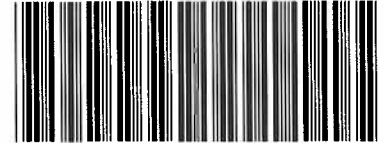


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COVENANTS AND RESTRICTIONS
OF ROCKINGHORSE
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Exhibit A – Property

**COVENANTS AND RESTRICTIONS
OF ROCKINGHORSE**

THESE COVENANTS AND RESTRICTIONS OF ROCKINGHORSE (the "Covenants," as hereinafter more fully defined) are made and entered into the date and year hereinafter set forth by Rocking Horse Partners, LLC, a Colorado limited liability company (the "Developer," as hereinafter more fully defined).

WITNESSETH:

WHEREAS, pursuant to C.R.S. §32-1-1004, as amended, the RockingHorse Metropolitan District No. 1 and RockingHorse Metropolitan District No. 2 (collectively "Metropolitan Districts," as hereinafter more fully defined), or either of them, are designated to provide covenant enforcement and design review services for that certain real property in the County of Douglas, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference (the "Property," as hereinafter more fully defined); and

WHEREAS, the Metropolitan Districts have entered into a certain District Facilities Construction and Service Agreement dated June 1, 2005, as amended, whereby certain duties have been delegated by RockingHorse Metropolitan District No. 2 to RockingHorse Metropolitan District No. 1, and additional delegation may happen in the future from either of the Metropolitan Districts; and

WHEREAS, the Developer has recorded or will record in the Office of the Clerk and Recorder of Douglas County, Colorado that certain Reservation of Development Rights, Release of Liability and Disclosures, as amended and supplemented from time to time, applicable to the Property ("Reservation of Development Rights," as hereinafter more fully defined); and

WHEREAS, the Developer desires to subject and place upon the Property certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions, provided that all of the same shall be subject and subordinate to the Reservation of Development Rights; and

WHEREAS, RockingHorse Metropolitan District No. 2 desires to delegate to RockingHorse Metropolitan District No. 1 and RockingHorse Metropolitan District No. 1 desires to accept, the obligation to enforce the covenants, conditions, restrictions, easements, reservations, rights-of-way, and obligations contained herein; and

WHEREAS, these Covenants do not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act at C.R.S. §38-33.3-103(8), as amended; therefore, these Covenants shall not be governed by the Colorado Common Interest Ownership Act or any provision thereof.

NOW, THEREFORE, in addition to the foregoing, the Developer hereby declares that the Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other provisions set forth above and herein, as the same may be amended and/or supplemented from time to time.

ARTICLE 1. DEFINITIONS

Section 1.1. *Builder.*

"Builder" means (a) any Person who acquires one or more Lots for the purpose of constructing a residential structure on each such Lot for sale to the public and (b) any Person who acquires one or more Lots for sale to any Person fitting the description in Section 1.1(a) and/or for constructing a residential structure on any of such Lots for sale to the public.

Section 1.2. *Covenants.*

"Covenants" means these Covenants and Restrictions of RockingHorse, as amended and supplemented from time to time.

Section 1.3. *Developer.*

"Developer" means Rocking Horse Partners, LLC, a Colorado limited liability company, and/or any other Person to whom the Developer may, at any time from time to time, assign one or more of the Developer's rights (which shall be the extent of the Developer's rights to which such assignee succeeds); provided, that no assignment of any Developer rights shall be effective unless such assignment is duly executed by the assignor Developer and recorded in Douglas County, Colorado.

Section 1.4. *Governing Documents.*

"Governing Documents" means these Covenants, the Reservation of Development Rights (as hereinafter defined) and any Guidelines, rules and regulations, and any other documents now or hereafter adopted by or for either or both of the Metropolitan Districts, as amended or supplemented from time to time.

Section 1.5. *Improvements.*

"Improvements" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, driveways, fences, including gates in fences, basketball backboards and hoops, swing-sets or other play structures, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment, if any.

Section 1.6. *Lot.*

"Lot" means each platted lot that is now or hereafter included in the real property described on the attached Exhibit A, as the same may be subdivided or replatted from time to time (and "Lot" shall include all lots created as a result of such subdivision or replatting), as well as any other platted lots now or hereafter included in any real property annexed to these Covenants.

Section 1.7. Metropolitan Districts.

"Metropolitan Districts" means RockingHorse Metropolitan District No. 1 and RockingHorse Metropolitan District No. 2, and/or any other metropolitan district(s), to whom the applicable Metropolitan District may, from time to time, transfer or assign any or all of the rights and duties of the Metropolitan Districts. Each such assignment or transfer, if any, shall be effective upon recording in Douglas County, Colorado, of a document of transfer or assignment, duly executed by the applicable Metropolitan District. Until such time as an assignment or transfer occurs under this Section, "Metropolitan District" shall mean RockingHorse Metropolitan District No. 1, which shall be the district responsible for enforcing these Covenants.

Section 1.8. Owner.

"Owner" means each fee simple title holder of a Lot, including without limitation the Developer, any Builder or any other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

Section 1.9. Person.

"Person" means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof and includes, without limitation, each Owner, the Developer and each Builder.

Section 1.10. Property.

"Property" means the real estate described on the attached Exhibit A, as supplemented and amended from time to time, as the same may now or hereafter be improved, and as the Developer may now or hereafter subdivide or resubdivide any portion thereof; provided, however, that the Property shall include any property that is annexed and shall not include any property that has been withdrawn, as provided in these Covenants.

Section 1.11. Reservation of Development Rights.

"Reservation of Development Rights" means the Reservation of Development Rights, Release of Liability and Disclosures, as amended and supplemented from time to time, applicable to the Property or any portion(s) thereof, recorded or to be recorded in the County of Douglas, State of Colorado.

ARTICLE 2. ARCHITECTURAL REVIEW

Section 2.1. Architectural Review Requirements.

2.1.1. No Improvements shall be constructed, erected, placed, altered, planted, applied or installed upon any Lot unless said Improvements are in full compliance with the provisions of the Governing Documents and unless at least two (2) sets of complete plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the governing board of the Metropolitan District), shall have been

first submitted to and approved in writing by the governing board of the Metropolitan District.

2.1.2. The governing board of the Metropolitan District shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures. In its review of such plans, specifications and other materials and information, the governing board of the Metropolitan District may require, as a condition to its considering an approval request, that the applicant(s) pay or reimburse the Metropolitan District for the expenses incurred by the Metropolitan District in the review process.

2.1.3. In addition to the foregoing review and approvals, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the applicable governmental entity, if required, shall be a precondition to commencement of any construction of, alteration of, addition to or change in any Improvement.

2.1.4. The governing board of the Metropolitan District may at any time, from time to time, appoint a representative or committee to act on its behalf. If the governing board of the Metropolitan District does so, then the actions of such representative or committee shall be the actions of the governing board of such Metropolitan District, subject to the right of appeal as provided below. However, if such a representative or committee is appointed by the governing board of the Metropolitan District, then the governing board of such Metropolitan District shall have full power over such representative or committee, including without limitation the power to at any time withdraw from such representative or committee any of such representative's or committee's authority to act on behalf of the governing board of such Metropolitan District and the power to at any time remove or replace such representative or committee.

Section 2.2. *Guidelines.*

The governing board of the Metropolitan District is authorized to promulgate design and/or architectural standards, rules, regulations and/or guidelines (collectively the "Guidelines"). Any such Guidelines may be included in rules and regulations promulgated by the Metropolitan District as set forth in Section 4.1 of these Covenants (Rules and Regulations). Without limiting the generality of the foregoing, such Guidelines may contain provisions to clarify the designs and materials that may be considered in architectural approval, may state requirements for submissions, may state procedural requirements, or may specify acceptable Improvement(s) that may be installed without the prior approval of the governing board of the Metropolitan District. By way of example, and not by way of limitation, such provisions may state that a certain type of screen door will be acceptable and will not require approval, or may state that only one or more types of fences are acceptable and no other types will be approved. All Improvements proposed to be constructed, and any Guidelines that are adopted, shall be done and used in accordance with these Covenants.

Section 2.3. *Procedures.*

The governing board of the Metropolitan District shall approve or disapprove all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the governing board may require in conjunction therewith. A stamped or printed notation, initialed by a member of the governing board, affixed to any of the plans and specifications, shall be deemed a sufficient writing. However, the governing board shall not be required to maintain records of plans, specifications or other documents or information that have been submitted to it for approval. Approval by the governing board shall be conclusive evidence of compliance with this Article 2, provided that the Improvements are constructed in compliance with the plans and specifications as approved. Failure to approve within forty-five (45) days shall be deemed disapproval.

Section 2.4. *Vote; Appeal.*

A majority vote of the governing board of the Metropolitan District is required to approve a request for architectural approval or any other matter to be acted on by the governing board of such Metropolitan District, unless the governing board has appointed a representative or committee to act for it, in which case the decision of such representative or committee shall control. In the event a representative or committee acting on behalf of the governing board of the Metropolitan District decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full governing board, upon a written request therefor submitted to the governing board within ten (10) days after such decision by the governing board's representative or committee.

Section 2.5. *Prosecution of Work After Approval.*

After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with all conditions and requirements of the approval. Failure to complete the proposed Improvement within six (6) months after the date of approval of the application or to complete the Improvement in complete conformance with the conditions and requirements of the approval, shall constitute noncompliance with the requirement that approval for Improvements be obtained from the governing board of the Metropolitan District; provided, however, the governing board of such Metropolitan District, in its discretion, may grant extensions of time for completion of any proposed Improvements.

Section 2.6. *Notice of Completion.*

Upon the completion of any Improvement, the applicant for approval of the same shall give a written "Notice of Completion" to the governing board of the Metropolitan District. Until the date of receipt of such Notice of Completion, the governing board of such Metropolitan District shall not be deemed to have notice of completion of any Improvement on which approval has been sought and granted as provided in this Article.

Section 2.7. *Inspection of Work.*

The governing board of the Metropolitan District or its duly authorized representative or committee shall have the right to inspect any Improvement prior to, during or after completion in order to determine whether or not the proposed Improvement is being completed or has been

completed in compliance with the approval granted pursuant to this Article; provided, however, that the right of inspection shall terminate sixty (60) days after the governing board of the Metropolitan District has received a Notice of Completion from the applicant.

Section 2.8. *Notice of Noncompliance.*

If, as a result of inspections or otherwise, the governing board of the Metropolitan District finds that any Improvement has been done without obtaining the approval of the governing board of such Metropolitan District, or was not done in substantial compliance with the approval that was granted, or was not completed within six (6) months after the date of approval, subject to any extensions of time granted pursuant to Section 2.5 hereof, the governing board of the Metropolitan District shall notify the applicant in writing of the noncompliance; which notice of noncompliance shall be given, in any event, within sixty (60) days after the governing board of such Metropolitan District receives a Notice of Completion from the applicant. The notice of noncompliance shall specify the particulars of the noncompliance.

Section 2.9. *Correction of Noncompliance.*

If the governing board of the Metropolitan District determines that a noncompliance exists, the Person responsible for such noncompliance shall remedy or remove the same (and return the subject property or structure to its original condition) within a period of not more than forty-five (45) days from the date of receipt of the notice of noncompliance. If such Person does not comply with the ruling within such period, the governing board of the Metropolitan District may, at its option, record a notice of noncompliance against the Lot on which the noncompliance exists, may remove the non-complying Improvement or may otherwise remedy the noncompliance, and the Person responsible for such noncompliance shall reimburse the governing board of such Metropolitan District, upon demand, for all costs and expenses incurred with respect thereto.

Section 2.10. *Cooperation and Delegation.*

The governing board of the Metropolitan District shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, any other architectural review committees, or one or more other boards or committees that exercise architectural or design review functions, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the governing board of the Metropolitan District in its discretion. The costs and expenses for all such matters, if any, shall be shared or apportioned between such other boards or committees and the Metropolitan District, as the governing board of such Metropolitan District may determine in its discretion from time to time. Additionally, the governing board of the Metropolitan District shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with, and/or delegate to, other architectural review committees, or one or more other boards or committees that exercise architectural or design review functions, to collect fees, charges, or other amounts which may be due to such entity and to permit any such entity to collect fees, charges, or other amounts which may be due to the Metropolitan District; in any such instance, the governing board of the Metropolitan District shall provide for remittance to such entity of any amounts collected by the governing board of such Metropolitan District or to the Metropolitan District of any amounts collected by such entity.

Section 2.11. *Access Easement.*

Each Lot is subject to an easement in favor of the Metropolitan District and the governing board thereof, including the agents, representatives, employees and contractors thereof: for performing any of the actions contemplated in this Article, including without limitation Sections 2.7 and 2.9 hereof; and/or for and incidental to investigation and/or enforcement of any term or provision of any of the Governing Documents. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on any other property or any Lot, the Owner responsible for the damage or expense to avoid damage, or the Metropolitan District, if it is responsible, is liable for the cost of prompt repair. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owner(s) or occupant(s) of any affected Lot; except that no such notice shall be required in connection with any exterior, non-intrusive maintenance; and except that in emergency situations entry upon a Lot may be made at any time provided that the Owner(s) or occupant(s) of each affected Lot shall be notified of emergency entry as early as is reasonably possible. The interior of any residence located on a Lot shall not be subject to the easements provided for in this Section.

Section 2.12. *No Liability.*

The Metropolitan Districts, the governing boards and members thereof, as well as any representative or committee of a Metropolitan District appointed to act on behalf of a governing board, shall not be liable in equity or damages to any Person submitting requests for approval or to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter within its jurisdiction hereunder. In reviewing any matter, the Metropolitan Districts shall not be responsible for the safety, whether structural or otherwise, of the Improvements submitted for review, nor the conformance with applicable building codes or other governmental laws or regulations, nor compliance with any other standards or regulations, and any approval of an Improvement by the Metropolitan Districts, or either of them, shall not be deemed an approval of any such matters. No Owner or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by either of the Metropolitan Districts.

Section 2.13. *Variance.*

The governing board of the Metropolitan District, in its sole discretion, may grant reasonable variances or adjustments from any conditions and restrictions imposed by these Covenants, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 2.14. *Waivers; No Precedent.*

The approval or consent of the governing board of the Metropolitan District, or any representative or committee thereof, to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the governing board or any representative or committee thereof, as to any application or other matters whatsoever as to

