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**DECLARATION OF  
MASTER ARCHITECTURAL RESTRICTIONS  
FOR  
BRADBURN**

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**DECLARATION OF  
MASTER ARCHITECTURAL RESTRICTIONS  
FOR  
BRADBURN**

THIS DECLARATION OF MASTER ARCHITECTURAL RESTRICTIONS FOR BRADBURN is made as of the 5th day of September, 2002, by Continuum Bruchez Associates, LLC, a Colorado limited liability company, with the consent of Bradburn Community Associates, LLC, a Colorado limited liability company.

**SECTION 1  
RECITALS**

1.1 Property. Declarant and the Consenting Landowner are the owners in fee simple of the Property.

1.2 General Purpose. Declarant desires to subject the Property (and the Consenting Landowner desires to consent to the same) to the covenants, conditions and restrictions set forth in this Declaration to establish architectural and design standards governing development of the Property and provide a means to enforce such standards.

1.3 CCIOA Exemption. Pursuant to the limitations contained in Section 8.2(c), the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq., does not and shall not apply to this Declaration or the Association. \*\*\*

**SECTION 2  
DECLARATION**

Declarant hereby declares that the Property shall be owned, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to this Declaration. This Declaration shall: (i) run with the Property at law; (ii) bind all persons and entities having or acquiring any interest in the Property or any part thereof; (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein; and (iv) inure to the benefit of, be binding upon, and be enforceable by Declarant and the Association. Notwithstanding the fact that as of the date of this Declaration Declarant and the Consenting Landowner are the owners of all of the Property, Declarant and the Consenting Landowner do not intend for such ownership to result in, and such ownership shall not result in, the merger and/or termination of any of the covenants, conditions or restrictions created by this Declaration.

**SECTION 3  
DEFINITIONS**

3.1 Defined Terms. The following terms shall have the meanings given below:

**ACC:** Is defined in Section 5.1.

**ACC Member:** Is defined in Section 5.1.

**Allocation Percentage:** For each Lot, a percentage derived from a fraction, the numerator of which is the number of votes allocated to the Lot pursuant to Section 4.3 and the denominator of which is the total number of votes allocated to all of the Lots within the Property pursuant to Section 4.3.

**Application:** Is defined in Section 6.1.

**Articles:** The Articles of Incorporation of the Association, as the same may be amended from time to time.

**Assessments:** Reimbursement Assessments and Common Assessments.

**Association:** Bradburn Master Architectural Control Association, a Colorado nonprofit corporation, its successors and assigns.

**Buildings:** Any permanent structures, or portion of a structure, built for the shelter or enclosure of human beings or property of any kind, but excluding advertising signboards, fences and walls.

**Bylaws:** The Bylaws of the Association, as the same may be amended from time to time.

**City:** The City of Westminster, a municipal corporation of the State of Colorado.

**Common Assessments:** Is defined in Section 8.2.

**Common Expenses:** All costs and expenses incurred by the Association in the course of performing its duties and exercising its rights under this Declaration and enforcing the provisions of this Declaration, the Articles, the Bylaws and the Design Guidelines. Common Expenses shall not include any expenses of the Association that are recovered by the Association through the imposition of Application fees pursuant to this Declaration. Except in unusual or unanticipated circumstances, it is anticipated and intended that the operating costs of the Association will be covered in total by the revenue generated by the imposition of Application fees.

**Consenting Landowner.** Bradburn Community Associates, LLC, a Colorado limited liability company.

**Declarant:** Continuum Bruchez Associates, LLC, a Colorado limited liability company, and any successor or assign of all or any portion of the rights of Declarant under this Declaration pursuant to Section 9.4.

**Declarant Control Period:** That period of time beginning as of the date this Declaration is Recorded and ending on the sooner to occur of the following: (1) the 30<sup>th</sup> day following the date by which Declarant has conveyed all of the Lots owned by Declarant to Owners other than Declarant, provided that if Declarant makes a total assignment of its rights and powers as Declarant pursuant to Section 9.4 in connection with a sale of all of Declarant's interest in the Property, then the assignee of such rights and powers shall be considered

"Declarant" under this clause; or (2) the date on which Declarant, in its sole discretion, voluntarily terminates the Declarant Control Period pursuant to a statement of such termination Recorded and signed by Declarant and acknowledged in the manner of a deed under Colorado law.

**Declaration:** This document, together with the exhibits attached hereto, as amended from time to time.

**Design Guidelines:** Is defined in Section 6.5.

**Development:** Any site preparation; landscaping; earthmoving; excavation; construction; sign or signboard erection or alteration; exterior change, modification, alteration, substitution or enlargement of any Building; paving; fencing; wall construction; or otherwise the making, alteration, addition or removal of any improvements of any kind or nature to any portion of the Property or the Buildings or structures thereon.

**First Mortgage:** A Recorded bona fide Mortgage which has first and paramount priority under applicable law with respect to the portion of the Property encumbered by it that is not used or made in an attempt to avoid the terms of this Declaration

**First Mortgagee:** A Mortgagee which takes, owns or holds a First Mortgage.

**Lot:** A physical portion of the Property, whether developed or undeveloped, that is a separate, legally established lot, parcel or unit of real property that may be legally transferred or conveyed without further subdivision or other similar approval from the City. Without limiting the generality of the preceding sentence, the term Lot includes any superblocks, plots, tracts, lots, planning areas or similar portions of the Property that are described by the preceding sentence and that have not been further subdivided into smaller Lots, though such subdivision into smaller Lots is likely to occur or may occur in the future. In addition, the term Lot includes any common areas or common elements established pursuant to any declaration of covenants other than this Declaration. Upon the subdivision of any existing Lots into two or more Lots, the Lot so subdivided shall no longer be recognized as one Lot for any purpose hereunder. Any condominium unit within a legally established "condominium," as defined in the Colorado Common Interest Ownership Act, shall constitute a separate Lot under this Declaration.

**Member:** A member of the Association. The term "Membership" refers to the status of, and the rights and obligations associated with, being a Member.

**Mortgage:** Any mortgage, deed of trust or other document pledging any portion of the Property as security for payment of a debt or obligation.

**Mortgagee:** Any individual, corporation, partnership, trust, company, association or other legal entity which takes, owns, holds or receives a Mortgage.

**ODP:** The official development plan for the Property, as approved by the City, including all tables, guides, plans, exhibits and maps attached thereto and/or incorporated therein, as it may be amended and/or supplemented from time to time.

**Owner:** Every individual, firm, corporation, partnership, limited liability company or partnership, association or other legal entity, or any combination thereof, holding fee simple title of Record to any Lot from time to time. The term "Owner" shall not include any Mortgagee (unless and until such Mortgagee becomes the holder of fee simple title of Record to a Lot), the contract purchaser or vendee under any installment sale contract, or the contract purchaser under any other executory contracts for purchase and sale of the Lot.

**Property:** The real property described on Exhibit A attached hereto.

**Record:** To record in the official real property records maintained by the clerk and recorder of Adams County, Colorado; the phrase "of Record" means having been recorded in such real property records.

**Reimbursement Assessments:** Is defined in Section 8.3.

**Site Plan:** Complete plans and specifications for Development proposed on a Lot showing the location of all existing and proposed Buildings and other improvements and such other items or matters as may be required by the ACC pursuant to this Declaration and the Design Guidelines.

#### SECTION 4 THE ASSOCIATION

4.1 **Organization.** The Association is or shall be a non-profit Colorado corporation created for the purpose of regulating Development on the Property pursuant to this Declaration, the Design Guidelines, the Articles and the Bylaws. Neither the Articles, the Bylaws nor the Design Guidelines promulgated by the ACC shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the case of any conflict between this Declaration and the Articles, the Bylaws or the Design Guidelines, this Declaration shall control.

4.2 **Membership.** Each Owner shall become a Member of the Association upon becoming an Owner, and shall remain a Member so long as such person or entity is an Owner. If any Lot is owned jointly by two or more co-Owners, all co-Owners shall be Members. Membership in the Association shall automatically terminate when a person or entity ceases to be an Owner, whether through sale, intestate succession, testamentary disposition, foreclosure or otherwise. The Association shall recognize a new Owner as a Member upon presentation of satisfactory evidence of Record of the sale, transfer, succession, disposition, foreclosure or other transfer of a Lot to such Owner. Membership in the Association may not be transferred, pledged or alienated in any way, except to a new Owner upon conveyance of a Lot. Any attempted prohibited transfer of a Membership in the Association shall be void and shall not be recognized by the Association.

4.3 **Allocation of Votes.** With regard to Association matters that are properly presented for decision by the Members pursuant to this Declaration, the Bylaws and the Articles, each Lot shall be allocated one or more vote(s) in the Association as follows: (a) each Lot subdivided and zoned pursuant to the ODP for a single-family detached dwelling (disregarding any permitted accessory dwelling unit) shall have one vote; (b) each Lot subdivided and zoned pursuant to the ODP for a single-family attached dwelling shall have one vote; (c) each Lot that is a



condominium unit shall have one vote; (d) each Lot that is not described by the preceding clauses (a), (b) or (c) above shall have a number of votes equal to the quotient obtained by dividing the land area of such Lot in square feet by 2,000 and rounding such quotient to the nearest whole number, provided that each such Lot shall have no less than one vote.

4.4 Co-Owners. When there is more than one Membership attributable to a particular Lot because such Lot is owned by two or more co-Owners, then, while each such Owner shall be a Member, only one of such co-Owners shall be entitled to exercise the number of votes allocated to such Lot pursuant to Section 4.3. Such co-Owners must designate one co-Owner to exercise the allocated number of votes in a written instrument delivered to the Association prior to the exercise of such votes. Such written instrument shall remain in full force and effect until revoked by a written instrument filed with the Association or replaced by a subsequent written instrument filed with the Association replacing the designated co-Owner with another designated co-Owner. If such co-Owners fail to make a designation pursuant to this Section 4.4, then the exercise of the votes allocated to the Lot owned by such co-Owners by any one of them shall be conclusively and irrefutably deemed the vote of all such co-Owners unless objected to by at least one of the co-Owners before final tabulation of the votes cast by all the Members in the particular election at issue. If such an objection is made, then the votes of such co-Owners shall be void and shall not be counted in the particular election at issue. Fractional votes or voting shall not be allowed.

4.5 Powers and Authority. The Association shall have the power and authority to carry out and perform all its rights and duties under this Declaration, the Bylaws, the Articles and the Design Guidelines. Without in any way limiting the generality of the foregoing, the Association shall have the following specific powers:

- (a) Assessments. To determine, levy and collect Assessments.
- (b) Fees. To determine, levy and collect fees and charges pursuant to Section 6.4.
- (c) Design Guidelines. To make, establish, promulgate and enforce, and in its discretion to amend or repeal and reenact, the Design Guidelines pursuant to this Declaration.
- (d) Enforcement. To enforce, on its own behalf and, in its discretion and sole election, on behalf of all the Owners, all of the covenants, conditions and restrictions set forth in this Declaration and the Design Guidelines, and to perform all other acts reasonably necessary to enforce any of the provisions of this Declaration and the Design Guidelines.
- (e) Insurance. To maintain any insurance coverage determined to be desirable or appropriate in the discretion of the ACC.
- (f) Borrow Money. To borrow money from Declarant or any other person for the purpose of carrying out any of its functions, powers or duties under this Declaration.

4.6 Delegation. The Association may delegate any of its powers or functions under this Declaration with regard to a designated portion of the Property to any other owners association that has jurisdiction over such portion of the Property pursuant to a declaration of covenants encumbering such portion of the Property. In no event shall any such delegation be made to an owners association in a manner that purports to give such association any powers under this Declaration over a portion of the Property that is not under the jurisdiction of such association. Any delegation made pursuant to this Section 4.6 shall be in the form of a Recorded written agreement signed on behalf of the Association and the owners association to which the delegation is being made. Such written agreement shall: (a) refer to this Declaration and the declaration establishing the other owners association by name and give the Recording information for both of them; (b) specifically identify the powers and/or functions being delegated to the other association and the duration of such delegation; (c) acknowledge the other association's consent to such delegation and assumption of the powers and/or functions so delegated; and (d) identify any conditions or limitations placed on such delegation and the manner by which such delegation may be terminated. Such written agreement may contain any other provisions that are consistent with the terms of this Declaration.

## SECTION 5 THE ACC

5.1 The ACC. All corporate powers of the Association shall be exercised by, and the business and affairs of the Association shall be managed by, the Bradburn Master Architectural Control Committee (the "ACC"), which shall have, pursuant to C.R.S. § 7-128-101(2), the authority and perform the duties of a "board of directors" as defined in the Colorado Revised Nonprofit Corporation Act. Except as otherwise specifically mandated by law or this Declaration, the Articles or the Bylaws, the ACC may and shall exercise all rights and powers of the Association without a vote of the Members.

5.2 Number of and Qualifications for ACC Members. The ACC shall have three members (each an "ACC Member"). Each ACC Member shall be a natural person who is eighteen years of age or older. An ACC Member need not be a Member of the Association or a representative of a Member of the Association. In addition, following the termination of the Declarant Control Period, one ACC Member shall be an architect licensed in the State of Colorado.

5.3 Appointment and Election. During the Declarant Control Period, Declarant shall appoint all of the ACC Members. After the termination of the Declarant Control Period, the Members of the Association shall elect all of the ACC Members.

5.4 Term. The initial ACC Members shall be appointed and shall serve terms as follows: one ACC Member shall be appointed by Declarant to a 3-year term; one ACC Member shall be appointed by Declarant to a 2-year term; and one ACC Member shall be appointed by Declarant to a 1-year term. After the expiration of the initial terms of the ACC Members, the regular term of office for each ACC Member shall be three years.

5.5 Removal. Any ACC Member appointed by Declarant may be removed, with or without cause, from the ACC at any time by Declarant. In no event shall the Members have the authority

or power to remove an ACC Member appointed by Declarant. The Bylaws may provide for removal of ACC Members by vote of the Members after the end of the Declarant Control Period.

5.6 Officers. The ACC shall select a president of the Association from among the ACC Members. The president shall be the presiding officer of the ACC's meetings. In the absence of the president from a meeting, the ACC Members present shall appoint an ACC Member to serve as acting president at such meeting. The ACC may appoint other officers of the Association as the ACC, in its discretion, deems necessary or as required by the Bylaws. The officers of the Association shall be chosen from among the ACC Members, and a single ACC Member may hold multiple offices. Meetings shall be held upon call of the president or any two ACC Members in such location as shall from time to time be set by the ACC.

5.7 Compensation and Out-Of-Pocket Expenses. Every ACC Member shall be entitled to reimbursement for customary and reasonable out-of-pocket expenses incurred in connection with such ACC Member's services for the Association. In addition, each ACC Member who serves on the ACC in a professional capacity (e.g., a licensed architect, practicing landscape architect or professional engineer) shall be entitled to receive compensation at reasonable rates for his or her services. Such compensation shall be paid by the Association from the fees collected pursuant to Section 6.4.

5.8 Voting; Quorum. The affirmative vote of a majority of the total number of ACC Members shall constitute the action of the ACC on any matter. At least a majority of the ACC Members must be present in person at any meeting of the ACC to constitute a quorum, but in the absence of a quorum a single ACC Member may adjourn any meeting to a later time or date.

## SECTION 6 DESIGN CONTROL

6.1 Approval Required. No Development shall take place on any Lot until a Site Plan, architectural renderings, sample materials and all other plans and specifications for such Development as required by and in a form satisfactory to the ACC (an "Application") have been approved by the ACC in writing pursuant to the Design Guidelines and this SECTION 6. For any Development for which the approval of the City is required pursuant to the ODP or any ordinances, resolutions or regulations of the City, final approval shall not be sought from the City until such Development has been approved by the ACC pursuant to this SECTION 6.

6.2 Exemptions Granted by Declarant. Notwithstanding the other terms of this Declaration, Declarant has the right and authority to exempt from the design review and control provisions of this Declaration any Development that has been previously reviewed and approved by Declarant pursuant to a separate contractual arrangement with the Owner of the Lot on which such Development is to occur.

6.3 Consultants. The ACC is authorized to retain the services of one or more architects, landscape architects, land planners, designers, engineers and other persons as reasonably deemed necessary or convenient by the ACC in order to advise and assist the ACC in performing its functions under this SECTION 6. The fees and other charges of such consultants' services shall

be paid promptly by the applicant as to whose Application such services are requested by the ACC.

6.4 Schedule of Fees and Deposits. Each applicant shall be required to pay the fees and other charges imposed by the ACC for reviewing an Application. The ACC shall establish and provide to applicants from time to time a current schedule of fees and other charges for the review and processing of Applications. The failure to provide any applicant with such schedule shall not limit the obligation of the applicant to pay the fees and other charges imposed by the ACC, including fees and other charges of consultants in connection with the review and processing of such applicant's Application pursuant to this SECTION 6. As a condition precedent to the review and processing of any Application, the ACC may require from the applicant: (a) an advance deposit to be applied toward the fees and other charges reasonably estimated by the ACC to be incurred for the review and processing of such Application; and (b) a reasonable security deposit to secure performance by the applicant of the terms of this SECTION 6, including, without limitation, Section 6.11. The application fees imposed by the ACC shall be sufficient to cover the reimbursement and compensation of ACC Members pursuant to Section 5.7.

6.5 Design Guidelines. The ACC shall adopt and promulgate rules and standards for Development consistent with this Declaration and the ODP that, without limitation, may establish: (a) separate design themes, standards, requirements and regulations for one or more particular areas of the Property; (b) separate lighting and landscape themes, standards, requirements and regulations for one or more particular areas of the Property; (c) specific and individualized design, lighting, landscaping and architectural standards for Development proposed on any Lot; (d) Site Plan standards for Development proposed on any Lot; (e) standards and rules governing and addressed to the matters within the scope of review of the ACC pursuant to Section 6.7; (f) general construction procedures regarding construction activities on the Property; and (g) the procedures to be followed and the materials to be submitted as part of an Application in order to apply for approval from the ACC for proposed Development on any Lot (the "Design Guidelines"). The Design Guidelines may comprise multiple documents that collectively are the Design Guidelines (e.g., the procedures for review of applications may be contained in a separate document). The Design Guidelines may be amended from time to time by the ACC so long as they remain consistent with the ODP and this Declaration.

6.6 Review Process. The process for review by the ACC of all Applications shall be as set forth in the Design Guidelines.

6.7 Review Standards. All Development on any Lot and all decisions of the ACC with respect to any Application shall comply with this Declaration, the ODP and the Design Guidelines.

6.8 Scope of Review. The following aspects of any Development proposed to be undertaken on a Lot shall be within the scope of review of the ACC: All aspects of the proposed Development relating to: (i) size; (ii) bulk; (iii) fenestration and articulation of exterior facades; (iv) the type, style, size, configuration and power of exterior lighting fixtures; (v) means of ingress and egress and vehicular access to and between Lots; (vi) curb cuts; (vii) traffic patterns;

(viii) drives and drive lanes; (ix) the color, quality, type and texture of exterior construction materials; (x) location, orientation and configuration of any Buildings on a Lot; (xi) compatibility and harmony with the topographical features of the surrounding land; (xii) compatibility and harmony with the architectural features of surrounding Buildings; (xiii) consistency with the general design theme, if any, of the applicable area of the Property; (xiv) consistency with other Development on the same Lot; (xv) site development and site preparation; (xvi) location of parking; (xvii) landscaping (including location of plant materials); (xviii) use of passive solar design; (xix) protection of viewsheds; (xx) availability of snow storage; (xxi) provisions for storm water drainage and retention and the prevention of erosion; (xxii) plant material selection; (xxiii) irrigation; (xxiv) mechanical trash dumpster, and service area screening; (xxv) handicapped considerations, including compliance with the Americans with Disabilities Act; (xxvi) signage; (xxvii) exterior furnishings; and (xxviii) irrigation systems.

6.9 Exclusion from Scope of Review. Alterations or modifications that are completely within a Building and that do not change the exterior appearance and are not visible from the outside of such Building are not within the ACC's scope of review and may be undertaken without ACC approval.

6.10 Estoppel Certificates. The ACC shall, upon the reasonable request of any interested party and after confirming any necessary facts and receipt of any reasonable fee imposed by the ACC, furnish a certificate with respect to the approval or disapproval of any Application for Development on a Lot or the status thereof. Such certificate shall address whether a given Application was approved, approved with conditions or denied or is still pending. Any person or entity, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

6.11 Construction Activity Mitigation. In addition to any other conditions or limitations the ACC may impose, the ACC may require that during any construction period all construction activity shall comply with the ODP and the ACC's reasonable requirements as to: (a) dust control; (b) screening of construction activity and storage areas, including temporary waste disposal areas; (c) construction traffic patterns; (d) keeping adjacent drive lanes, roadways and property free of dirt and other construction debris; (e) maintaining access to and from adjoining portions of the Property; (f) maintenance; (g) noise; (h) any hazardous materials transportation, handling or disposal; and (i) placement and maintenance of temporary construction trailers; provided, however, that nothing herein shall deny to any Owner the right to use such Owner's Lot for the temporary storage of construction equipment and materials during the continuance of construction activity, subject to the reasonable requirements established by the ACC pursuant to this Section 6.11.

6.12 Monitoring. The ACC or its designated representative may monitor and conduct on-site inspections of any Development on a Lot to the extent required to determine that the work complies with this Declaration, the Design Guidelines and any applicable approvals, conditions or construction procedures issued, imposed or prescribed by the ACC. The ACC or its designated representatives may enter upon any Lot at any reasonable time, for the purpose of observing the progress, status or completion of any Development.

6.13 Liability. Declarant, the Association and the ACC, and their respective officers, directors, members, partners, employees, agents and consultants, shall not be responsible or liable for any defects in any plans or specifications submitted, revised or approved under this SECTION 6, nor for any defects in construction pursuant to such plans or specifications. Approval of plans and specifications under this Declaration shall not constitute any representation by Declarant, the Association or the ACC, their respective officers, directors, members, partners, employees or consultants that such plans or specifications are in compliance with applicable governmental regulations and other codes and shall not relieve any Owner of its obligation to comply with applicable laws, regulations and codes. In addition, neither the ACC nor Declarant, their respective successors or assigns, shall be liable in damages to anyone applying for Development approval, or to any Owner affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval, approval with conditions, or failure to approve any plans or specifications for such Development.

6.14 Indemnification. The Association shall indemnify each individual who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that such individual is or was an ACC Member or an officer, agent or employee of or consultant to the Association, against costs, claims, liabilities, expenses (including expert witness and attorneys' fees), judgments, fines and amounts paid in settlement which are or have been actually and reasonably incurred by such individual in connection with such threatened, pending or completed action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner which such individual reasonably believed to be in the best interest of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful, to the extent permitted by law, the Association may provide such other and additional protection and indemnification to the extent set forth in the Articles, Bylaws or a resolution of the ACC.

## SECTION 7 ENFORCEMENT

7.1 Compliance by Owners. Each Owner by acceptance of its deed or other instrument of conveyance or assignment agrees to comply strictly with the provisions of this Declaration, the Articles, the Bylaws, the Design Guidelines, and the decisions and resolutions of the ACC pursuant thereto. The Association and Declarant shall have the right and power to enforce the provisions of this Declaration and the Articles, the Bylaws, the Design Guidelines, and the decisions and resolutions of the ACC pursuant thereto. The Association and Declarant may take such actions as are necessary and appropriate to cause such compliance by each Owner. Without limiting the generality of the foregoing, the Association and the Declarant shall have the power to enforce the provisions of this Declaration and the Articles, the Bylaws, the Design Guidelines, and the decisions and resolutions of the ACC pursuant thereto, by any action at law or in equity.

In addition, The Association shall have the right to impose fines against any Owner who fails, within a reasonable time after written notice from the Association, to cure any violation of this Declaration, the Design Guidelines or any decisions of the ACC. Such fines may be in an amount not exceeding \$10,000.00 per violation, and shall be imposed by the Association in relation to the severity of the violation, as determined by the ACC in its discretion.

7.2 Fines, Costs and Fees of Enforcement. All fines imposed by the Association, attorneys' fees and other fees, expenses and costs of enforcing this Declaration, the Articles, the Bylaws, the Design Guidelines, and the decisions and resolutions of the ACC, incurred by the Association (whether or not any suit or action shall be commenced and whether or not the same proceeds to judgment) shall be assessed as a Reimbursement Assessment against the Owner found to be in violation.

7.3 Cumulative Remedies. All remedies of the Association and Declarant provided herein or at law or in equity shall be cumulative and not exclusive. Nothing in this Declaration shall be deemed to grant, imply or confirm any right or remedy of enforcement in any individual or entity other than the Association and Declarant.

7.4 No Waiver. The failure of the Association or Declarant to enforce any of the conditions, covenants or restrictions contained in this Declaration shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants or restrictions contained in this Declaration.

## SECTION 8 ASSESSMENTS

8.1 Creation of Assessments. The Association has the authority to levy Assessments in such amounts as the ACC may authorize from time to time in accordance with this Declaration. There shall be two types of Assessments: (a) Common Assessments as described in Section 8.2; and (b) Reimbursement Assessments as described in Section 8.3. Each Owner is deemed to covenant and agree to pay the Assessments.

8.2 Common Assessments. The Association shall have the power to levy assessments against the Lots to pay the Common Expenses, if any, and such assessments shall be "Common Assessments." Common Assessments, if assessed, shall be calculated, paid and adjusted in accordance with the following provisions:

(a) Calculation. The Association shall levy Common Assessments against all Lots in proportion to the Allocation Percentage of each Lot, such assessments to be set at a level which is reasonably expected to produce during any given fiscal year total income for the Association equal to the total Common Expenses incurred by the Association during such fiscal year. In determining the total funds to be generated through the levy of Common Assessments, the Board shall consider other sources of funds available to the Association, including any surplus from prior years and any income expected to be generated from fees and charges pursuant to Section 6.4 and Section 6.10. Nothing in this Section 8.2(a) shall require the Association to levy Common Assessments.

(b) Adjustment. To the extent the Association estimates or determines that payments of Common Assessments during any fiscal year will be inadequate or more than required to satisfy the Common Expenses for the balance of such fiscal year, the Board may increase or decrease the Common Assessments for the balance of the fiscal year by giving not less than 30 days' prior notice to all Owners.

(c) CCIOA Limitation. It being the intent of Declarant that this Declaration not be a "declaration" as defined in the Colorado Common Interest Ownership Act, under no circumstances shall the Association use any of the Common Assessments collected from the Owners to pay for any of the real estate taxes, insurance premiums, maintenance or improvements of any portion of the Property.

8.3 Reimbursement Assessments. The Association shall have the power to levy assessments against any Lot for the following purposes, and such assessments shall be "Reimbursement Assessments":

(a) To cover the costs incurred by the Association (including attorneys' fees and costs) in bringing the Lot and/or its Owner into compliance with the terms of this Declaration, the Bylaws or the Design Guidelines.

(b) To collect fines imposed by the Association pursuant to Section 7.2.

(c) To collect late charges and interest pursuant to Section 7.2 and Section 8.5, and attorneys' fees and other costs and expenses incurred by the Association to collect or attempt to collect delinquent Assessments and enforce the provisions of this Declaration, the Articles, the Bylaws and the Design Guidelines.

(d) To collect any other amounts collectible by the Association as Reimbursement Assessments pursuant to the express terms of this Declaration.

8.4 Owners' Obligations for Assessments. Each Assessment, together with interest and late charges pursuant to Section 8.5, costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which the Assessment is made until paid, as more particularly provided in Section 8.6. If a Lot is owned jointly by two or more co-Owners, all co-Owners of such Lot shall be jointly and severally liable to the Association for the payment of all Assessments levied against such Lot. Each such Assessment, together with such interest, late charges, costs and reasonable attorneys' fees, also shall be the personal obligation of the Owner or Owners of such Lot at the time the Assessment arose. Upon the conveyance of fee simple title to a Lot, the grantee (excluding a First Mortgagee who becomes an Owner pursuant to foreclosure of its Mortgage and any purchaser at a foreclosure sale who becomes an Owner by taking title to such Lot) shall be liable, jointly and severally, with the grantor for unpaid Assessments against the grantor due prior to the conveyance of such Lot.

8.5 Late Charges and Interest. If any Assessment or ACC-authorized installment of an Assessment is not paid within 30 days after it was due and payable, the Association may assess a late charge on the delinquent Assessment or installment in an amount not greater than 5% of the delinquent Assessment or installment in order to cover the extra costs and expenses involved in



processing such delinquent Assessment or installment. Such late charge shall be assessed by the Association and payable by such Owner as a Reimbursement Assessment. In addition, any Assessment or any ACC-authorized installment of an Assessment not paid within 30 days of the date on which it was due shall bear interest at the rate equal to the lesser of the maximum legal rate or 18% per annum commencing on the expiration of such 30-day period and continuing until such Assessment or installment, together with all accrued interest and late charges, are paid in full. Such interest shall be assessed by the Association and payable by such Owner as a Reimbursable Assessment.

8.6 Lien for Assessments.

(a) Perfection and Priority of Lien. All Assessments assessed or levied by the Association but unpaid by the Owner of any Lot (including, without limitation, late charges and interest) shall constitute a lien on such Lot and all improvements now or hereafter made or situated on such Lot. Such lien shall be superior and prior to all other liens and encumbrances, except for all unpaid sums under a First Mortgage recorded against such Lot and prior tax and special assessment liens created by statute. Such lien shall be perfected upon the recording of this Declaration and no further claim of lien shall be required. The Association may, but is not obligated to, prepare and record a notice of lien setting forth (i) the amount of any Assessment, installment, late charge, penalty, fine or other amount due and owing to the Association as of the date of such notice; (ii) the date such amount was due and payable and the date from which interest accrues; (iii) all costs and expenses including reasonable attorneys' fees incurred by the Association in collecting the unpaid amount as of the date of Recording of such notice of lien; (iv) the Lot affected by the lien; and (v) the name or names, last known to the Association, of the Owner of the Lot.

(b) Enforcement of Lien. Such lien, when delinquent, may be enforced in the same manner as provided for the foreclosure of mortgages under the laws of the State of Colorado. The Association may sue for unpaid Assessments and other charges authorized under this Declaration without foreclosing or waiving the lien securing them. The sale or transfer of any Lot shall not affect an existing lien for previous Assessments or relieve such Lot from any lien for subsequent Assessments. However, the transfer of fee simple title to any Lot pursuant to foreclosure of a First Mortgage shall extinguish the lien as to any installments of such Assessments due prior to such sale or transfer.

SECTION 9  
AMENDMENT AND ASSIGNMENT

9.1 Amendment of Declaration by Declarant. During the Declarant Control Period, Declarant may, without the consent of any other Owner (except as expressly provided below), amend this Declaration to: (a) make any additional property within the vicinity of the Property subject to the terms of this Declaration, provided that any such amendment shall require the consent of the owner of the additional property if other than Declarant; (b) withdraw any portion of the Property from the Property such that it is no longer subject to the terms of this Declaration, provided that any such amendment shall require the consent of the Owner of the withdrawn

portion of the Property if other than Declarant; (c) correct any clerical or typographical errors; and (d) make changes to the terms of the Declaration that do not materially increase the scope of authority or powers of the Association beyond the powers and authority described in Section 4.5 and that do not materially increase the burdens or restrictions placed on the Property or any of the Lots pursuant to this Declaration.

9.2 Amendment of Declaration by Members. This Declaration may be amended at any time upon the prior approval of the Owners entitled to cast at least 67% of the votes in the Association, provided that during the Declarant Control Period any such amendment shall also require the written consent of Declarant.

9.3 Effectiveness of Amendment. Any amendment to this Declaration shall be effective upon the Recording of an instrument, executed by the president of the Association, setting forth the amendment in full and certifying that the amendment has been approved pursuant to the Section 9.1 or Section 9.2, as applicable.

9.4 Assignment of Declarant's Rights and Duties. The rights, powers and reservations of Declarant contained herein may be assigned in writing by Declarant to any purchaser of all or substantially all of the portions of the Property owned by Declarant at the time of such purchase pursuant to such terms and conditions on which Declarant and the assignee may agree. Any such purchaser, after consenting in writing to such assignment, shall succeed to the rights, powers and reservations of Declarant contained herein. Upon such assignment, Declarant shall be relieved from such rights, powers and reservations, and the liabilities, obligations and duties occurring after such assignment with respect thereto. Any assignment made under this Section 9.4 shall be evidenced by a Recorded memorandum or similar document that summarizes the essential terms of such assignment. If at any time Declarant ceases to exist and has not made such an assignment, the Association shall be Declarant's successor to its rights, powers and reservations hereunder. Any assignee of Declarant's rights, powers or reservations pursuant to this Section 9.4 may in turn assign such rights, powers or reservations to a subsequent purchaser of all or substantially all of the portions of the Property owned by Declarant's assignee at the time of such purchase.

## SECTION 10 MISCELLANEOUS

10.1 Term. All provisions of this Declaration shall continue in effect in perpetuity unless this Declaration is terminated with the consent of those Owners entitled to cast at least 67% of the votes in the Association; provided, however, that any termination of this Declaration during the Declarant Control Period shall also require the written approval of Declarant and a majority of the ACC Members. The termination of this Declaration shall be effective upon the recording of a certificate, executed by the President of the ACC declaring that this Declaration has been terminated as provided herein, and if applicable, approved by Declarant and a majority of the ACC Members as provided herein. Notwithstanding anything in this Section 10.1 to the contrary and unless this Declaration is terminated earlier pursuant to this Section 10.1, each provision of this Declaration that is subject to the rule commonly known as the rule against perpetuities shall continue and remain in full force and effect until 21 years following the death of every

descendent of Queen Elizabeth II of England who is living at the time this Declaration is initially recorded.

10.2 Interpretation. The provisions of this Declaration shall be construed as a whole to effectuate the purpose of this Declaration. With respect to matters addressed by more than one restriction, the more restrictive shall be interpreted to override the less restrictive.

10.3 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

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

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

10.6 Captions for Convenience. The titles, headings and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

**[signature pages follow]**

IN WITNESS WHEREOF, Declarant has executed and the Consenting Landowner has consented to this Declaration.

**DECLARANT:**

CONTINUUM BRUCHEZ ASSOCIATES, LLC, a Colorado limited liability company

By: *Daniel J. Murphy*  
Daniel J. Murgtfy  
Executive CommittedMfejafoer

STATE OF COLORADO

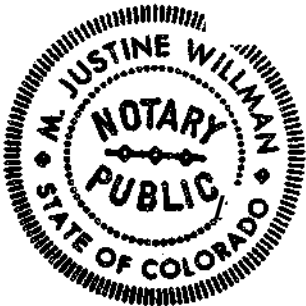
) ss.

CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of September, 2002, by Daniel J. Murphy, as an Executive Committee Member of Continuum Bruchez Associates, LLC, a Colorado limited liability.

Witness my hand and official seal.

My commission expires: July 1st, 2006



*M. Justine Willman*  
Notary Public



**EXHIBIT A**  
**Legal Description of the Property**

ALL NON-DEDICATED LOTS AND TRACTS WITHIN  
BRADBURN SUBDIVISION FILING NO. 1,  
CITY OF WESTMINSTER,  
COUNTY OF ADAMS,  
STATE OF COLORADO

TOGETHER WITH:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 6,  
TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED  
ASFOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 6, WHENCE THE SOUTHEAST  
CORNER OF THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER  
THEREOF BEARS S 89°50'23"E, A DISTANCE OF 1981.88 FEET; THENCE S 89°50'23"E,  
ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6 A  
DISTANCE OF 713.43 FEET TO THE POINT OF BEGINNING; THENCE N 00°09'37"E, A  
DISTANCE OF 186.93 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO  
THE RIGHT HAVING A DELTA OF 19°52'41", A RADIUS OF 324.25 FEET, AN ARC  
LENGTH OF 112.49 FEET AND A CHORD BEARING N 39°20'59"W, A DISTANCE OF  
111.93 FEET TO A POINT OF TANGENT; THENCE N 29°24'38"W, A DISTANCE OF 94.83  
FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A  
DELTA OF 06°50'19", A RADIUS OF 1261.77 FEET AND AN ARC LENGTH OF 150.60  
FEET TO A POINT OF TANGENT; THENCE N 36°14'58"W, A DISTANCE OF 53.12 FEET;  
THENCE N 55°26'00"E, A DISTANCE OF 52.02 FEET; THENCE N 36°14'58"W, A  
DISTANCE OF 57.09 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO  
THE RIGHT HAVING A DELTA OF 47°26'28", A RADIUS OF 94.00 FEET AND AN ARC  
LENGTH OF 77.83 FEET TO A POINT OF TANGENT; THENCE N H°11'30"E, ALONG  
SAID TANGENT, A DISTANCE OF 32.17 FEET TO A POINT OF CURVE; THENCE  
ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 33°48'30", A RADIUS OF  
300.00 FEET AND AN ARC LENGTH OF 177.02 FEET TO A POINT OF TANGENT;  
THENCE N 45°00'00"E, ALONG SAID TANGENT, A DISTANCE OF 484.00 FEET;  
THENCE S 45°00'00"E, A DISTANCE OF 223.06 FEET; THENCE S 46°39'11"E, A  
DISTANCE OF 52.00 FEET; THENCE S 45°00'00"E, A DISTANCE OF 246.38 FEET TO A  
POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF  
26°17'01", A RADIUS OF 124.50 FEET AND AN ARC LENGTH OF 57.11 FEET TO A  
POINT OF REVERSE CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A  
DELTA OF 19°35'06", A RADIUS OF 493.75 FEET AND AN ARC LENGTH OF 168.77  
FEET TO A POINT OF NON-TANGENT; THENCE S 49°44'52"E, A DISTANCE OF 98.93  
FEET; THENCE S 47°33'00"E, A DISTANCE OF 35.93 FEET TO A POINT OF CURVE;  
THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 18°57'09", A  
RADIUS OF 435.23 FEET AND AN ARC LENGTH OF 143.97 FEET TO A POINT OF

TANGENT; THENCE S 28°35'51"E, ALONG SAID TANGENT, A DISTANCE OF 47.80 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 01°40'49", A RADIUS OF 829.99 FEET AND AN ARC LENGTH OF 24.34 FEET; THENCE N 63°04'57"E, A DISTANCE OF 44.00 FEET TO A POINT ON A CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 15°33'18", A RADIUS OF 873.99 FEET, AN ARC LENGTH OF 237.28 FEET AND A CHORD BEARING S 19°08'24"E, A DISTANCE OF 236.55 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 14°35'14", A RADIUS OF 101.00 FEET AND AN ARC LENGTH OF 25.71 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 69°33'57", A RADIUS OF 169.13 FEET AND AN ARC LENGTH OF 205.35 FEET TO A POINT OF COMPOUND CURVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 13°08'33", A RADIUS OF 101.00 FEET AND AN ARC LENGTH OF 23.17 FEET; THENCE S 00°09'37"W, A DISTANCE OF 77.56 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 6; THENCE N89°50'23"W, ALONG SAID SOUTH LINE, A DISTANCE OF 960.19 FEET TO THE POINT OF BEGINNING.

