or replacing any part of the Common Area or Improvements located thereon in general and the Maintenance (as defined below) of the Common Area, including allocations to the Reserve Fund (as defined below), or in connection with enforcing the Association Documents; (iii) all costs for insurance premiums and deductibles; and (iv) all expenses incurred on behalf of the Master Association or the Owners and determined by the Master Association to be Common Area Expenses.

1.4.8 “*Declarant*” means PEOPLE’S CLINIC DEVELOPMENT, LLC, a Colorado limited liability company, or its successors and assigns as defined in § 38-33.3-103(12) of the Act. A Person shall be deemed a “successor and assign” of Declarant only if specifically designated in a duly recorded instrument as a successor or assign of the Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of the Declarant under this Declaration which are specifically designated in the written instrument.

1.4.9 “*Drainage Easements*” means those easements for drainage upon and across any Lot as depicted on the Plat (as defined below).

1.4.10 “*Drainage Improvements*” means the Improvements (as defined below) constructed in the Drainage Easements and on Outlot D.

1.4.11 “*Driveway Easements*” means the Lot 15 Driveway Easement (as defined below) and the Outlot A Driveway Easement (as defined below).

1.4.12 “*Eligible Mortgagee*” means a holder of a First Mortgage (as defined below) who has notified the Master Association, in writing, of its name and address, and that it holds the First Mortgage on a Lot. The notice must include the Lot number and street address of the Lot on which it has such security interest. This notice shall be deemed to include a request that the Eligible Mortgagee be given the information and afforded the rights described in this Declaration.

1.4.13 “*First Mortgage*” means any Mortgage which is not junior to any lien or encumbrance, except those which are given priority by statute.

1.4.14 "*Gross Lot Area*" means, with respect to any Lot, the gross area of such Lot as more particularly set forth in EXHIBIT B attached hereto.

1.4.15 "*Gross Unit Area*" means, with respect to any Residential Unit that is a condominium unit, the Gross Lot Area of the Lot from which such Residential Unit was created divided by the aggregate number of Residential Units created from such Lot as will be more particularly set forth in an amended and restated EXHIBIT B to be attached hereto when such Residential Units are created from time to time.

1.4.16 "*Improvements*" means any construction, structure, fixture or facilities existing or to be placed or constructed on the Common Area, including without limitation, landscaping, paving, walkways, utility lines, drainage improvements, pipes, wires, ducts, conduits and lighting fixtures; provided, however the "*Improvements*" shall not include the Parking Structures.

1.4.17 "*Lot 15 Driveway Easement*" means the easement for vehicular access upon and across Lot 15 as depicted on the Plat.

1.4.18 "*Maintenance*" shall mean, with respect to the Common Area, Lots, the Improvements or the Real Estate, all administration, service, management, maintenance, operation, improvement, painting, repair, and replacement work, including costs of plans and specifications, supervision and other related costs.

1.4.19 "*Manager*" shall mean a person or entity engaged by the Master Association to perform certain duties, powers, or functions of the Master Association, as the Master Association may authorize from time to time.

1.4.20 "*Master Association*" means 16TH STREET OWNERS MASTER ASSOCIATION, a Colorado nonprofit corporation, an Association of Owners as defined by the Act, and its successors and assigns.

1.4.21 "*Mortgage*" means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Master Association, and any other consensual lien or title retention contract intended as security for an obligation.

1.4.22 "*Mortgagee*" means any person or entity named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

1.4.23 "*Outlot A Driveway Easement*" means the easement for vehicular access upon and across Outlot A as depicted on the Plat.

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1.4.25 "*Outlot A Improvements*" means the Improvements located on Outlot A.

1.4.26 "*Outlot B Improvements*" means the Improvements located on Outlot B.

1.4.27 "*Owner*" means the Declarant or any other record holder of fee simple legal title to a Lot or Residential Unit.

1.4.28 "*Parking Structures*" means the buildings constructed on Outlots A and B.

1.4.29 "*Person*" means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.

1.4.30 "*Plat*" means the plat depicting or describing the Real Estate that is an engineering survey (and any supplements and amendments thereto) setting forth a certificate by a registered land surveyor certifying that the Plat sets forth all of the information required by § 38-33.3-209 of the Act to be recorded in the real property records of Boulder County, Colorado.

2.3 **RIGHTS TRANSFERABLE.** Any Special Declarant Right created or reserved under this Article for the benefit of Declarant may be transferred to any successors or assigns by an instrument executed by the relevant parties describing the rights transferred and recorded in Boulder County, Colorado.

2.4 **INTERFERENCE WITH SPECIAL DECLARANT RIGHTS.** Neither the Master Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

2.5 **TERMINATION.**

2.5.1 The Development Rights reserved in this Article 2 may be exercised by Declarant at any time without the consent of any Owner, First Mortgagee or the Master Association, but shall expire as of the date upon which Declarant or its affiliates no longer holds title to any of the Lots or Residential Units (such date being referred to herein as the "*Declarant Rights Termination Date*").

2.5.2 The Special Declarant Rights reserved in Section 2.2 above may be exercised by Declarant at any time without the consent of the Master Association, but shall expire as of the Declarant Rights Termination Date, except that the Special Declarant Right to perform warranty work and utilize storage areas and easements incident to such work under Section 2.2.3 above shall expire upon the expiration of Declarant's warranty obligations.

2.5.3 Within sixty (60) days after the Declarant Rights Termination Date, Declarant shall deliver to the Master Association all property of the Owners and of the Master Association held by, or controlled by, Declarant, including, without limitation, those items set forth in Subsection 303(9)(a) through (1) of the Act.

ARTICLE 3
VOTING INTERESTS

3.1 **VOTING INTERESTS.** Each Lot shall be allocated the number of votes in the Master Association more particularly set forth in **EXHIBIT B** attached hereto (collectively, the "*Voting Interests*") such that each Lot is allocated one (1) vote for each 1,000 square feet of its Gross Lot Area which amount has been rounded upwards or downwards as applicable to the nearest 1,000 square feet. Such Voting Interests shall be exercised by the Member of the Master Association affiliated with such Lot or his, her or its proxy as defined in the Bylaws. The total number of votes in the Master Association shall be one hundred and sixty-one (161). Any specified percentage, portion or fraction of Lots or Owners, unless otherwise stated in the Association Documents, means the specified percentage, portion, or fraction of the total of all Voting Interests in the Master Association.

ARTICLE 4
RESTRICTIONS ON USE

4.1 **USE RESTRICTIONS.** Subject to the Development Rights and Special Declarant Rights reserved under Article 3, the following use restrictions apply to all Lots and to the Common Area and shall be enforceable against all Owners and Related Users:

4.1.1 The use of each Lot is restricted to the uses permitted by the zoning for the Real Estate and the land use approvals applicable to such Lot.

4.1.2 No unlawful use may be made of the Real Estate and Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado and all ordinances, rules and regulations of Boulder County and the City of Boulder. Any Owner violating such ordinances, rules and regulations shall hold the Master Association and other Owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

4.1.3 Each Owner shall keep his, her or its Lot or Residential Unit in a good state of preservation and cleanliness. No storage of trash will be permitted in or outside any Lot or Residential Unit except in such receptacles designated by the Master Association.

4.1.4 No noxious, offensive, dangerous or unsafe activity shall be carried on in any Lot, nor shall anything be done therein either willfully or negligently, which may be or become an annoyance or nuisance to

the Board, whether such Owner is present or not, for access through, upon and over each Lot to all portions of the Common Area, from time to time, as may be necessary for the routine Maintenance for any of the Common Area accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Area or to another Lot. With respect to routine maintenance and non-emergency repairs, the Board may authorize entry on a regular business day during regular business hours after the delivery of at least one (1) day's prior written notice to the affected Owner. With respect to emergencies, the Board may authorize entry at any time provided that the Board makes a reasonable effort to deliver prior notice of entry to the affected Owner and/or Related User in light of the applicable circumstances. The Board or its agents may use such reasonable force as is necessary to gain entry onto such Lot in the event of an emergency, if no other means of entry are practicable in light of the applicable circumstances. The Master Association shall be solely liable for the reasonable expense of repairing all damages caused to any Lot and/or Common Area as a result of any such forcible entry which shall be paid for as part of the Common Expense Assessment (as defined below) by all of the Owners. Such Common Expense Assessments shall not be reduced or abated as a result of any inconvenience or discomfort incurred by an Owner in connection any such entry. Notwithstanding the foregoing, if any such damage was caused by the carelessness or negligence of any Owner, then such Owner shall be solely liable for the reasonable expense of repairing the same. In the event the Owner fails within a reasonable time upon proper notice to pay the cost of the damages incurred, the Board may pay for the damages and charge the Owner responsible for such costs as an Individual Assessment.

5.2.4 There is hereby granted to each Owner a non-exclusive perpetual easement for reasonable access, ingress, egress and parking by vehicular and pedestrian traffic over all paved driveways, roadways and walkways as presently or hereafter constructed in and constituting a part of the Common Area to such Owner's Lot and the Parking Structures for the benefit of such Owner and his, her or its Related Users, customers, clients, invitees, agents and suppliers, including without limitation, the Driveway Easements. Notwithstanding the foregoing, in accordance with Section 5.4 below, by appropriate signage and postings, Declarant shall license certain Parking Spaces for the exclusive use of the Related Users of specified Owners.

5.2.5 There is hereby granted to each Owner a non-exclusive perpetual easement to discharge surface storm drainage and runoff from such Owner's Lot over, upon and across the Common Area and each of the other Lots; provided, however that no Owner shall be permitted to alter the surface of the Common Area comprising their Lot if such alterations would materially increase the flow of surface storm drainage and runoff onto another Lot in any manner or would affect any applicable drainage plan promulgated by an authorized body to which the Real Estate is subject.

5.3 EMERGENCY ACCESS EASEMENT. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Common Area in the proper performance of their duties.

5.4 PARKING LICENSES. Declarant shall grant to the relevant Owners of the Lots more particularly described on EXHIBIT C a perpetual license to the exclusive use of the corresponding Parking Spaces pursuant to Declarant's standard parking license agreement (collectively, the "Parking Licenses") to be entered into upon Declarant's conveyance of the relevant Lot to each such Owner. Notwithstanding the foregoing, Declarant acknowledges and agrees that neither Declarant nor the Master Association shall have any rights or responsibilities related to any parking spaces constructed on Lot 15 none of which shall be subject to Parking Licenses. The Parking Licenses shall be a license only and are not an interest in real estate and thus shall not be recorded in the Office of the Clerk and Recorder of Boulder County, Colorado. Notwithstanding the foregoing, the Parking Licenses shall be transferable to the purchaser, assignee or other transferee of the Unit related thereto. Notwithstanding anything to the contrary set forth in the Parking Licenses, the Master Association shall have the right to realign, re-stripe, and/or relocate the Parking Spaces subject to any Parking Licenses as it may deem reasonably necessary or advisable in order to comply with any law, ordinance, statute or other rule or regulation applicable to the Common Area, so long as any such relocation does not materially increase the distance from such Parking Space to the Unit related thereto.

5.5 PARKING STRUCTURE MAINTENANCE EASEMENTS. (a) There is hereby granted to the Owner of Lot 6 a non-exclusive perpetual easement to construct the Parking Structures to be located on Outlot A and for reasonable access, ingress and egress over and across that portion of the Common comprised of Outlot A for the purpose of performing such Owner's Maintenance obligations with respect to such Parking Structures.

(b) There is hereby granted to the Owners of Lots 7-11 a non-exclusive perpetual easement to construct the Parking Structures to be located on Outlot B and for reasonable access, ingress and egress over and across that portion of the Common comprised of Outlot B for the purpose of performing such Owner's Maintenance

obligations with respect to such Parking Structures.

ARTICLE 6
MAINTENANCE, REPAIR AND REPLACEMENT

6.1 **COMMON AREA MAINTENANCE.** (a) Except for the Parking Structures, the Master Association shall be responsible for Maintenance related to the Common Area and the cost of the same shall be deemed a Common Area Expense. The Master Association shall have the sole discretion to determine the time and manner in which such Maintenance shall be performed as well as the color or type of materials used in connection with the Common Area.

(b) The Owner of Lot 6 shall (i) be responsible for Maintenance and all costs and expenses related to the Parking Structures located on Outlot A; and (ii) indemnify and hold the Master Association, each Sub-Association and the other Owners harmless from and against any loss, costs, expenses, damages, claims and liabilities arising in connection with such Parking Structures.

(c) The Owners of Lots 7-11 shall jointly and severally (i) be responsible for Maintenance and all costs and expenses related to the Parking Structures located on Outlot B; and (ii) indemnify and hold the Master Association, each Sub-Association and the other Owners harmless from and against any loss, costs, expenses, damages, claims and liabilities arising in connection with such Parking Structures.

6.2 **OWNER'S RESPONSIBILITY.** Each Owner shall be responsible for maintaining such Owner's Lot in accordance with the terms and conditions set forth herein, including without limitation, conducting such Maintenance as necessary keep his, her or its Lot in good repair in order to avoid damage or adversely affecting other Lot or the Common Area. The Master Association and/or the relevant Owners shall be entitled to reimbursement for cost of Maintenance from any Owner who causes, or whose Related User causes, damage to a Lot or the Common Area by an act of negligence or willful misconduct. Each Owner shall indemnify and hold the Master Association, the Community Associations and the other Owners harmless from and against all loss and damage incurred by the Master Association, the Sub-Associations and the other Owners resulting from any action or failure to act on the part of such Owner or his, her or its Related Users.

6.3 **OWNER'S FAILURE TO MAINTAIN OR REPAIR.** In the event that an Owner fails to maintain or perform Maintenance on its Lot or the Parking Structures as required by this Declaration, or in the event that any Lot or Parking Structures is damaged or destroyed by an event of casualty and such Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Lot or Parking Structures for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Master Association, after notice to such Owner and with the approval of the Board (after a determination by the Board that the condition of such Lot negatively impacts the value or use of other Lots or Residential Units within the Master Community) shall have the right to enter upon such Lot to perform such Maintenance as is reasonably required to restore a condition of good order and repair, except that no advance approval shall be required in the event of an emergency. All costs incurred by the Master Association in connection with the Maintenance may be assessed by the Master Association to the relevant Owner as an Individual Assessment (as defined below) in accordance with the terms and conditions set forth in Section 7.13 below.

6.4 **DISCLAIMER REGARDING SECURITY.** The Master Association and/or any Sub-Association may, but shall not be obligated to, maintain or support certain activities within the Real Estate designed to make the Real Estate safer than it otherwise might be. The Master Association, the Sub-Associations, Declarant, or any representative or agent of the foregoing, shall in no way be considered insurers or guarantors of security within the Real Estate, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that access gates constitute any form of security, and no representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform all Related Users of the terms of this Section 6.4 and that such Related User and anyone within the Real Estate assumes all risk for loss or damage to persons and to property resulting from acts or failure to act of third parties.

ARTICLE 7
ASSESSMENTS

7.1 **ASSESSMENT OBLIGATION.** Each Owner, including Declarant during the time Declarant holds title to a Lot after such Lot is created, covenants, jointly and severally, to personally pay to the Master Association (a) Common Area Maintenance Assessments (as defined below); (b) Drainage Maintenance Assessments (as defined below); (c) Insurance and Association Administration Assessments (as defined below); (d) EcoPass Assessment (as defined below); (e) Special Assessments (as defined below); (f) Fines (as defined below); (g) Individual Assessments (as defined below); and (h) Working Capital Contributions (as defined below), and the foregoing shall represent a continuing lien in the amounts of the same upon the Lot against which each such amount is levied. Collectively, the Common Area Maintenance Assessments, the Drainage Maintenance Assessments, the Outlot A Maintenance Assessments, the Outlot B Maintenance Assessments, the Lot 15 Driveway Maintenance Assessments, the Insurance and Association Administration Assessments and the EcoPass Assessments shall be referred to herein as the "*Common Expense Assessments*" and the Common Expense Assessments, Special Assessments, Fines, Individual Assessments and Working Capital Contributions shall be generally referred to herein as the "*Assessments*". Each Owner's obligations set forth in this Article 7 are separate and independent from all other terms and conditions and the obligations of any other party to this Declaration and no Owner shall have any right to set off or otherwise unilaterally reduce the amounts levied against such Owner's Lot as set forth in this Article 7.

7.2 **PURPOSE OF THE ASSESSMENTS.** The Assessments shall be used exclusively for the purpose of promoting the welfare of the residents of the Master Community, including without limitation, covering the expenses and costs more particularly described in the Association Budget (as defined below). Notwithstanding anything to the contrary set forth herein, the Assessments collected prior to the Declarant Rights Termination Date shall not be used to fund the construction of capital improvements on the Real Estate.

7.3 **ANNUAL BUDGET.** The Board shall adopt an annual budget (the "*Master Association Budget*") in accordance with the terms and conditions set forth in the Association Documents which shall cover all the anticipated expenses and costs to be incurred by the Master Association during the subsequent calendar year, including without limitation, the expenses and costs associated with: (a) Maintenance of the Common Area; (b) the Master Association obtaining the insurance coverages required by this Declaration; and (c) the establishment and maintenance of a reserve fund (the "*Reserve Fund*") which shall be segregated into a separate deposit account from the balance of the funds held and controlled by the Master Association for the purpose of maintaining, repairing and replacing the Common Area. Within ninety (90) days after the Board's adoption of the Master Association Budget, the Board shall (a) mail, by ordinary first class mail, or otherwise deliver, a summary of the Master Association Budget to all Owners, and (b) shall set a date for a meeting of the Owners to consider the Master Association Budget, which meeting shall occur within a reasonable time after such mailing or other delivery. Unless at such meeting, the affirmative vote of sixty-seven (67%) of the Voting Interests veto the Master Association Budget, the Master Association Budget shall be deemed ratified, whether or not a quorum of all the Master Association is present at such meeting. If the proposed Master Association Budget is vetoed, the most recent Master Association Budget not vetoed by the Members of the Master Association shall apply for the subsequent budgeting period until a new Master Association Budget is approved in accordance with the terms and conditions set forth in this Section 7.3.

7.4 **COMMENCEMENT OF THE ASSESSMENTS.** In general, liability for the Assessments as to any Lot shall commence at such time as such Lot is conveyed to the relevant Owner. Liability for the Common Area Maintenance Assessment, Insurance and Association Administration Assessment and the EcoPass Assessment shall commence as to all Lots at such time each Lot is conveyed to the relevant Owner. Liability for the Drainage Maintenance Assessment shall commence as to all Lots after the City of Boulder's acceptance of the Drainage Improvements constructed in the Drainage Easements and on Outlot D (collectively, the "*Drainage Improvements*"). Liability for the Lot 15 Driveway Maintenance Assessment, the Outlot A Maintenance Assessment and the Outlot B Maintenance Assessment shall commence as to any Lot at such time as a building permit for any building or Residential Unit to be constructed upon such Lot has been issued. Liability for the EcoPass Assessment shall commence as to any Residential Unit at such time as a certificate of occupancy for such Residential Unit has been issued.

7.5 **ASSESSMENT PAYMENT TERMS.** On an annual basis after the adoption of the Association Budget for the subsequent calendar year, the Master Association shall deliver written notice to the Owners setting forth the amount of the Common Expense Assessment for each Owner as determined on a Pro Rata Basis which shall be due and payable in monthly installments in advance on the due dates set forth in such notice.

7.6 **COMMON AREA MAINTENANCE ASSESSMENT.** Subject to the terms and conditions set forth in

Section 7.4 above, on an annual basis after adoption of the Master Association Budget for the subsequent calendar year, the Master Association shall assess each Lot and/or Residential Unit a share of the Common Area Expenses associated with landscaping and otherwise maintaining the Common Area on a Pro Rata Basis (the "*Common Area Maintenance Assessment*").

7.7 **DRAINAGE MAINTENANCE ASSESSMENT.** Subject to the terms and conditions set forth in Section 7.4 above, on an annual basis after adoption of the Master Association Budget for the subsequent calendar year, the Master Association shall assess each Lot and/or Residential Unit a share of the Common Area Expenses associated with maintaining the Drainage Improvements on a Pro Rata Basis (the "*Drainage Maintenance Assessment*").

7.8 **OUTLOT A MAINTENANCE ASSESSMENT.** Subject to the terms and conditions set forth in Section 7.4 above, on an annual basis after adoption of the Master Association Budget for the subsequent calendar year, the Master Association shall assess Lots 1-6 and/or the Residential Units located thereon a share of the Common Area Expenses associated with striping, resurfacing, removing snow from and otherwise maintaining the Outlot A Driveway Easement and the Outlot A Improvements on a Pro Rata Basis (the "*Outlot A Maintenance Assessment*").

7.9 **OUTLOT B MAINTENANCE ASSESSMENT.** Subject to the terms and conditions set forth in Section 7.4 above, on an annual basis after adoption of the Master Association Budget for the subsequent calendar year, the Master Association shall assess Lots 7-11 and/or the Residential Units located thereon a share of the Common Area Expenses associated with striping, resurfacing, removing snow from and otherwise maintaining the Outlot B Improvements on a Pro Rata Basis (the "*Outlot B Maintenance Assessment*").

7.10 **LOT 15 DRIVEWAY MAINTENANCE ASSESSMENT.** Subject to the terms and conditions set forth in Section 7.4 above, on an annual basis after adoption of the Association Budget for the subsequent calendar year, the Master Association shall assess Lots 14 and 15 and/or the Residential Units located thereon a share of the Common Area Expenses associated with striping, resurfacing, removing snow from and otherwise maintaining the Lot 15 Driveway Easement on a Pro Rata Basis (the "*Lot 15 Driveway Maintenance Assessment*"). Collectively, the Outlot A Maintenance Assessment, the Outlot B Maintenance Assessment and the Lot 15 Driveway Maintenance Assessment shall be referred to herein as the "*Parking/Driveway Maintenance Assessment*".

7.11 **INSURANCE AND ASSOCIATION ADMINISTRATION ASSESSMENT.** On an annual basis after adoption of the Association Budget for the subsequent calendar year, the Master Association shall assess each Lot and/or Residential Unit a share of the Common Area Expenses associated with obtaining the insurance coverages required by this Declaration, conducting meetings of the Master Association and the Board and otherwise maintaining the Master Association in good standing and establishing the Reserve Fund on a Pro Rata Basis (the "*Insurance and Association Administration Assessment*").

7.12 **ECOPASS ASSESSMENT.** On an annual basis after adoption of the Association Budget for the subsequent calendar year, the Master Association shall assess the Residential Units a share of the Common Area Expenses associated with periodic expenses incurred by the Master Association in connection with satisfying the City of Boulder's requirements related to the provision of EcoPasses to Owners of Residential Units on a Pro Rata Basis (the "*EcoPass Assessment*").

7.13 **INDIVIDUAL ASSESSMENTS.** The Board, in its reasonable discretion, shall have the authority to individually assess any Owner for any amounts such Owner may owe the Master Association in accordance with any other terms and conditions set forth in this Declaration and payable in accordance with such terms and on such due dates as it shall reasonably determine (each an "*Individual Assessment*"). Individual Assessments shall not be levied unless the Master Association has complied with the terms and conditions set forth in the Association Documents related to the delivery of prior notice and the opportunity for a hearing, which notice shall set forth the amount of the Individual Assessment and the due date(s) therefor.

7.14 **FINES.** The Board shall have the authority to levy fines in such reasonable amounts and payable in accordance with such terms and on such due dates as it shall reasonably determine (each a "*Fine*") against Owners in connection with violations of this Declaration, the Association Documents and/or the Rules of the Master Association. Fines shall not be levied unless the Master Association has complied with the terms and conditions set forth in the Association Documents related to the delivery of prior notice and the opportunity for a hearing, which notice shall set forth the amount of the Fine and the due date(s) therefor.

7.15 **SPECIAL ASSESSMENTS.** The Board, subject to the affirmative vote of sixty-seven percent (67%)

of the Voting Interests, may levy a special assessment for the purpose of covering, in whole or in part, the cost of any construction or reconstruction, unexpected Maintenance of the Common Area or for any other expense incurred or to be incurred by the Master Association in accordance with the other terms and conditions set forth in this Declaration (each a "*Special Assessment*"). Any Special Assessments shall be levied against each Lot on a Pro Rata Basis. The Master Association shall deliver written notice to the Owners setting forth the amount of any such Special Assessments which shall be due and payable in monthly installments in advance on the due dates set forth in such notice.

7.16 **INITIAL CAPITALIZATION OF THE MASTER ASSOCIATION.** At the closing of each sale of a Lot to an Owner from Declarant, such Owner shall pay a one time non-refundable contribution to the Master Association in an amount equal to two (2) monthly installments of the then-current General Common Expense Assessment (each a "*Working Capital Contribution*") which shall become part of the Reserve Fund and deposited directly into the deposit account maintained therefor. The payment of Working Capital Contributions shall not relieve an Owner from, or otherwise be deemed to be a credit against such Owner's liability for, future Assessments. Upon an Owner's subsequent sale of a Lot, he, she or it may be entitled to a credit from the relevant purchaser (but not from the Master Association) for such Working Capital Contribution. Declarant shall not use Working Capital Contributions to pay or otherwise reimburse any construction costs or contributions Declarant made to the Reserve Fund or to make up any Association Budget shortfalls that occur while Declarant is in control of the Master Association.

7.17 **SURPLUSES.** The Master Association shall retain for its own account any surplus as part of the Reserve Fund for subsequent calendar years and the Master Association shall not be required to credit such surplus against the Owners' future assessment liabilities as set forth in this Article 7.

7.18 **PERSONAL LIABILITY.** The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of same. No Owner may exempt himself from liability for the Assessment by abandonment of his, her or its Lot or by waiver of the use or enjoyment of all or any part of the Common Area. Any suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expense of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

7.19 **SUCCESSOR'S LIABILITY FOR ASSESSMENT.** In addition to the personal obligation of each Owner to pay all Assessments and the Master Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expense, and attorney's fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall not be personal and shall terminate upon such successor's transfer of fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the statement of status of Assessments by or on behalf of the Master Association.

7.20 **REMEDIES FOR FAILURE TO PAY ASSESSMENTS.** Any Assessment and any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate, and assessed a late charge thereon, as reasonably determined by the Board, from time to time. The Master Association, upon ten (10) days' prior written notice to the relevant Owner and related Mortgagee, may elect to accelerate the installments of any Assessment. The Master Association shall deliver to the relevant Mortgagee written notice of any Assessment or installment thereof that is more than sixty (60) days past due. The Master Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Master Association against an Owner to recover a money judgment for unpaid Assessments or monthly or other installments thereof, may be commenced and pursued by the Master Association without foreclosing, or in any way waiving the Master Association's lien therefor. If the Owner remains in possession of the Lot after a foreclosure judgment has been entered, the court in its discretion may require the Owner to pay a reasonable rental for the Lot. If the Lot is rented during the pendency of the foreclosure action, the Master Association is entitled to the appointment of a receiver to collect the rent. The expenses of any such receiver shall be paid by the party which does not prevail in the foreclosure action. In any action to collect unpaid Assessments to foreclose on a Lot, the Master Association shall be entitled to recover its reasonable attorneys' fees and other costs incurred.

7.21 **ASSESSMENT LIEN.**

7.21.1 The Master Association has a lien on a Lot for any Assessment levied against the Lot including fines imposed against its Owner or Related User from the time the Assessment becomes due. Fees, charges, late charges, fines, and attorney fees and other legal costs of collection of Assessments and other actions to enforce the Association Documents, regardless of whether or not suit was initiated, and interest charged pursuant to the Association Documents and the Act, are enforceable as Assessments under this Section 7.21. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

7.21.2 A lien under this Section 7.21 is prior to all other liens and encumbrances on a Lot except: (a) liens and encumbrances recorded before the recordation of this Declaration; (b) a First Mortgage on the Lot recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section 7.21 is also prior to all Mortgages described in subsection (b) of this Section 7.21.2 to the extent provided in the Act. A lien under this Section 7.21 is not subject to any homestead exemption provided by Colorado law.

7.21.3 Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for Assessment under this Section is not required.

7.21.4 This Section 7.21 shall not preclude the Master Association from taking a deed in lieu of foreclosure.

7.21.5 A judgment or decree in any action brought under this Section 7.21 shall include costs and reasonable attorney's fees for the prevailing party.

7.21.6 A judgment or decree in an action brought under this Section 7.21 is enforceable in the same manner as any other judgment obtained in the State of Colorado.

7.21.7 The Master Association's lien may be foreclosed in like manner on real estate or as otherwise provided in the Act.

7.21.8 In any action by the Master Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver of the relevant Lot to collect all sums alleged to be due from that Owner prior to or during the pendency of the action. The court may order the receiver to pay to the Master Association during the pendency of the action any sums held by the receiver to the extent of the Master Association's Assessments.

7.21.9 The Master Association shall have the power to bid on a Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

7.22 **CERTIFICATE OF ASSESSMENT STATUS.** Upon request, the Master Association shall promptly deliver to an Owner or the Owner's First Mortgagee a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot which shall be binding and conclusive against the Master Association.

ARTICLE 8 *CASUALTY; INSURANCE*

8.1 **NOTICE OF CASUALTY LOSS.** In the event of any portion of the Common Area is damaged or destroyed, the Master Association shall deliver written notice of the same to each Mortgagee within a reasonable amount of time thereafter.

8.2 **COMPLIANCE WITH THE ACT.** The Master Association shall comply with C.R.S. §§38-33.3-313 and all other provisions of the Act regarding insurance as follows:

8.2.1 The Master Association shall maintain, to the extent reasonable, policies of insurance of type and coverage and in the form required by the Act as reasonably determined by the Master Association.

8.2.2 Application of insurance proceeds and procedures of adjustment must be made pursuant

to the Act.

8.2.3 The Rules may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Master Association settles claims for damages to the Real Estate and/or the Improvements, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Master Association.

8.2.4 Any portion of the Master Community for which insurance is required under the Act which is damaged or destroyed must be repaired or replaced promptly pursuant to, and as required by, the Act.

8.2.5 The Master Association and its manager must obtain policies of fidelity insurance in amounts and under the circumstances required by the Act.

8.2.6 All costs and expenses incurred by the Master Association in compliance with or as may be permitted by the Act, including without limitation, insurance premiums, and all costs and expenses incurred by the Master Association in connection with insured and uninsured losses to persons or property within the Master Community, repairs and replacement of insured and uninsured property, and claims settlement or adjustment shall be Common Area Expenses.

8.3 **FIDELITY INSURANCE.** The Master Association shall obtain and maintain, to the extent reasonably available, comprehensive fidelity insurance coverage or fidelity bonds for the Owners and the Master Association, including officers or employees who handle or are responsible for funds held or administered by the Master Association. The insurance shall name the Master Association as insured, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. The policy limits of such fidelity insurance shall be at least sufficient to cover the maximum funds (including any reserve funds) that will be in the custody of the Master Association or its management agent at any time while the policy is in force; provided however, in any event the aggregate amount of such insurance shall be not less than three (3) months aggregate Assessments on all Units, plus reserve funds. In the event the Master Association has delegated some or all of its responsibility for the handling of funds to a Managing Agent, the Master Association may require the Managing Agent to purchase, at its own expense, a policy of fidelity insurance or bonds that fully complies with the provisions of this Section 8.3.

8.4 **WORKER'S COMPENSATION INSURANCE.** If the Master Association has employees, the Master Association shall obtain and maintain worker's compensation or similar insurance with respect to its employees in the amount and form as may now or hereafter be required by law.

8.5 **OFFICER AND DIRECTOR LIABILITY INSURANCE.** The Master Association shall obtain and maintain, to the extent reasonably available, directors and officers' liability insurance for errors and omissions on all directors and officers of the Master Association including non-monetary and monetary claims coverage with policy limits and deductibles that the Board deems adequate in its sole discretion.

8.6 **NAMED INSUREDS; LOSS PAYEES.** The named insured shall be the Master Association, individually, and as agent for Owners of Lots covered by the policy, without naming them, and as agent for their mortgagees, without naming them and for such other parties as the Master Association shall elect to name. The Owners and their mortgagees shall be deemed additional insureds. All insurance policies obtained by the Master Association shall be for the benefit of the Master Association, the Owners and their Mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Master Association. The duty of the Master Association with respect to insurance proceeds shall be to receive such proceeds as are paid and to hold the same in trust to be applied as set forth in Section 8.8 below, and for the benefit of the Owners and their respective Mortgagees as provided by the Act.

8.7 **INSURANCE POLICY REQUIREMENTS.**

8.7.1 **CANCELLATION NOTICE.** All policies of insurance shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days' prior written notice to all of the named insureds, including all Mortgagees.

8.7.2 **WAIVERS.** All policies shall contain waivers of any defense based on invalidity arising

from any acts or neglect of an Owner where the Owner is not under the control of the Master Association. All policies must provide that no assessment may be made against a First Mortgagee, its successors or assigns and that any assessment made against others shall not become a lien on a Lot superior to the lien of a First Mortgagee.

8.7.3 **INSURER RATING.** All policies of insurance shall be written by reputable companies duly authorized and licensed to do business in the State of Colorado with an A.M. Best's rating of "B+" or better if reasonably available, or, if not reasonably available, the most nearly equivalent rating.

8.7.4 **CANCELLATION LIMITATIONS.** No policies shall be canceled, invalidated or suspended due to the conduct on the part of any Owner or their Related User or any Member, officer or employee of the Board or the Managing Agent unless the insurer has previously demanded in writing that the Board or the Managing Agent to abate or cure such conduct and such conduct shall not have abated or been cured within forty-five (45) days after the Master Association's receipt of such notice.

8.7.5 **EXCLUSION OF "NO OTHER INSURANCE" REQUIREMENTS.** Policies shall containing a "no other insurance" clause shall expressly exclude Owners' policies such that the Master Association's property insurance policy shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the Master Association's insurance coverage provide for or be brought into contribution with insurance purchased by a individual Owners or their First Mortgagees, unless otherwise required by law.

8.8 **INSURANCE PROCEEDS.** All policies shall provide that payments for losses made by the insurer shall be paid to the Master Association or to any insurance trustee designated for such purpose. Such insurance trustee or the Master Association shall hold any insurance proceeds in trust for the Owners and their Mortgagees as their interests may appear and applied in satisfaction of the Master Association's obligation to maintain, repair, and reconstruct the Common Area or otherwise disbursed in accordance with the terms and conditions set forth in Section 8.9 below.

8.9 **REPAIR AND REPLACEMENT WITH INSURANCE PROCEEDS.**

8.9.1 Any portion of the Common Area covered by the Master Association's insurance that is damaged or destroyed shall be repaired or reconstructed in accordance with the provisions of § 38-33.3-313 of the Act unless:

(a) The Master Community is terminated in accordance with the terms and conditions set forth elsewhere herein;

(b) Such repair or replacement is determined by the Board to be illegal under any applicable state or local statute or ordinance governing health or safety;

(c) Prior to the conveyance of any Lot to a person other than Declarant, the Mortgagee holding a Mortgage secured by the damaged portion of the Common Area rightfully demands all or a substantial part of the relevant insurance proceeds.

8.9.2 The Common Area shall be repaired and restored in accordance with the original "as built" plans and specifications for the Master Community or such other plans and specifications that have been approved by the Board subject to any covenants, restrictions and easements set forth in the Association Documents.

8.9.3 In the event any such insurance proceeds are insufficient to cover the costs and expenses to repair and reconstruct the Common Area, the amount of such deficiency shall be deemed a Common Area Expense and the Board shall levy a Special Assessment in the aggregate amount of such deficiency.

8.9.4 In the event any such insurance proceeds exceed the costs and expenses to repair and reconstruct the Common Area, the amount of such excess shall be disbursed to the Owners or Mortgagees on a Pro Rata Basis.

8.10 **ASSOCIATION AS AGENT.** The Master Association is hereby irrevocably appointed as agent and

attorney-in-fact for each Owner and for each Mortgagee to adjust all claims arising under insurance policies purchased by the Master Association and to execute and deliver releases upon the payment of such claims.

8.11 **BENEFIT OF MORTGAGEES.** The relevant provisions in this Article 10 entitled "Insurance" are for the benefit of and may be enforced by Eligible Mortgagees of Lots.

ARTICLE 9

OPERATION OF THE MASTER COMMUNITY BY THE MASTER ASSOCIATION

9.1 PURPOSES AND POWERS.

9.1.1 **General.** The Master Association, through the Board, shall manage the business affairs and operation of the Master Association unless otherwise provided by the Act or this Declaration. The Master Association shall be governed by its Articles, its Bylaws, and its policies and procedures, as the same may be amended from time to time. The Master Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Master Community, including all powers, authority and duties permitted under Section 38-33.3-302 of the Act and set forth in the Bylaws, subject to such limitations set forth in the Bylaws. Without limiting the generality of the foregoing, the Master Association shall have the power and authority to:

9.1.1.1 In accordance with § 38-33.3-312 of the Act, to borrow money or otherwise incur debt for the purpose of authorizing capital improvements related to the Common Area and to mortgage the Common Area as security for any such loan; provided, however, that the Master Association may not subject any portion of the Common Area to a security interest unless approved by the Owners, not including Declarant, holding an aggregate of at least sixty-seven percent (67%) of the Voting Interests.

9.1.1.2 To take actions reasonably necessary to protect the Common Area against foreclosure.

9.1.1.3 In accordance with § 38-33.3-312 of the Act, to convey or dedicate all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to the conditions approved by the Owners, not including Declarant, holding an aggregate of at least sixty-seven percent (67%) of the Voting Interests.

9.1.1.4 To enter into, make, perform, or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of the Common Area by Owners and Related Users for any purpose the Board may deem to be useful, beneficial or otherwise appropriate. The foregoing shall not be deemed a conveyance or encumbrance within the meaning of this Article as more fully set forth in §§ 38-33.3-302 and 38-33.3-312 of the Act.

9.1.1.5 To establish and adopt rules of the Master Association from time to time.

9.1.1.6 In accordance with § 38-33.3-312 of the Act, to limit the use of the Common Area temporarily during any Maintenance of the Common Area, or permanently if approved by the Owners, not including Declarant, holding an aggregate of at least sixty-seven percent (67%) of the Voting Interests.

9.1.2 **Management.** The Master Association shall be managed solely the Board which, after the Declarant Rights Termination Date, may by resolution delegate authority to a third party property managing agent for the Master Association, provided that such delegation shall not relieve the Board of responsibility for the actions of such agent.

9.1.3 **Articles and Bylaws.** The purposes, powers and duties of the Master Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the Articles and Bylaws of the Master Association.

9.2 MEMBERSHIP.

9.2.1 **Membership Appurtenant to Ownership of a Lot or Residential Unit.** Each Owner of a Lot or Residential Unit shall automatically be a Member of the Master Association. Membership in the Master Association shall be limited to Owners of Lot or Residential Units or, following termination of the Master

Community, of all former Owners entitled to distributions of the proceeds under § 38-33.3-218 of the Act, or their heirs, personal representatives, successors or assigns. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Residential Unit.

9.2.2 *Joint Owners.* When more than one person holds an interest in any Lot or Residential Unit, the Membership as to such Lot or Residential Unit shall be joint, and a single Membership for such Lot or Residential Unit shall be issued in the names of all Owners.

9.2.3 *Membership Burdens and Benefits.* Each Owner shall abide by and benefit from each provision, covenant, condition, restriction and easement contained in the Association Documents. The obligations, burdens, and benefits of membership in the Master Association concern the land and shall be covenants running with each Lot or Residential Unit for the benefit of all other Lot or Residential Units.

9.2.4 *Actions of Members.* The Board may not act on behalf of the Master Association to amend this Declaration, to terminate the Master Community, to elect members of the Board, or to determine the qualifications, powers and duties, or terms of office of the Board. The actions described in this Section 9.2.4 may only be taken through an "Act of the Members" (as defined in the Bylaws).

9.3 **VOTING RIGHTS.** The Voting Interest for each such Lot shall be exercised by one person or alternative persons (who may be a Related User of the Owners) appointed by proxy in accordance with the Bylaws.

9.4 **ELECTION OF THE BOARD.** (a) Prior to the earlier of: (i) the date that is four (4) months after Declarant's conveyance of an aggregate of ten (10) of the Lots; or (ii) five (5) years from Declarant's conveyance of the first (1st) Lot (the "*Board Transfer Date*"), Declarant may appoint and remove any officer of the Master Association or member of the Board; provided, however, Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before the Board Transfer Date. In such event, Declarant may condition such surrender such that specified actions of the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Prior to the Board Transfer Date, the Board shall consist of five (5) members who shall be elected by Declarant. Not later than sixty (60) days after conveyance of six (6) of the Lots to Owners other than Declarant at least one (1) member of the Board must be elected by the Owners other than Declarant.

After the Board Transfer Date, in accordance with the terms and conditions related thereto as set forth in the Bylaws: (i) the Owners of Lots 1-4 voting as a class shall elect one (1) member of the Board; (ii) the Owner of Lot 6 shall elect one (1) member of the Board; (iii) the Owners of Lot 5 (or the Owners of the Residential Units subsequently located thereon, if applicable) and the Owners of Lots 7-11 shall elect one (1) member of the Board; (iv) the Owners of Lot 12, 13 and 14 (or the Owners of the Residential Units subsequently located thereon, if applicable) shall elect one (1) member of the Board; and (v) the Owner of Lot 15 shall elect one (1) member of the Board, all of whom shall be Members of the Master Association or duly appointed representatives of such Members.. Notwithstanding the foregoing, the governing documents for any Sub-Association applicable to the Lots and/or Residential Units covered by such governing documents may set forth a voting agreement or other terms and conditions applicable to the member of the Board to be elected by such Lots and/or Residential Units upon the delivery of prior written notice to the Board.

9.5 **ASSOCIATION AGREEMENTS.** Agreements entered into by Declarant or the Master Association for professional management of the Master Community shall provide that either party may terminate such agreements without cause and without payment of a termination fee or penalty upon thirty (30) days' prior written notice delivered to the other party.

9.6 **MASTER ASSOCIATION AS ATTORNEY-IN-FACT FOR OWNERS.** The Master Association is hereby irrevocably appointed attorney-in-fact for the Owners and each of them, to manage, control and deal with the Common Area so as to permit the Master Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights in the Association Documents to deal with the Master Community upon its destruction or obsolescence as hereinafter provided, and to grant utility easements through any portion of the Common Area. The Master Association is hereby granted all of the powers necessary to govern, manage, maintain, rebuild, administer and regulate the Master Community and to perform all of the duties assigned to it pursuant to this Declaration and pursuant to the Act.

9.7 **LIMITATION UPON LIABILITY OF MASTER ASSOCIATION.** Notwithstanding the duty of the

Master Association to perform maintain related to the Real Estate, the Master Association shall not be liable to Owners for injury or damage (other than for the cost of Maintenance to Common Area), caused by any latent condition of the Real Estate. In addition, the Master Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations, improvements or other activities done by or on behalf of the Declarant or any Owner(s) regardless of whether or not same shall have been approved by the Master Association. The Master Association may, but shall not be obligated to, take measures or maintain or support certain activities within the Master Community designed to make the Master Community more secure than it otherwise might be. The Master Association or Declarant, or any representative or agent of either of them, are not insurers or guarantors of safety or security within the Master Community, and shall not be held liable for any loss or damage by reason of failure to provide adequate security or of the ineffectiveness of any security measures taken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, or that any systems or security measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended.

9.8 **INDEMNIFICATION.** Each officer, director and committee member of the Master Association shall be indemnified by the Master Association against all expenses and liabilities including attorney's fees, reasonably incurred by or imposed on them in any proceeding where they are a party, or involved, by reason of having been an officer, director or committee member of the Master Association. This shall include any settlements of such claims whether or not the officer, director or committee member of the Master Association was involved at the time the expenses are incurred, to the full extent permitted by Colorado law.

ARTICLE 10 *AMENDMENT AND TERMINATION*

10.1 **AMENDMENT OF DECLARATION BY DECLARANT.** The power of the Declarant to amend this Declaration is limited to the following:

10.1.1 *Technical, Clerical, Typographical or Clarification Amendment.* If Declarant determines that any amendments to this Declaration or to the map or plat shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section 10.1.1, Declarant shall have the right and power to make and execute any such amendment prior to the Declarant Rights Termination Date without obtaining the prior written consent of any Owners. Each such amendment of this Declaration shall be made, if at all, prior to the expiration of seven (7) years from the date this Declaration is recorded.

10.1.2 *Amendment to Exercise Development Rights.* To exercise any Development Right reserved under Section 2.1 of this Declaration, Declarant shall prepare, execute and record an amendment to the Declaration and Plat.

10.1.3 *Amendment Required by Mortgage Agencies.* Prior to seven (7) years after recording of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which the FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or purchase Mortgage loans requires to be amended or repealed may be amended or repealed by Declarant. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Boulder County, State of Colorado, of a certificate, setting forth the amendment or repeal in full.

10.2 **AMENDMENT OF DECLARATION BY MASTER ASSOCIATION.** The Master Association shall have the authority to execute amendments to this Declaration or to the Plat which are reasonably necessary in order to perform duties authorized by this Declaration, including the following:

10.2.1 *Technical, Clerical, Typographical or Clarification Amendment.* If the Master Association determines that any amendments to this Declaration or to the map or plat shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section 10.2.1, the Master Association shall have the right and power to make and execute any such amendment without obtaining the prior written consent of any Owners. Each such amendment of this Declaration shall be made, if at all, prior to the expiration of seven (7) years from the date this Declaration is recorded.

10.2.2 *Amendments Required by Agencies.* Prior to seven (7) years after recording of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which the Agency authorized to insure, guarantee, make or purchase Mortgage loans requires to be amended or repealed may be amended or repealed by the Master Association. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Boulder County, State of Colorado, of a certificate, setting forth the amendment or repeal in full.

10.2.3 *Amendments Required by Reallocation or Modification of the Master Community.* If the Pro Rata Basis is altered for any reason, the Master Association may amend this Declaration to reflect such alteration subject to the terms and conditions set forth in Section 38-33.3-217 of the Act.

10.2.4 *Attorney in Fact.* In furtherance of the foregoing, the Master Association is hereby appointed as attorney in fact for each Owner which power is coupled with an interest and irrevocable to make or consent to an amendment under this Section 10.2.4 on behalf of each Owner and holder of a Security Interest. Each deed, Security Interest, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of the Master Association to make, execute and record an amendment under this Section 10.2.4.

10.3 **AMENDMENT OF DECLARATION BY OWNERS.** Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of others, any provision, condition, restriction (specifically excepting those specifically defined as "use restrictions" pursuant to Article 4 above which shall only be amended by the relevant percentage of Voting Interests required by the Act) or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this Declaration at any time and from time to time upon the affirmative vote of one hundred percent (100%) of the Voting Interests or such lesser percentage as may be required by the Act.

10.4 **LIMITATIONS ON AMENDMENTS.**

10.4.1 *Mortgagee's Consent.* No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to Eligible Mortgagees without the consent of such Eligible Mortgagees. Except as specifically provided herein or if specifically required by an Eligible Mortgagee, the consent and/or joinder of any Mortgagee shall not be required for the adoption of an amendment to this Declaration and, whenever the consent or joinder of a Mortgagee is required, such consent or joinder shall not be unreasonably withheld. Failure of an Eligible Mortgagee to respond within thirty (30) days to any written request for approval of an additional amendment to this Declaration wherever such approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the amendment or addition. Unless a majority of Eligible Mortgagees have given their approval, the Master Association shall not be entitled to:

10.4.1.1 Change the method of determining Assessments or increase any Assessment by more than twenty-five percent (25%) over the amount of any previous Assessment;

10.4.1.2 Repair or restore the Common Area or any Lots after the occurrence of any casualty loss or condemnation in a manner other than in accordance with the specifications of the original building and construction plans for the Improvements;

10.4.1.3 Abandon or terminate the Master Community;

10.4.1.4 Partition or subdivide any Lot;

10.4.1.5 Change or reallocate the Voting Interests of any Lot;

10.4.1.6 Use hazard insurance proceeds for losses to any part of the Common Area for other than the repair, replacement or reconstruction of the Improvements;

10.4.1.7 Amend this Declaration to change any of the following: (a) the expansion, contraction or withdrawal rights of Declarant; (b) provisions related to the lease or the sale of Lots; (c) the Master Association's responsibilities to maintain and repair the Common Area; (d) the nature and/or priority of Assessment Liens; (e) the Master Association's insurance requirements; (f) the Master Association's obligations to repair and

restore the Common Area in the event of any casualty loss or condemnation in a manner other than in accordance with the specifications set forth in the original building and construction plans for the Improvements; or (g) the terms and conditions applicable to the conversion of Lots into Common Area and Common Area into Lots or applicable to the adjustment of the boundaries of any Lot as reflected on the Plat.

10.4.2 *Priority of Eligible Mortgagee.* Nothing in the Master Association Documents shall be deemed to provide an Owner or other party with priority over the rights of an Eligible Mortgagee of such Lot with respect to the payment of insurance proceeds or condemnation awards for losses to or a taking of a Lot and/or Common Area.

10.5 INTERPRETATION AND EFFECT OF AMENDMENT.

10.5.1 Recording of amendments to this Declaration and the Plat shall automatically:

10.5.1.1 Give effect to those matters contained in such amendments;

10.5.1.2 Vest in each existing Owner the reallocated Allocated Interests appurtenant to his, her or its Lot; and

10.5.1.3 Vest in each existing Eligible Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot.

10.5.2 Upon the recording of an Amendment to this Declaration:

10.5.2.1 the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Master Community;

10.5.2.2 any additional Improvements resulting from the exercise of a Development Right shall be added to and become a part of the Real Estate for all purposes; and

10.5.3 All conveyances of Lots after any expansion shall be effective to transfer rights in all Common Area as expanded, whether or not reference is made to any Amendment to this Declaration or the Plat. Reference to this Declaration and Plat in any instrument shall be deemed to include all Amendments to this Declaration and the Plat without specific reference thereto.

10.6 TERMINATION.

10.6.1 In the event of the occurrence of a substantial casualty loss or condemnation of the any of the Improvements, the Master Community may be terminated (a) upon the affirmative vote of the Owners representing sixty-seven percent (67%) of the Voting Interests; (b) if a majority of Eligible Mortgagees consent to such termination in accordance with the terms and conditions set forth in Section 10.4.1 above; and (c) in accordance with Section 38-33.3-218 of the Act.

10.6.2 The Master Community may be terminated for any other reason (a) upon the affirmative vote of one hundred percent (100%) of the Voting Interests; (b) if sixty-seven percent (67%) of Eligible Mortgagees consent to such termination in accordance with the terms and conditions set forth in Section 10.4.1 above; and (c) in accordance with Section 38-33.3-218 of the Act.

ARTICLE 11
MISCELLANEOUS PROVISIONS

11.1 *VARIANCE.* The Master Association or its designee may grant variances or adjustments from any conditions and restrictions imposed by this Declaration or the Rules, if it determines, in its sole discretion that such variance is reasonable and necessary in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of such restrictions and covenants. Such variances or adjustments shall be granted only in the case the granting thereof shall not be materially detrimental or injurious to other Owners, other Lots or any Common Element, shall not militate against the general intent and purpose of this Declaration or the Rules. Granting a variance in a particular situation does not require the granting of another variance in the same or similar circumstance.

11.2 **ADDITIONAL RIGHTS OF ELIGIBLE MORTGAGEES.** In addition to all other rights herein set forth, Eligible Mortgagees shall have the right, upon written request to the Master Association, and upon payment of a reasonable fee as may be allowed by the Eligible Mortgagees, to:

11.2.1 Examine the Master Association's books and/or conduct an audit of the same at its own expense;

11.2.2 Receive notice of Master Association meetings and attend such meetings;

11.2.3 Receive a copy of the Master Association's financial statement for the immediately preceding fiscal year;

11.2.4 Receive notice of an alleged default by the relevant Owner related to such Mortgagee which is not cured within sixty (60) days of notice of default to such Owner;

11.2.5 Foreclose or take title to a Lot, accept a deed in lieu of foreclosure in the event of a default by an Owner or sell or lease a Lot acquired by the Eligible Mortgagee free of any right of first refusal set forth in the Association Documents.

11.3 **ADDITIONAL RIGHTS OF THE MASTER ASSOCIATION.** The following rights reserved by the Declarant may be exercised by the Master Association as a "*Successor Declarant*".

11.3.1 The Master Association shall have the right, from time to time to amend the Site Plan and supplements thereto, to conform the Site Plan to the actual location and dimensions of any of the constructed Improvements, to establish, vacate and relocate utility easements, access easements and Parking Spaces.

11.4 **OWNER NEGLIGENCE.** An Owner shall be liable for the expense of any Maintenance made necessary by his, her or its negligence or by that of any Related User, but only to the extent that such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Master Association.

11.5 **COMPLIANCE.** In the event an Owner or Related User fails to maintain a Lot or fails to cause such Lot to be maintained, or fails to observe and perform all of the provisions of the Association Documents or any other agreement, document or instrument affecting the Real Estate or administered by the Master Association in the manner required, the Master Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages and to charge the Owner and the Lot for the sums necessary to do whatever work is required to put the Owner or Lot in compliance and to collect such charges by any lawful means. Further, should the Master Association engage an attorney to seek enforcement as provided by this Section 11.5, it shall be entitled to recover from such Owner against whom enforcement is sought, as a Common Expense Assessment, all collection costs and reasonable attorney fees and costs incurred as a result of such Owner's failure to comply, without the necessity of commencing a legal proceeding. In any legal proceeding seeking such enforcement, for each claim, including but not limited to counterclaims, cross-claims, and third-party claims, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim.

11.6 **DURATION.** Each and every provision of this Declaration shall be perpetual and shall run with and bind the land from the date of recording of this Declaration.

11.7 **INTERPRETATION.** The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado. This Declaration shall be considered to supplement the provisions of the Act, which provisions are incorporated herein by reference as though restated in this Declaration.

11.8 **CONSTRUCTION.** Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

11.9 SINGULAR Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular; and words of one gender may be construed as denoting such other gender as is appropriate.

11.10 CAPTIONS. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

11.11 CONFLICTS BETWEEN DOCUMENTS. The Association Documents are intended to comply with the Act. In case of conflict between the Association Documents and the provisions of the Act, the provisions of the Act shall control. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws of the Master Association, this Declaration shall control.

11.12 NOTICES TO OWNERS AND MASTER ASSOCIATION. Each Owner shall register such Owner's mailing address with the Master Association, and except for monthly statements, notices of Master Association meetings, other routine notices and notices which may be sent in another manner in accordance with the provisions of this Declaration, all notices or demands affecting the Master Community and intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to register such Owner's mailing address with the Master Association, such Owner's mailing address shall be deemed to be the address of such Owner's Lot. All notices, demands or other notices intended to be served upon the Master Association shall be sent certified mail, return receipt requested, postage prepaid, to the address of the Master Association as designated in the Bylaws.

ARTICLE 12
CONSTRUCTION PROVISIONS

12.1 DISCLAIMER OF IMPLIED WARRANTIES. Any implied warranties or obligations attributed to Declarant relating to the Lots or other Improvements are hereby disclaimed to the fullest extent permissible in accordance with applicable law.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this ____ day of _____, 2006.

PEOPLE'S CLINIC DEVELOPMENT, LLC
a Colorado limited liability company

By: Tanya Toot
Tanya Toot, Treasurer of Wonderland
Hill Development Company, Manager of
People's Clinic Development, LLC

STATE OF COLORADO)
) SS
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 31ST day of OCTOBER, 2006, by Tanya Toot, Treasurer of Wonderland Hill Development Company, Manager of PEOPLE'S CLINIC DEVELOPMENT, LLC, a Colorado limited liability company.

My commission expires: DEC. 31, 2007.

WITNESS my hand and official seal.

Lori Burhorn
Notary Public



EXHIBIT A
TO MASTER DECLARATION
OF
16TH STREET OWNERS MASTER ASSOCIATION

LEGAL DESCRIPTION OF THE REAL ESTATE
SUBMITTED TO THE MASTER DECLARATION
OF
16TH STREET OWNERS MASTER ASSOCIATION

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15, and Outlots A, B, C and D, People's Clinic Subdivision,
County of Boulder, State of Colorado.

EXHIBIT B

GROSS LOT AREA AND GROSS UNIT AREA; VOTING INTERESTS

LOT OR UNIT NUMBER	GROSS LOT AREA OR GROSS UNIT AREA	VOTES
1	2324	2
2	2374	2
3	2101	2
4	2494	2
5 HABITAT	6397	6
6 EFAA	18,101	18
7	2433	2
8	1665	2
9	1666	2
10	1668	2
11	3003	3
12 WHDC	10,476	10
13 SILVER SAGE	3,530	4
14 SOLAR ROW	21,389	21
15 CLINICA	83,463	83
AGGREGATE GROSS LOT AREA AND GROSS UNIT AREA:	163,083	AGGREGATE VOTES: 161

EXHIBIT C

THE PARKING LICENSES

LOTS	PARKING SPACE NUMBERS (as depicted on the site plan attached hereto, except for E4 which is located on Lot 14)
Lots 1-4	A1, A2, A3, B1, B2, B3
Lot 5	C1
Lot 6	D1, D2, D3, D4, D5, D6, D7, D8
Lots 7-11	E1, E2, E3, E4