

MASTER COVENANTS
OF
DIA TECH CENTER

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**MASTER COVENANTS
OF
DIA TECH CENTER**

This Declaration of the MASTER COVENANTS OF DIA TECH CENTER (the "**Declaration**") is made on this 30th day of may, 2013, by DIATC, LLC, a Colorado limited liability company ("**Declarant**").

RECITALS

- A. Declarant is the owner of certain real property located within Adams County, Colorado, as more particularly described in Exhibit A attached hereto (the "**Land**") and known as DIA Tech Center.
- B. Declarant desires to further develop the Land as a commercial mixed use project accommodating a variety of airport related land uses, which uses are commercial in nature.
- C. Declarant does not now subject the Land to the Act (as defined in Section 1.2(a)), but reserves the right to subsequently create a master planned community on the Land pursuant to and subject to the Act, in which portions of the Land may be designated for separate ownership and in which portions of the Land may be owned by an owners' association that Declarant (or the Owners) may create.

NOW, THEREFORE, Declarant declares and states as follows:

**ARTICLE 1
SUBMISSION/DEFINED TERMS**

Section 1.1 Submission of Property. Declarant submits the Land to the terms and conditions of these Covenants and declares that all of the Land and all of the Sites as may be located within the Land shall be held, sold, leased and otherwise conveyed subject to these Covenants. Declarant further declares that these Covenants are made for the purpose of protecting the value and desirability of the Land, that the restrictions, covenants, easements, charges, impositions, reservations, burdens, rights and benefits set forth in these Covenants shall run with the Land and shall be binding on all parties having any right, title or interest in the Land or any part thereof, their heirs, legal representatives, successors, and assigns, and shall inure to the benefit of all parties having any right, title or interest in the Land or any part thereof, their heirs, legal representatives, successors and assigns. It is the intent of the Declarant that no portion of the Land be subject to the Act unless and until the Declarant or Owners subject all or any portion of the Land to any parts or portions of that Act by exercise of Declarant's Rights under ARTICLE 7 or by Owner amendment of these covenants.

Section 1.2 Defined Terms. Each capitalized term in these Covenants shall have the meaning specified or as used below, unless otherwise defined in these Covenants:

- (a) "**Act**" shall mean the Colorado Common Interest Ownership Act, C.R.S. §

38-33.3-101, et seq., which Act is not applicable to the Land or the Property until or unless the Declarant or the Owners subject the Land or the Property to any parts or portions of that Act.

(b) **"Covenants"** shall mean these Master Covenants of DIA Tech Center, as amended and supplemented of record.

(c) **"Declarant"** shall mean DIATC, LLC, a Colorado limited liability company, and its successors and assigns.

(d) **"Declarant Rights"** shall mean those rights set forth in Section 7.1 of these Covenants or as allowed by state law.

(e) **"Design Review Committee"** means the DIA Tech Center Design Review Committee established by Declarant to ensure that Improvements constructed on Sites within the Land comply with the PUD Zone Document and the Design Guidelines.

(f) **"Improvement(s)"** shall mean any and all buildings, structures, fixtures, appurtenances, sidewalks, site work, site utilities, landscaping or other improvements, including lessee improvements, to be located or constructed on a Site, but excluding any such improvements constructed and/or maintained by any Metropolitan Districts or the City or any improvements constructed from the proceeds of any tax increment financing.

(g) **"Land"** is defined in Recital A and Exhibit A.

(h) **"Metropolitan District"** means one or more metropolitan district(s) established pursuant to Article 1, Title 32, Colorado Revised States, as may be amended from time to time, for the purpose of financing, constructing and maintaining certain public Improvements on the Land. Such Metropolitan District is granted authority to enforce the terms and conditions of these Covenants in Section 4.08 below.

(i) **"Owner"** shall mean any person or entity that owns a Site.

(j) **"Owners Association"** shall mean the corporation that may be established pursuant to Article 2 to perform any duties and obligations set forth in its establishing documents.

(k) **"PUD Zone Document"** shall mean that document approved by the City of Commerce City Council on November 19, 2011 and recorded in Adams County, Colorado at Reception No. 2012000006488 on January 30, 2012, as may be amended from time to time.

(l) **"Site"** shall mean and refer to any plot of land shown upon any recorded subdivision map or plat of the Land, but shall not include any streets or roads which may be owned by a Metropolitan District, municipality, Declarant, or Owners Association.

ARTICLE 2 CREATION OF OWNERS ASSOCIATION

Section 2.1 Creation of Owners Association. Declarant reserves the right to amend these Covenants to create an Owners Association at any time, which Owners Association may have the general purpose of protecting the value and desirability of the Land and the Sites and furthering the interests of the Owners. Such right shall expire forty (40) years after the recording

of these Covenants. In the event such an Owners Association is created, every person or entity who is a record Owner of a fee interest in any Site which is subject to these Covenants shall be a member of the Owners Association. In the case of a Site being subject to a common interest community declaration, the common interest community association for that Site shall be treated as the member. Membership shall be appurtenant to and may not be separated from ownership of any Site. Where more than one person holds an interest in any Site, all such persons shall be members.

Section 2.2 Powers of the Owners Association. If created, the Owners Association shall have, at a minimum, the following powers:

- (a) to levy assessments against each Site, based on a formula set forth in an amendment to these Covenants, which may establish equal or unequal assessments for each Site following a reasonably equitable method which may include the size of the Site or other factors deemed relevant;
- (b) to allocate voting rights for each Site, which may be equal or may be based on a proportionate share or other formula following a reasonably equitable method which may include the size of the Site or other factors deemed relevant;
- (c) to enforce the terms and conditions of these Covenants, which power may be concurrent with the enforcement rights of the Metropolitan District;
- (d) to provide maintenance upon real property within the Land maintained by the Metropolitan District, in the event the Metropolitan District does not adequately perform maintenance; and
- (e) to promulgate, modify and enforce reasonable rules and regulations concerning and governing the Land or any portion thereof, all with a view to promoting and maintaining the first-class character of the Land.

Section 2.3 Authority of Owners to Create an Owners Association. Upon the written agreement of eleven (11) or more Site Owners, or Owners holding 67% of any allocated voting rights, whichever is greater, the Owners may establish the Owners Association contemplated by this Article, provided that no amendment establishing such Owners Association shall delete, alter, amend, or otherwise affect any right of the Declarant without the express written approval of the Declarant.

ARTICLE 3 DESIGN REVIEW COMMITTEE AND DESIGN GUIDELINES

Section 3.1 Establishment of the Design Review Committee. The Design Review Committee shall consist of a minimum of three (3) members. Until 100% of all Sites have been conveyed by the Declarant or forty (40) years after the date these covenants are recorded, whichever is later, Declarant shall appoint all members of the Design Review Committee and may remove any appointee at any time upon written notice to such appointee. The initial members, and their subsequent replacement, may be obtained by contacting the Declarant. After expiration of Declarant's appointment rights, the Design Review Committee may then be comprised completely of Site Owners without regard to special qualifications and the members

of the Design Review Committee may be appointed by the Owners Association, if established. Until that date, Declarant, in its sole discretion, may at any time grant the power of appointment of the members of the Design Review Committee, and the chairman thereof, to another.

Section 3.2 Design Guidelines. Declarant shall adopt initial design guidelines for the Land, which may be amended by the Declarant from time to time (the "**Design Guidelines**").

Section 3.3 Liability. The Design Review Committee and the members thereof, as well as any agent or representative designated to act on the Design Review Committee's behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these Covenants.

Section 3.4 Records. The Design Review Committee shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested party during reasonable hours of the business day at the offices of Declarant. The Design Review Committee may establish a written policy regarding the retention and destruction of records.

ARTICLE 4

DESIGN PLAN SUBMITTAL AND APPROVAL FOR IMPROVEMENTS

Section 4.1 Required Approval. Unless complete plans and specifications shall have been first submitted to and approved in writing by the Design Review Committee, no Improvement or structures, including but not limited to a primary building or buildings, accessory buildings, sheds, antennas, flag poles, fences, walls, exterior lighting, landscaping, decorative ornaments or any other Improvement shall be constructed, erected or installed on the Land, nor shall any alteration or change to the exterior of the Improvements, the exterior of a building, or to any structure or any attachment to the exterior of a building (including paint, awnings, patios, or decks) be commenced on the Land.

Section 4.2 Architectural Criteria. The Design Review Committee shall exercise its reasonable judgment to the end that all attachments, Improvements, construction, landscaping and alterations to Improvements on the Land or landscaping on the Land shall comply with the PUD Zone Document, the Design Guidelines and the requirements set forth in these Covenants. The approval or consent of the Design Review Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, effective location and use of Improvements on nearby Sites, preservation of aesthetic beauty, and conformity with the PUD Zone Document, the Design Guidelines, and the specifications and purposes generally set out in these Covenants. Upon its review of such plans, specifications and submittals, the Design Review Committee may require that the applicant(s) pay fees as set forth in the Design Guidelines, and also to reimburse the Design Review Board for estimated or actual expenses incurred by it in its review and approval process.

Section 4.3 Construction and Architectural Styles. Subsequent to the construction of the initial Improvements on the Land, any additional buildings, structures and types of Improvements to be placed on the Land or any part thereof shall be of such quality and type as the Declarant may determine and the Design Review Committee may approve in writing.

Section 4.4 Applications and Fees. The Design Review Committee may require that the plans and specifications contained in the application for construction or alteration of Improvements on the Land show exterior design features, height, size, materials, color, the location of the Improvements plotted both horizontally and vertically, a grading plan, and such other materials and information as may be required by the Design Review Committee. Until receipt by the Design Review Committee of all required or requested plans and specifications and other information, and of any fees required in the Design Guidelines, the Design Review Committee may postpone review of any material submitted for approval. Any material modification or change to an approved set of plans and specifications must again be submitted to the Design Review Committee for its inspection and approval.

Section 4.5 Reply and Communication. The Design Review Committee shall reply to all submittals of plans made in accordance herewith in writing within sixty (60) days after receipt. In the event the Design Review Committee fails to take any action on submitted plans and specifications within sixty (60) days after the Design Review Committee has notified the submitter in writing that it has received the plans and specifications, approval shall be deemed to be granted; provided, however, even if the requirements of this Section are satisfied, nothing in this Section shall authorize any Owner or anyone to construct or maintain any structure or Improvement that is otherwise in violation of the PUD Zone Document, these Covenants or Design Guidelines then in effect. All communications and submittals shall be addressed to the Design Review Committee at such address as the chairman of the Design Review Committee may hereafter designate in writing.

Section 4.6 Variances. The Design Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by these Covenants in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in these Covenants or in the Design Guidelines. Such variances or adjustments shall be granted only when the granting thereof shall not be materially detrimental or injurious to the other Sites nor deviate substantially from the general intent and purpose of these Covenants.

Section 4.7 Waivers. The approval or consent of the Design Review Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Design Review Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 4.8 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Declarant, the Metropolitan

District and/or the Owners Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Declarant, the Metropolitan District and/or the Owners Association shall be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure of the Declarant, the Metropolitan District and/or the Owners Association to enforce any covenant or restriction contained in this Section shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE 5

MAINTENANCE COVENANTS, OBLIGATIONS AND RESTRICTIONS OF OWNERS

Section 5.1 Owner Maintenance Covenants and Restrictions. The Owner of the Site shall have the obligation to install, maintain, repair and replace as reasonably necessary:

- (a) All portions of all Improvements on the Site, including sidewalks and landscaped areas, unless sidewalk and landscaped area maintenance is assumed by a Metropolitan District.
- (b) Under this Section, Owner installation, maintenance, repair and replacement shall include but not be limited to the following: landscaping and landscaped areas; irrigation and drainage systems; all exterior building surfaces; exterior glass surfaces; exterior lighting; existing signage appurtenant to the Site or for the Site; all utilities, fixtures and equipment servicing the Site; all utility meters or other apparatus serving only the Site; and communications, television, telephone and electrical lines, receptacles and boxes serving the Site.
- (c) Any additions to or alterations of the Site made by the Owner and approved by the Design Review Committee.

Section 5.2 Owner Obligations. The Owner of the Site shall have the following obligations:

- (a) The Owner shall do no act or any work that will impair any easement or utility service on other Site, nor do any act or allow any conditions to exist which will adversely affect the use and enjoyment of the other Sites or the utility services to such Sites, without the prior written consent of the Design Review Committee.
- (b) The Owner shall not, in whole or in part, change the landscaping or drainage pattern adjacent to the Site by the addition or removal of any items thereon without the prior written consent of the Design Review Committee.
- (c) The addition to or change of building surfaces, exterior glass surfaces, lights or lighting, landscaping, exterior light fixtures and signage is and remains subject to the Design Guidelines and other restrictions of these Covenants.
- (d) The Site shall be kept well maintained, in good repair, and in a clean, sightly, and wholesome condition at all times, and all Improvements thereon shall be replaced as reasonably necessary. In the event of any Owner complaint or controversy as to the level of or conditions on the Site, the determinations of the Declarant shall be binding and final.

(e) All rubbish, trash or other waste generated within the Site shall be regularly removed from the Site by the Owner. All such trash and garbage shall be placed in containers as may be designated by the Design Guidelines or the Declarant. The Owner of the Site shall keep the paved and landscaped areas of the Site free of trash, leaves and dead landscaping materials. The Owner shall pay all costs for trash collection and removal pursuant to this Section.

(f) Trash, litter, junk, implements, machinery, lumber or other building materials shall not be permitted to remain exposed upon or within the Site so that the same are visible from any neighboring Site, or any street, except as necessary during a period of construction, re-construction or renovation.

(g) During a period of construction, re-construction or renovation of Improvements on the Site, the Owner and their contractors, if any, shall keep the Site in a neat and maintained order, without construction debris on the Site, and without debris blown or otherwise deposited or left elsewhere in the Land.

(h) Following the delivery of two written notices to the Owner of the Site and no earlier than the date that is ninety (90) days after the first notice is delivered to the Owner, the Declarant and its agents shall have the right to enter, replace, maintain, repair and clean up portions of the Property which do not conform to any of the provisions of this Section, and to charge and collect from the Owner all reasonable costs related thereto, including all attorney fees and court costs incurred in the collection of such costs, all of which shall be a lien against the Site.

ARTICLE 6 RESTRICTIONS ON USE AND OCCUPANCY

The Sites shall be held, used and enjoyed subject to the following additional limitations and restrictions.

Section 6.1 Landscaping Requirements and Restrictions. All portions of the Sites not improved with a building, roadway, parking area or parking lot, sidewalk, walkway, patio or deck, extending to the Site boundary lines, shall be timely landscaped by, and maintained, repaired, replaced and improved by the Owner of the Site. All landscaping shall be installed in accordance with landscaping plans and schedule submitted to and approved by the Design Review Committee and the applicable local government with jurisdiction. All landscaping plans shall be drawn to scale and shall set forth the location of landscaping, type of landscape materials, and be in accord with the requirements of this paragraph and other provisions of these Covenants.

Section 6.2 Commercial Use of Sites. All Sites shall be used only for those commercial uses and/or purposes as allowed by the PUD Zone Documents.

Section 6.3 Prohibited Uses. Uses not supportive of the vision of the PUD Zone Document, in the sole and absolute discretion of Declarant, are expressly prohibited on or in any building, structure, Improvement, or other portion of the Land without the express written

consent of Declarant. Once the Declarant's express written consent for a use has been given, the Site Owner may continue to use the Site for that purpose for as long as the Owner owns that Site. Notwithstanding anything to the contrary, no portion of the Land, including any building or other Improvement on a Site, shall be used or occupied for use by any establishment having a business designed primarily to appeal to the prurient interest of any patron or customer.

Section 6.4 Plat Restrictions. The restrictions, if any, included on the subdivision plat that contains the Land, a Site, or any real property subject to these Covenants, are incorporated in these Covenants by this reference.

Section 6.5 Restriction on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Land except such sign or signs as may be approved in writing by the Design Review Committee or as allowed by guidelines of the Design Review Committee. Political signs, if permitted, may only be displayed in accordance with the Design Guidelines.

Section 6.6 Restriction on Common Interest Communities and/or Further Subdivision of the Property. The Property may not be further subdivided into smaller or larger tracts, Sites, or units, including but not limited to the establishment of a common interest community on the Land, without the prior written approval of the Design Review Committee. This restriction does not apply to the Declarant.

Section 6.7 Nuisances. No nuisance shall be permitted within or on the Land, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment, possession, or proper use of other Sites or any portion of the Land by Owners. Further, no improper, offensive or unlawful use shall be permitted within the Land or any portion thereof. As used in these Covenants, the term "nuisance" shall not include activities of Declarant or its assignees which are reasonably necessary to the development and construction of Improvements within the Land; provided, however, that such activities shall not reasonably interfere with any Owner's use and enjoyment of his Site, or any Owner's ingress and egress to or from his Site or a public way.

Section 6.8 Use of Real Property Owned by Declarant and/or Metropolitan District. There shall be no obstruction of any real property owned and/or maintained by the Declarant, the Metropolitan District or the Owners Association, nor shall anything be kept or stored on any part of such property without the prior written approval of the Declarant, Metropolitan District or the Owners Association, as applicable. Nothing shall be altered on, constructed in, or removed from such property without the prior written approval of the Declarant, Metropolitan District or the Owners Association, as applicable.

Section 6.9 No Restriction on Sale of a Site. The right of an Owner to sell, transfer or otherwise convey his Site shall not be further restricted or subject to any right of first refusal or similar restriction.

Section 6.10 No Restrictions on Mortgaging of a Site. There are no restrictions on the right of the Owners to mortgage or otherwise encumber their Sites. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 6.11 Declarant's Use. Notwithstanding anything to the contrary contained in these Covenants, it shall be expressly permissible for Declarant, its assigns, employees and agents, and any others with reserved Declarant Rights (as allowed for under these Covenants) to perform such reasonable activities, and to maintain upon portions of the Land such facilities as deemed reasonably necessary or incidental to the construction and sale of Sites in the development of the Land, specifically including, without limiting the generality of the foregoing, the maintenance of temporary business offices, storage areas, trash bins, construction yards and equipment, signs, models, temporary sales offices, parking areas and lighting facilities.

Section 6.12 Use of the Words "DIA Tech Center". No Owner shall use the words "DIA Tech Center" or the logo of the Land, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Declarant.

ARTICLE 7 DECLARANT RIGHTS

Section 7.1 Declarant Rights. The Declarant reserves, through forty (40) years after the recording of these Covenants, the following rights for itself, its successors and assigns:

- (a) to subject all or portions of the Land, including the Sites (whether or not owned by the Declarant), to all or parts of the Act, except as relating to requirements for transition to Owner control of any owners association and except as relating to a requirement for a transition audit;
- (b) as more fully set forth in Article 2 of these Covenants, to establish an Owners Association with any rights and duties as may be set forth in such association's establishing documents, including but not limited to the right to levy assessments, the right to exercise design review control, and the right to enforce these Covenants, as may be amended;
- (c) the right to add Sites and to subject all or any part of the property described in Exhibit B to the provisions of these Covenants;
- (d) the right to grant voting rights to the Owners of Sites based upon allocations determined by the Declarant;
- (e) the right to relocate boundaries between adjoining Sites owned by the Declarant, subdivide Sites owned by Declarant, create common interest communities on Sites owned by the Declarant, or complete or make Improvements;
- (f) the right to create, enlarge or reduce common elements and to create additional Sites;
- (g) the right to exercise any additional reserved right created by any other provision of these Covenants;
- (h) the right to amend these Covenants to add unspecified real estate and to add Sites and to subject all or any part of the real property to these Covenants, as such covenants may be amended from time to time;
- (i) the right to amend the use restrictions included in these Covenants,

together with the right to add new use restrictions, provided that a Site Owner may continue to use a Site for a use previously approved in writing for as long as the Owner owns such Site;

(j) the right to amend these Covenants in connection with the exercise of any Declarant Right;

(k) the right to amend any maps or plats for all or parts of the Land in connection with the exercise of any Declarant Right;

(l) the right to create easements over any portion of the property owned by the Declarant; and

(m) the right to make amendments to these Covenants or any other document to meet or comply with any requirement of a lender to the Declarant or a Metropolitan District.

These rights (except for the right in Section 7.1(e)), and the right to appoint the Design Review Committee, will be assigned to the Metropolitan District upon either of the following events: (a) the Declarant voluntarily dissolves, winds up, ceases operations or otherwise ceases to exist as a legal entity, has not transferred its rights pursuant to Section 7.2, and has exercised any of its rights for two (2) years; or (b) the Declarant and/or its principals cannot be located through reasonably diligent investigation, has not transferred its rights pursuant to Section 7.2, has not exercised any of its rights for two (2) years, and does not respond to certified mail from the Metropolitan District, sent to the Declarant's last known address and to the registered agent, requesting confirmation of Declarant's and/or its principals continued existences within thirty (30) days of the date of the certified mail.

Section 7.2 Rights Transferrable. Any rights created or reserved in these Covenants for the benefit of the Declarant, may be transferred to any person by an instrument describing the rights transferred that is recorded in the real property records of Adams County, CO. Such instrument shall be executed by the transfer Declarant and the transferee. The rights transferred may then be exercised by the transferee without the consent of Owners, or any Owners Association or any holders of a security interest in a Site.

Section 7.3 No Further Authorizations Needed. Except as set forth in these Covenants, the consent of Owners or holders of security interests shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at its sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any Declarant Rights.

Section 7.4 Interpretation. Recording of amendments to these Covenants shall automatically effectuate the terms and provisions of that amendment. Further, upon the recording of an amendment to these Covenants, the definitions used in these Covenants shall automatically be extended to encompass and to refer to the Land as expanded and to any additional Improvements, and the same shall be added to and become a part of the Land for all purposes. Reference to these Covenants and plat in any instrument shall be deemed to include all amendments to these Covenants, and the Plat without specific reference thereto.

Section 7.5 Termination of Reserved Rights. The rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth in these Covenants unless (i) extended

as allowed by law, (ii) earlier terminated by written instrument executed by Declarant, recorded in the records of the Clerk and Recorder of Adams County, State of Colorado, or (iii) such rights are reinstated or extended by an Owners Association established pursuant to these Covenants, subject to whatever terms, conditions, and limitations such owners association may impose on the subsequent exercise of the expansion rights by Declarant.

ARTICLE 8 GENERAL PROVISIONS

Section 8.1 Compliance and Enforcement.

(a) The covenants, restrictions, and servitudes imposed by these Covenants shall apply not only to the Owner of the Sites, but also to any lessee, tenant, common interest community created on the Site, or any person or entity occupying the Land or any portion thereof whether or not by permission or invitation of the Owner. Failure of the Owner to notify such persons, entities or occupants of the existence of these Covenants shall not in any way act to eliminate or divest the right of the Declarant, Metropolitan District and/or Owners Association to enforce these Covenants. In addition, the Owner of the Site shall be responsible for all violations of these restrictions by its lessees, tenants, any common interest community created on the Site, and all other persons or entities occupying the Site. The Declarant, Metropolitan District and/or Owners Association shall have the concurrent right to enforce these Covenants as set forth herein.

(b) The Declarant, Metropolitan District and/or Owners Association may enforce all applicable provisions of these Covenants and may impose sanctions for violations. Such sanctions may include, without limitation:

(1) exercising self-help (including, but not limited to, performing such maintenance responsibilities, at the Owner's expense, which are the Owner's responsibility under these Covenants) or taking action to abate any violation;

(2) requiring the Owner, at the Owner's expense, to remove any structure or Improvement on the Site that is in violation of these Covenants and to restore the Site to its previous condition and, upon failure of the Owner to do so, the Declarant, Metropolitan District, Owners Association, or their designees shall have the right to enter the Site, remove the violation and restore the Site to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be paid by the Owner;

(3) without liability to any person, the Declarant, Metropolitan District and/or Owners Association may preclude any contractor, subcontractor, agent, employee, or other invitee of the Owner who fails to comply with the terms and provisions of these Covenants from continuing or performing any further activities on the Site; and

(4) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if the Owner fails to properly perform his or her maintenance responsibilities, or otherwise fails to comply with the Covenants, the Declarant, Metropolitan District and/or Owners Association may record a notice of violation

against the Owner and the Site.

(d) All remedies set forth in these Covenants shall be cumulative of any remedies available at law or in equity. In any action to enforce these Covenants, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(e) The decision of the Declarant, Metropolitan District and/or Owners Association to pursue enforcement action in any particular case shall be left to the Declarant's, Metropolitan District's and/or Owners Association's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in these Covenants, and further restricted in that the Declarant, Metropolitan District and/or Owners Association shall not be arbitrary or capricious in taking enforcement action. A decision of the Declarant, Metropolitan District and/or Owners Association not to pursue enforcement action shall not be construed as a waiver of the right to enforce such provisions at a later time under other circumstances or preclude the Declarant, Metropolitan District and/or Owners Association from enforcing any other covenant, restriction or rule. No failure of the Declarant, Metropolitan District and/or Owners Association to issue a notice of violation of any applicable law pursuant to these Covenants shall be construed as a determination by the Declarant, Metropolitan District and/or Owners Association that the Owner is in compliance with such legal requirements or in any way be deemed a basis for imposing liability on the Declarant, the Metropolitan District and/or the Owners Association for the Owner's failure to comply with such applicable law.

(f) Without limiting the generality of the foregoing, the Declarant, Metropolitan District or Owners Association may determine that, under the circumstances of a particular case:

- (1) the Declarant's, Metropolitan District's or Owners Association's legal position is not strong enough to justify taking any or further action;
- (2) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or
- (3) that it is not in the Declarant's, Metropolitan District's or Owners Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Section 8.2 Easement Reservation. Declarant expressly reserves for itself, its successors and assigns, and the Metropolitan District and any Owners Association, such easements over and across the Land, including the Sites, as may be reasonably necessary for exercising and performing the rights and obligations of the Declarant, the Metropolitan District and the Owners Association as provided in these Covenants. With respect to any provision of these Covenants that authorize or require any person or entity, including but not limited to Declarant, Metropolitan District or Owners Association, to repair, maintain, restore or reconstruct any portion of the Improvements on the Land, such easements exist as necessary or convenient to gain access and perform the authorized or required work to the portions of the Land requiring repair, maintenance, restoration or reconstruction, with persons, materials and equipment to the extent and for the periods reasonably necessary to enable the person to perform the authorized or required work.

Section 8.3 Severability. Each of the provisions of these Covenants shall be deemed independent and severable. If any provision of these Covenants or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of these Covenants which can be given effect without the invalid provisions or applications.

Section 8.4 Amendment of These Covenants, Map or Plat by Declarant. Declarant may amend these Covenants for the purpose of making material changes to these Covenants pursuant to the terms and provisions of ARTICLE 7 herein. In addition, if Declarant shall determine that any amendments to these Covenants or the plat or map 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 or for any changes to property not yet part of the Land, then, subject to the following sentence of this Section, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of the Owners. Each such amendment of these Covenants shall be made, if at all, by Declarant prior to the expiration of the Declarant Rights. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to an amendment under this Section on behalf of each Owner and holder of a security interest. Each deed, security interest, other evidence of obligation or other instrument affecting a Site and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power of Declarant to make, execute and record an amendment under this Section.

Section 8.5 Amendment of These Covenants by Owners. Except as otherwise provided in these Covenants, and subject to provisions elsewhere contained in these Covenants requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in these Covenants may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon written approval of Owners of at least eleven (11) Sites, or of Owners holding at least 67% of any allocated voting rights, whichever is greater, provided that no such amendment may alter any rights of the Declarant without the Declarant's written consent. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Adams County, State of Colorado.

Section 8.6 Captions. All captions and titles used in these Covenants 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.

Section 8.7 Interpretation. The provisions of these Covenants shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in these Covenants. The Declarant, Metropolitan District or Owners Association shall have the authority to interpret the meaning of any provision contained in these Covenants, provided that the Declarant's interpretation shall prevail over a conflicting interpretation by the Metropolitan District.

Section 8.8 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neutral.

LENDER APPROVAL

Cowley Management, LLC, as the ^{agent of the} beneficiary under one or more Deeds of Trust to the Public Trustee of Adams County on the Land described in those Deeds of Trust through its authorized agent, acknowledges that the Land defined in the these Covenants is subject to and the undersigned, as authorized agent, approves and consents to these Covenants.

Cowley Management, LLC, an Arizona limited liability company, as agent for the Beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement, Financing Statement and Fixture Filing recorded in Adams County, Colorado on February 29, 2012 at Reception No. 2012000015299.

By: *[Signature]*

STATE OF Arizona)

) ss.

COUNTY OF Maricopa)

The foregoing was acknowledged before me by Michael T. Cowley as Manager of Cowley Management, LLC on this 24 day of May, 2013.

Witness my hand and official seal.

[Signature]
Notary Public
My Commission Expires: 1/9/2017

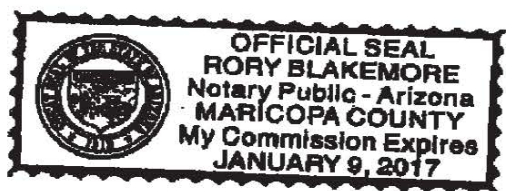


EXHIBIT A

DESCRIPTION OF THE LAND

A PARCEL OF LAND LOCATED IN SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT SOUTHEAST CORNER OF SAID SECTION 28 AND CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28 TO BEAR NORTH 00°28'09" WEST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE NORTH 00°28'09" WEST, ALONG SAID EAST LINE, A DISTANCE OF 812.37 FEET;

THENCE SOUTH 89°31'51" WEST, A DISTANCE OF 65.00 FEET TO A POINT ON THE NORTHERLY LINE OF DENVER INTERNATIONAL AIR PARK SUBDIVISION FILING NO. 1, RECORDED UNDER RECEPTION NO. C0291825 OF THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE ALONG THE NORTHERLY AND WESTERLY LINES OF SAID SUBDIVISION THE FOLLOWING SEVEN (7) COURSES:

1. SOUTH 89°42'53" WEST, A DISTANCE OF 705.56 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 12°08'35", A RADIUS OF 2340.00 FEET, AND AN ARC LENGTH OF 495.93 FEET;
3. NORTH 78°08'32" WEST, A DISTANCE OF 517.26 FEET TO A POINT OF CURVATURE;
4. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 12°08'05", A RADIUS OF 1950.00 FEET, AND AN ARC LENGTH OF 412.99 FEET;
5. SOUTH 89°42'46" WEST, A DISTANCE OF 1680.60 FEET TO A POINT ON A CURVE;
6. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07°29'52", A RADIUS OF 1750.00 FEET, AN ARC LENGTH OF 229.00 FEET, THE CHORD OF WHICH BEARS SOUTH 85°57'37" WEST;
7. SOUTH 00°17'33" EAST, A DISTANCE OF 1002.05 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE SOUTH 89°42'33" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1180.21 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF BUCKLEY ROAD;

THENCE NORTH 00°31'25" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 1325.12 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 89°37'07" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 2620.32 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 28;

THENCE NORTH 00°30'31" WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 28, A DISTANCE OF 1329.45 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 28;

THENCE NORTH 00°30'30" WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1710.91 FEET TO A SOUTHERLY LINE OF SECOND CREEK FARM FILING NO. 1 RECORDED AT RECEPTION NO. 20050930001070140 OF THE ADAMS COUNTY CLERK AND RECORDER;

THENCE ALONG SAID SOUTHERLY LINE THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 55°25'26" EAST, A DISTANCE OF 813.02 FEET;
2. SOUTH 77°25'26" EAST, A DISTANCE OF 725.00 FEET;
3. SOUTH 34°25'26" EAST, A DISTANCE OF 850.00 FEET;
4. SOUTH 14°25'26" EAST, A DISTANCE OF 600.00 FEET;
5. SOUTH 84°25'26" EAST, A DISTANCE OF 635.20 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF TOWER ROAD;

THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES:

1. SOUTH 00°28'09" EAST, A DISTANCE OF 602.47 FEET;
2. SOUTH 89°22'47" WEST, A DISTANCE OF 35.00 FEET;
3. SOUTH 00°28'09" EAST, A DISTANCE OF 978.45 FEET TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 197.546 ACRES, MORE OR LESS.

EXHIBIT B

PROPERTIES WHICH MAY BE ADDED TO THE DECLARATION

Real property located adjacent to the property listed in Exhibit A or within Sections 20, 21, 22, 23, 26, 27, 28, or 29, Township 2 South, Range 66 West of the Sixth Principal Meridian, County of Adams, State of Colorado, provided that the owner(s) of such property consents.

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