

SUPPLEMENTAL DECLARATION OF  
COVENANTS, CONDITIONS,  
RESTRICTIONS, AND EASEMENTS  
FOR THE  
CONESTOGA COMMERCIAL PARCELS

This Supplemental Declaration of Covenants, Conditions, Restrictions, and Easements for the Conestoga Commercial Parcels (the "Supplemental Declaration") is made as of the 8<sup>th</sup> day of November, 2019, by Conestoga Developers Company, LLC, a Colorado limited liability company, its heirs, affiliates, successors and assigns (the "Declarant").

RECITALS:

A. Declarant is the owner of that certain real property located in Weld County, Colorado, within the Town of Ault, more particularly described on Exhibit A attached hereto (the "Property").

B. The Property described in Exhibit A is a portion of the property made subject to the Declaration of Covenants, Conditions, Restrictions, and Easements for the Conestoga PUD ("Master Declaration") recorded January 29, 2018, at Reception No. 4371255, in the real property records of Weld County, Colorado. Pursuant to Section 4.2.3 of the Master Declaration, the Declarant may record a Supplemental Declaration which may include provisions, which as applicable to the Property described in the Supplemental Declaration, may add to or change the rights, responsibilities and other requirements of the Property in addition to the requirements of the Master Declaration.

C. Declarant desires to exempt the Property from the Colorado Common Interest Ownership Act, Colorado Revised Statutes § 38-33.3-101 *et. seq.* (the "Act"), and the residential covenants and restrictions contained in the Master Declaration, because the Property is platted and shall be restricted exclusively to nonresidential use.

**ARTICLE I**

**DECLARATION AND SUBMISSION**

1.1 **Declaration.** Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, restrictions and easements which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property.

## ARTICLE II

### DEFINITIONS

The following words when used in this Supplemental Declaration shall have the following meanings:

2.1 ***“Annual Assessment”*** means the Assessment levied pursuant to an annual budget.

2.2 ***“Assessments”*** means the Annual, Special and Default Assessments levied pursuant to Article \_\_\_ below.

2.3 ***“Commercial Area”*** shall mean that portion of the Conestoga community described in Exhibit A which is designated for commercial use and made subject to this Supplemental Declaration.

2.4 ***“Commercial Declaration”*** shall refer to and mean this Supplemental Declaration having applicability to the Commercial Sites.

2.5 ***“Commercial Sites”*** means the property described in Exhibit A and any additional property annexed to this Commercial Declaration by the Declarant, its successors and assigns, which property is designated as one or more Commercial Sites in the Commercial Declaration and which is, or according to such Commercial Declaration, is intended to be, used for commercial, retail, industrial or other nonresidential purposes.

2.6 ***“Common Expenses”*** means (i) all expenses expressly declared to be common expenses by this Supplemental Declaration; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the common areas on the Commercial Sites; (iii) insurance premiums for the insurance carried under Article \_\_\_; and (iv) all expenses lawfully determined to be common expenses by the Executive Board.

2.7 ***“County”*** means the County of Weld, State of Colorado.

2.8 ***“Declaration”*** means this Supplemental Declaration (also referred to as the Commercial Declaration) and the plat, and any amendments and supplements to the foregoing.

2.9 ***“Executive Board”*** means the governing body of the Conestoga Metropolitan Districts Nos 1-5, which Executive Board shall govern the Commercial Area pursuant to this Commercial Declaration and the Master Declaration (collectively the “Declarations”), and in accordance with Colorado Revised Statutes § 32-1-1004(8).

2.10 "**Manager**" means a person or entity engaged by the Executive Board to perform certain duties, powers or functions of the Conestoga Metropolitan Districts Nos. 1-5, as the Executive Board may authorize from time to time.

2.11 "**Owner**" means the owner of record whether one or more persons or entities, of fee simple title to any Commercial Site, and "Owner" also includes the purchaser under a contract for deed covering a Commercial Site with a current right of possession and interest in the Commercial Site.

2.12 "**Owner's Agent**" the Owner's agent, employee, invitee, licensee or tenant.

2.13 "**Plat**" means the subdivision plat depicting the Lots, common areas and the Commercial Sites (including Tracts and Outlots), as the same may be amended from time to time.

2.14 "**Project**" means the Conestoga PUD by the Master Declaration and as shown on the plat consisting of the Property, residential Units and the common areas.

2.15 "**Successor Declarant**" means any person or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder.

2.16 "**Town**" means the Town of Ault, Weld County, Colorado.

Each capitalized term not otherwise defined in this Supplemental Declaration shall have the same meanings specified or used in the Master Declaration.

### ARTICLE III

#### DISTRICT OPERATIONS

3.1 **Manager.** The Executive Board may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions or duties of the metropolitan districts, as provided in the Master Declaration. The Manager shall not have the authority to make expenditures except as directed by the Executive Board.

3.2 **Rights of Action.** The Executive Board on behalf of itself and any aggrieved Owner shall be granted a right of action against any and all Owners for failure to comply with the provisions of the Declarations to the extent the declaration provisions are applicable to the Commercial Sites. In any action covered by this section, the Executive Board or any Owner shall have the right but not the obligation to enforce the Declarations by any proceeding at law or in equity, or by mediation or binding arbitration if the parties so agree. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys' fees in connection with such

arbitration or judicial relief. Failure by the Executive Board or by any Owner to enforce compliance with any provision of the Declarations shall not be deemed a waiver of the right to enforce any provision thereafter.

3.3 ***Implied Right and Obligations.*** The Executive Board may exercise any right or privilege expressly granted to the Executive Board in the Declarations and by the Special District Act, C.R.S. § 32-1-101 *et seq.*

3.4 ***Notice.*** Any notice to an Owner of matters affecting the Project by the Executive Board or by another Owner shall be sufficiently given if in writing and delivered personally, by courier or private service delivery, or the third business day after deposit in the mails for registered or certified mail, return receipt requested, at the address of record for real property tax assessment notices with respect to that Owner's Commercial Site.

3.5 ***Owner Use and Occupancy Regulation.*** The Executive Board shall have and may exercise the right to control Owner's use and occupancy of a Commercial Site in order to assure that the Commercial Site is being used exclusively for Commercial purposes and thus exempt from the Act.

#### ARTICLE IV

##### **POWERS OF THE EXECUTIVE BOARD**

4.1 The Executive Board may act in all instances on behalf of the Conestoga Metropolitan Districts Nos. 1-5, to:

4.1.1 Adopt and amend policies and procedures and rules and regulations specifically governing the Commercial Sites;

4.1.2 Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments specific to the Commercial Sites;

4.1.3 Hire and terminate management agents and other employees, agents and independent contractors;

4.1.4 Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Project;

4.1.5 Make contracts and incur liabilities, except that any contract providing for the services of Declarant may not exceed three years and must provide for termination by either party without cause and without payment of a termination fee on ninety days or less written notice;

4.1.6 Regulate the use, maintenance, repair, replacement and modification of common areas in the Commercial Area;

4.1.7 Cause additional improvements to be made as a part of the Commercial Area;

4.1.8 Grant easements, leases, licenses and concessions through or over the Commercial Area;

4.1.9 Arrange for bulk services to or for the benefit of the Property, including contracting with a trash hauler, snow removal contractor, internet service provider, or other person or entity for the provision of services to the Commercial Area on a less costly and/or more efficient basis;

4.1.10 Impose and receive any payments, fees or charges for the use, rental or operation of common area within the Commercial Area;

4.1.11 Impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Conestoga Metropolitan Districts Nos. 1-5, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Declarations, policies and procedures and rules and regulations;

4.1.12 Impose reasonable charges for the preparation and recordation of amendments to the Declarations or statements of unpaid Assessments;

4.1.13 Provide for indemnification of the Executive Board and maintain directors' and officers' liability insurance;

4.1.14 Exercise any other powers conferred by the Declarations and the Special District Act;

4.1.15 Exercise any other powers necessary and proper for the governance and operation of the Commercial Sites.

## **ARTICLE V**

### **EASEMENTS**

5.1 ***Recorded Easements.*** The Property shall be subject to all easements as shown on any PUD, plats, those of record, and otherwise as set forth in this Article V.

5.2 ***Declarant's Rights Incident to Construction.*** Declarant, for itself and its successors and assigns, for the Conestoga Metropolitan Districts Nos. 1-5, and/or for Owners, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Commercial Areas, together with the right to store materials on the common areas within the Commercial Area, to build and maintain temporary walls, and to make such other

use of the Common Elements as may be reasonably necessary or incident to any construction of the Units, or improvements on the Property or other real property owned by Declarant, or other properties abutting and contiguous to the Property or located within a special district as identified in the Master Declaration; provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to the Property by the Owners..

5.3 **Utility Easements.** There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Commercial Area and the Commercial Sites and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable television and electricity. Said blanket easement includes future utility services not presently available to the Commercial Sites which may reasonably be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Commercial Sites and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Executive Board as to locations.

5.4 **Reservation of Easements, Exceptions and Exclusions.** The Executive Board is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Commercial Area for the best interest of all the Commercial Site Owners and the Conestoga Metropolitan Districts Nos. 1-5. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Commercial Site over and across the common areas within the Commercial Area, which right shall be appurtenant to the Owner's Commercial Site, and which right shall be subject to limited and reasonable restriction on the use of the Commercial Area set forth in writing by the Executive Board, such as for closure for repairs and maintenance or other limited purposes.

5.5 **Emergency Access Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

5.6 **Support Easement.** Each Commercial Site is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated or to be built in the future on the Property.

## ARTICLE VI

### MAINTENANCE

6.1 **Maintenance by Owners.** Each Owner shall maintain and keep in repair its Commercial Site, including all structures, fixtures and improvements located on the Commercial Site. The Executive Board or a designated committee may adopt policies, procedures, rules and regulations governing the appearance of the Commercial Sites. Utility services, including gas,

water and electricity, shall be individually metered for each Commercial Site and expenses shall be payable directly to the utility provider by the Owner.

6.2 ***Owner's Failure to Maintain or Repair.*** In the event that a Commercial Site is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Commercial Site lies with the Owner, or in the event that the Commercial Site is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Commercial Site for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Executive Board, after notice to the Owner, shall have the right to enter upon the Commercial Site to perform such work as is reasonably required to secure and fence from view the Commercial Site until repairs can be made or to restore the Commercial Site to a condition of good order and repair. All costs incurred by the Executive Board in connection with the restoration shall be reimbursed to the Executive Board by the Owner of the Commercial Site, upon demand. All unreimbursed costs shall be a lien upon the Commercial Site until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article \_\_\_\_ of this Declaration.

6.3 ***Maintenance by the Districts.*** The Executive Board shall be responsible for the maintenance and repair of the common areas within the Commercial Area (except as set forth in Section 6.1 above and unless necessitated by damage caused by the negligence, misuse or tortious act of an Owner or Owner's Agent as set forth in Section 6.4 below), which shall be the Common Expense of all Owners and allocated according to a formula based on the square footage of the Owner's Commercial Site divided by the total square footage of the Property multiplied by the total Common Expenses ("Allocated Interests"). This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping, sidewalks and parking areas, which Owner is not required to maintain as set forth in Section 6.1, and which may include ingress and egress areas, signage, irrigation systems, improvements if any (which shall include without limitation snow removal services unless performed by another private or public organization formed for such purposes), located in the Commercial Area. In the event the Executive Board does not maintain or repair the common areas within the Commercial Area, Declarant shall have the right, but not the obligation, to do so at the expense of the Districts.

6.4 ***Common Expenses.*** The cost of maintenance and repair of the common areas within the Commercial Area by the Executive Board shall be a Common Expense of all of the Commercial Owners, to be shared by each Owner according to the Allocated Interests therefore set forth on Exhibit B. However, if such damage is caused by negligent or tortious acts of an Owner or Owner's Agent, then such Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner or Owner's Agent's negligence caused such damage, which must be timely paid.

6.5 ***Easement for Maintenance.*** The Executive Board shall have the irrevocable right, to be exercised by the Executive Board, the Manager, or officers or employees of the Districts, to have access to the common areas for making repairs, maintenance or inspection therein necessary

to prevent damage to the Commercial Area and Commercial Sites.

6.6 **General Prohibitions.** The Executive Board shall have the right and power to prohibit storage or other activities deemed unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Commercial Site or within the Commercial Area. No Owner shall make any addition or other alteration to any portion of the Commercial Site, no matter how minor, without the express written consent of the Executive Board or its designated committee.

## ARTICLE VII

### INSURANCE

7.1 **General Insurance Provisions.** The Owners of Commercial Sites are responsible for obtaining insurance for their Commercial Sites, in such types and amounts as the Owners deem necessary or appropriate for their property and operations. The Districts will not insure the privately owned Commercial Sites. The Executive Board will obtain comprehensive general liability insurance, and any other insurance it deems necessary or appropriate, for Commercial areas and properties owned, managed, maintained or controlled by the Districts. The cost of insurance obtained by the Executive Board shall be assessed as a Common Expense to the Commercial Site Owners based on their Allocated Interests.

7.2 **Allocation of Deductible.** Depending on the amount of the deductible and the area within the Property damaged or destroyed and covered by an insurance claim submitted on behalf of the Districts, the deductible amount, if any, on any insurance policy purchased by the Executive Board may be treated as a Common Expense payable from Assessments allocable to all of the Commercial Sites, or may be assessed to only some of the Commercial Sites, if the claims or damages arise from the negligence of particular Owners. The Executive Board may adopt written nondiscriminatory policies and procedures relating to the submittal of insurance claims, responsibility for deductibles, and any other matters related to claims adjustment.

7.3 **Insurance Proceeds.** Any loss covered by the property insurance policy described in Section 7.1 must be adjusted with the Executive Board, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Districts, and not to any holder of a security interest. The insurance trustee or the Districts shall hold any insurance proceeds in trust for the Districts, Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 7.5 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Districts, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored.

7.5 **Repair and Replacement.** Any portion of the Commercial Area for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly



by the Executive Board unless:

7.5.1 Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

7.5.2 The cost of repair or replacement of common area is in excess of insurance proceeds and reserves. If all the common area is not repaired or replaced, the insurance proceeds attributable to the damaged common area must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributes, the insurance proceeds must be distributed to all the Owners or Mortgagees, as their interests may appear in proportion to each Commercial Site's Common Expenses Allocated Interests.

7.6 **Other Insurance.** The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Districts' responsibilities and duties or as requested by any governmental authority having jurisdiction over the Property.

## ARTICLE VIII

### ASSESSMENTS

8.1 **Obligation.** Each Owner, including Declarant while an Owner of any Commercial Site, is obligated to pay to the Districts (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments to be used to furnish the services provided by the Districts pursuant to the Declarations.

8.2 **Budget.** The Executive Board shall budget the Commercial Assessments as part of its annual budgeting process. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay for the services provided by the Districts.

8.3 **Annual Assessments.** Annual Assessments made for Common Expenses shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Commercial Site Owners. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the common areas in the Commercial Area, expenses of management and insurance premiums for insurance coverage as deemed desirable or necessary by the Executive Board, landscaping of the common areas, care of grounds within the common areas, routine repairs and renovations within the common areas, wages, common water and utility charges for the common areas, or other nearby property that the Districts are required to pay by virtue of existing agreements, legal and accounting fees, management fees, expenses and liabilities incurred by the Executive Board under or by reason of this Supplemental Declaration, payment of any default remaining from a previous assessment period, and the creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general, routine maintenance, repairs and replacement of improvements within the Commercial Area on a periodic basis, as needed. Any surplus funds

derived from Assessments shall be used for District operations benefitting the Commercial Sites or returned to the Commercial Site Owners, in the Executive Board's sole discretion and by acceptance of a deed to its Commercial Site, each Owner hereby directs the Executive Board to make this determination each year.

Annual Assessments shall be payable in monthly installments on a prorated basis in advance and shall be due on the first day of each month. The omission or failure of the Executive Board to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

8.4 ***Special Assessments.*** In addition to the Annual Assessments, the Executive Board may levy in any fiscal year one or more Special Assessments, payable over such a period as the Executive Board may determine through the adoption of an amended budget, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the common areas of the Commercial Area or for any other expense incurred or to be incurred as provided in this Supplemental Declaration. This Section 8.4 shall not be construed as an independent source of authority for the Executive Board to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Supplemental Declaration and Colorado law. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their allocated Interests for Common Expenses, subject to the right of the Executive Board to assess only against the Owners of affected Commercial Sites any extraordinary maintenance, repair or restoration work on fewer than all of the Commercial Sites shall be borne by the Owners of those affected Commercial Sites only, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's Commercial Site or the actions of a particular Owner or Owner's Agents shall be borne by that Owner. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given.

8.5 ***Default Assessments.*** All monetary fines assessed against an Owner pursuant to the Declarations, or any expense of the Districts which is the obligation of an Owner or which is incurred by the Districts on behalf of the Owner pursuant to the Declarations, shall be a Default Assessment and shall become a lien against such Owner's Commercial Site which may be foreclosed or otherwise collected as provided in this Supplemental Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

8.6 ***Effect of Nonpayment; Assessment Lien.*** Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid on or before five (5) days after its due date, shall be delinquent. If an Assessment installment becomes delinquent, the Executive Board, in its sole discretion, may take any or all of the following actions:

- (i) Assess a late charge for each delinquency in the amount of \$15.00 or such lesser amount as the Executive Board deems appropriate;

- (ii) Assess an interest charge from the due date at the yearly rate of six (6) points above the prime rate charged by the Association's bank, or such other lawful rate as the Executive Board may establish, not exceeding twenty-one percent
- (iii) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments;
- (iv) Record notice of the Districts' prior, perpetual lien for unpaid assessments in the records of the County Clerk and Recorder;
- (v) Proceed with foreclosure as set forth in more detail below;
- (vi) Whether or not foreclosure is commenced, apply for the *ex parte* appointment of a receiver for a Commercial Site.

Assessments chargeable to any Commercial Site shall constitute a lien on such Commercial Site. The Executive Board may institute foreclosure proceedings against the defaulting Owner's Commercial Site in the manner for foreclosing a mechanics lien under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the monthly assessment installments for the Commercial Site during the period of any foreclosure.

## ARTICLE IX

### ARCHITECTURAL CONTROL AND DESIGN REVIEW

9.1 **Architectural Review Committee.** The Executive Board may establish an Architectural Review Committee ("Committee") to be responsible for the establishment and administration of Design Guidelines (the "Design Guidelines") to carry out the purposes and intent of this Supplemental Declaration and shall provide advice to the Executive Board on such matters as the Executive Board may request. To the extent no Committee is established pursuant to this Supplement Declaration, committee(s) established pursuant to the Master Declaration may act pursuant to this Article.

9.2 **Common Areas.** No alteration or additions to the common areas in the Commercial Area of any kind (including, without limitation, change in color, texture, street number signage, doors or windows) shall be made unless first approved in writing by the Committee. The Committee shall exercise reasonable judgment to the end that all modifications to the common areas conform to and harmonize with existing surroundings and structures. All construction activities shall be planned and carried out with a minimum of disruption, unsightliness and noise.

9.3 **Membership.** The Committee shall consist of individuals appointed by and

responsible to the Executive Board. Members of the Committee shall be appointed to serve for a period of time established by the Executive Board, but in no event for a period of less than one year. The Committee is authorized, upon approval of the Executive Board, to seek the advice of design professionals or other professionals if the need should arise. Should a Committee member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed by the Executive Board.

9.4 **Design Guidelines.** The Committee may adapt, establish, and publish from time to time the Design Guidelines for the Commercial Area and such Design Guidelines shall supplement the Declarations, the terms of which shall be complied with by all Owners. The Design Guidelines shall not be inconsistent with this Supplemental Declaration or the Master Declaration, but shall more specifically define and describe the design standards for the Commercial Area including, but not limited to, items such as color, texture, structure, size, design, appearance, landscaping and site improvement standards. The Design Guidelines may be modified or amended from time to time by unanimous approval of the Executive Board and shall be made available to all Owners and their representatives for review. Further, the Committee may recommend, and the Executive Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the Project's design review process and design standards is not a substitute for compliance with Town or County building, zoning, and subdivision regulations and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. In the event of a conflict between the terms of this Supplemental Declaration and the Design Guidelines, the terms of this Supplemental Declaration shall control. In the event of a conflict between the terms of this Supplemental Declaration and the Master Declaration, the Master Declaration shall control.

9.5 **Requirement for Approval.** No improvements shall be constructed, erected, placed, altered, maintained or permitted on any part of the Commercial Area, nor shall any construction or excavation whatsoever be commenced or materials, equipment or construction vehicles be placed on any part of the Commercial Area until plans and specifications with respect thereto satisfactory to the Committee showing the proposed improvements, site location of such improvements, complete building plans and material specifications, and all exterior elevations, materials and colors, landscaping, grading, drainage, erosion control, easements and utilities, and such other information as may be requested by the Committee or Executive Board have been submitted to and approved in writing. All improvements shall be subject to the requirements of and compliance with Article II of the Master Declaration.

## ARTICLE X

### DURATION OF COVENANTS AND AMENDMENT

10.1 **Term.** The covenants and restrictions of this Supplemental Declaration shall run with and bind the land in perpetuity.

10.2 **Amendment.** Except as otherwise provided herein, this Supplemental Declaration,

or any provision of it, may be amended at any time by approval of Owners holding not less than sixty-seven percent (67%) of the votes possible to be cast under this Supplemental Declaration, with each Commercial Site Owner having a vote equal to the Allocated Interests set forth in Exhibit B (based on the square footage of the Commercial Site as compared to the whole Commercial Area).

10.3 **Amendment.** Any amendment must be executed by the President of the Executive Board and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Executive Board to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and the plat to the fullest extent permitted under Colorado law.

## ARTICLE XI

### GENERAL PROVISIONS

11.1 **Restriction on Declarant Powers.** Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under Colorado law. Any provision in this Supplemental Declaration in conflict with the requirements of the Colorado Special District Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with that statute.

11.2 **Enforcement.** Except as otherwise provided in this Supplemental Declaration, the Executive Board, Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declarations. Failure by the Executive Board, Declarant or by any Owner to enforce any covenant or restriction contained in this Supplemental Declaration shall in no event be deemed a waiver of the right to do so thereafter.

11.3 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

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**EXHIBIT A**

Property Description

Lot 1, Block 6, Tracts F and G, and Outlot N, of the Third Replat of Conestoga Subdivision First Filing as recorded June 6, 2019, as Reception No. 4512991, of the records of Weld County, Colorado


**EXHIBIT B**

**Allocated Interests**

Site#	Street Address	Fraction	Percentage Share of Common Expenses	Votes
1		/	%	
Total			100%	100

DECLARANT:

CONESTOGA DEVELOPERS COMPANY, LLC,  
a Colorado limited liability company

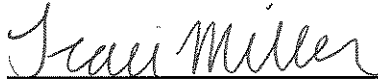
By:   
Its: Manager

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Weld )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of November 2019, by Zachery C. Cesar, as Manager of Conestoga Developers Company, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 09/18/22

  
Notary Public

TRACI LYNN MILLER  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184037015  
MY COMMISSION EXPIRES 9-18-2022