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Chaffee Cnty

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
MT. HARVARD VALLEY DEVELOPMENT SUBDIVISION FILING NO. 1
AND
MT. HARVARD ADDITION
CHAFFEE COUNTY, COLORADO**

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This Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements (the "Amended and Restated Declaration" or the "Declaration") is made this 9th day of August, 2015, by **Mt. Harvard Valley Development Property Owners Association, Inc.**, a Colorado nonprofit corporation, of 33808 Mt. Harvard Cir., P.O. Box 5203, Buena Vista, CO 81211, (herein "the Association"), as follows:

WHEREAS, the plat of Mt. Harvard Valley Development Subdivision Filing No. 1 was recorded on September 11, 1972, at Reception No. 147386 in the records of the Clerk and Recorder of Chaffee County, Colorado ("Mt. Harvard Valley Development Subdivision Filing No. 1 Plat"); and

WHEREAS, that certain Declaration of Restrictive and Protective Covenants Mt. Harvard Valley Development Co. was recorded on August 2, 1972 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 146576 (the "Original Declaration"); and

WHEREAS, that certain Declaration of Restrictive and Protective Covenants Mt. Harvard Valley Development Co. was recorded on September 11, 1972 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 147375, which declaration was intended to correct, amend and restate the Original Declaration (the "First Corrected Declaration"); and

WHEREAS, that certain Corrected Declaration of Restrictive and Protective Covenants Mt. Harvard Valley Development Subdivision Filing No. 1 was recorded on July 13, 1973 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 152672, which declaration was intended to correct, amend and restate the First Corrected Declaration (the "Second Corrected Declaration"); and

WHEREAS, certain amendments to the Second Corrected Declaration were recorded on April 11, 1979 at Reception No. 191545; on June 29, 1988 at Reception No. 248362; on October 9, 2000 at Reception No. 313851; on July 13, 2004 at Reception No. 344805; in the records of Chaffee County, Colorado (the "Amendments"); and

WHEREAS, certain instruments relating to water rights and water usage were recorded on April 6, 1979 at Reception No. 191465; on April 6, 1979 at Reception No. 191466; and on April 6, 1979 at Reception No. 191465 (the "Water Instruments"); and

WHEREAS, the plat of Mt. Harvard Addition (a subdivision) was recorded on March 10, 2000 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 309768 (the "Mt. Harvard Addition Plat"); and

WHEREAS, in accordance with that certain Agreement recorded on April 7, 2000 in the records of the Clerk and Recorder of Chaffee County, Colorado at Reception No. 310302 (the "Webster Agreement"), Mt. Harvard Addition is subject to the Second Corrected Declaration, as amended, and the Owners of Lots within Mt. Harvard Addition are members of the Association ("Members"); and

WHEREAS, in accordance with the Second Corrected Declaration, as amended, more than fifty percent (50%) of the members of the Association have approved this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements; and

WHEREAS, this Amended and Restated Declaration is intended to amend, restate, supersede, and replace the Second Corrected Declaration and all of the Amendments in their entirety; and

WHEREAS, this Amended and Restated Declaration is not intended to affect the Water Instruments, which shall continue in full force and effect; provided, however that the Water Instruments are by this reference incorporated herein; and

WHEREAS, the Owners have appointed the President of the Association to execute this Amended and Restated Declaration on behalf of the Owners; and

NOW, THEREFORE, the Association, on behalf of the Owners, by and through the undersigned, does hereby amend and restate the Second Corrected Declaration, as amended, in its entirety as follows:

1. CREATION OF COMMON INTEREST COMMUNITY

1.1. General Purposes. At the time the Second Corrected Declaration was executed and recorded, the Declarant owned the real property interests legally described on the plat of Mt. Harvard Valley Development Subdivision Filing No. 1 recorded in the records of the Chaffee County Clerk and Recorder at Reception No. 334638, by this reference incorporated herein. Pursuant to the provisions of the Colorado Common Interest Ownership Act (Article 33.3 of Title 38 of Colorado Revised Statutes) as the same may be amended ("CCIOA"), Mt. Harvard Valley Development Subdivision Filing No. 1 is a "common interest community" (as such term

is defined in CCIOA). The Declarant subjected Mt. Harvard Valley Development Subdivision Filing No. 1 to mutually beneficial covenants, conditions and restrictions for the benefit of Declarant and all future Owners of any portion of the Mt. Harvard Valley Development Subdivision Filing No. 1. The stated purposes of said covenants were to ensure 1) that all improvements therein erected to be desirable, beneficial, uniform, suitable, and harmonious in architectural design, materials and appearance; 2) to restrict and limit the use of land to residential purposes; 3) to guard against fire and unnecessary interference with the natural beauty and improper uses of adjoining properties in the sub-division. By agreement of the Association and the then owners of the real property which comprises Mt. Harvard Addition, Mt. Harvard Addition was also subjected to the terms of the Second Corrected Declaration, as amended, in order to promote the general purposes set forth herein with regard to both Mt. Harvard Valley Subdivision Filing No. 1. and Mt. Harvard Addition, for the mutual benefit of the Owners of Lots in both subdivisions.

1.2. Declaration. To further the purposes expressed in Section 1.1 hereof, the Association, on behalf of the Owners, hereby declares that the Mt. Harvard Valley Development Subdivision Filing No. 1 and Mt. Harvard Addition shall, at all times, be owned, held, used and occupied subject to the provisions of this instrument, to the covenants, conditions and restrictions contained herein and to all amendments and supplements hereto.

1.3. Names of the Common Interest Community and the Association. The name of the common interest communities governed by this Amended and Restated Declaration are Mt. Harvard Valley Development Subdivision Filing No. 1 and Mt. Harvard Addition (hereinafter, both subdivisions are referred to collectively as the "Property"). The name of the owners' association organized to govern and administer the common interest community is Mt. Harvard Valley Development Property Owners Association, Inc., a Colorado nonprofit corporation organized under the Colorado Revised Nonprofit Corporations Act (the "CRNCA").

1.4. Location and Type of Common Interest Community. The Property is situated in Chaffee County, Colorado. The common interest communities comprising the Property are "Planned Communities" (as such term is defined in CCIOA).

1.5. Planned Community.

1.5.1. The Property is divided into a maximum of 44 Lots.

1.5.2 All Lots shall be limited to one single-family dwelling per Lot and other structures permitted hereunder.

2. PROPERTY OWNERS ASSOCIATION

2.1. Rights, Duties, Privileges, Powers, and Obligations. The Association shall exercise all of the rights, duties, privileges, powers, and obligations as set forth in this Declaration and the Articles of Incorporation, Bylaws, Architectural Guidelines, Rules, Regulations and Responsible Governance Policies of the Association (herein referred to as the "Association Documents"), in accordance with CCIOA and the CRNCA.

2.1.1. General Purposes and Powers. The Association, through its Executive Board, shall perform functions and hold and manage property as provided in this Declaration so as to further the interests of Owners of Lots in the Property. The Association shall have all the powers necessary or desirable to effectuate such purposes.

2.1.2. Membership and Voting. The Owner of a Lot shall automatically be a member of the Association. Said membership is appurtenant to the Lot of said Owner, and title to the ownership of the membership for that Lot shall automatically pass with fee simple title to the Lot. If the fee simple title to a Lot is held by more than one person, the membership as to such Lot shall be joint, and a single membership for such Lot shall be issued in the names of all Owners, and they shall designate to the Association in writing the name of one natural person 18 years of age or older who shall have the power to vote said membership at any meeting of members. Membership in the Association shall be limited to Owners of Lots in the Property, and each Lot shall be entitled to the voting rights allocated to that Lot in the Bylaws.

2.1.3. Executive Board. The affairs of the Association shall be managed by the Executive Board (the "Board") which may by resolution delegate any portion of its authority to an Executive Committee or to a Managing Agent for the Association. The Board shall have the authority to adopt Rules and Regulations of the Association. There shall be no fewer than three Members of the Board, all of whom shall be Owners of a Lot.

2.1.4. Association Documents. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the other Association Documents.

2.2. Purpose of Association. The purpose of the Association is to use its authority, as given in the Association Documents.

2.2.1. To enforce the protective covenants.

2.2.2. To assess Owners' annual assessments.

2.2.3. To provide upkeep and maintenance to all common ownership lands in the Property and to maintain other facilities on the Property.

2.2.4. To represent all Owners in matters of mutual interest.

2.3. Assessments. The purposes of the assessments shall include, but not be limited to:

2.3.1. Repairs and maintenance of common areas within the Property, except for damage caused by the negligence, misuse or tortuous act of an Owner or the Owner's agents or guests.

2.3.2. Expenses of management of the Association and its activities;

2.3.3. Taxes and special assessments upon the Association's real and personal common property.

2.3.4. Premiums for all insurance which the Association is required or permitted to maintain;

2.3.5. Common services to Owners as approved by the Board;

2.3.6. Wages for Association employees and payments to Association contractors;

2.3.7. Legal and accounting fees for the Association;

2.3.8. Any deficit remaining from a previous Assessment year;

2.3.9. The creation of reasonable contingency reserves for future maintenance expenses and administrative expenses;

2.3.10. Initiating and maintaining appropriate sediment, erosion, and weed controls;

2.3.11. Such other expenses that benefit Owners in common.

2.4. Common Areas.

2.4.1. General Common Areas shall include roads, mailbox kiosk area, subdivision sign(s), subdivision lighting, if any; and cisterns, if any, and any other common property owned by the Association as shown on the Mt. Harvard Valley Development Subdivision Filing No. 1 Plat and the Mt. Harvard Addition Plat (hereinafter referred to collectively as the "Plats"), or as subsequently acquired or installed for the benefit of the Association. Use of General Common Areas shall be governed by the Rules and Regulations adopted by the Board.

2.4.2. Dedication of General Common Areas. All General Common Areas within the Property are intended for the common use and enjoyment by the Owners within the Property. The General Common Areas are dedicated to the above and foregoing uses for the Owners, their families, tenants, employees, guests, and invitees under the terms and conditions contained in the Association Documents.

2.4.3. Management of General Common Areas. The Association shall be responsible for the management and control of the General Common Areas and all improvements thereon, and shall keep them in a good, clean, attractive and pleasant condition and shall landscape, maintain, and repair the same consistent with the purposes and uses of the General Common Areas as set forth in the Association Documents.

2.4.4. Access Easement. In accordance with the Easement Agreement which was recorded at Reception No. 411578 in the records of the Clerk and Recorder of Chaffee County, Colorado, the Association has been granted an easement for the limited purpose of vehicular and pedestrian access, ingress and egress over and across through an existing unpaved roadway; for underground utility lines; and for snow stacking and storage, as necessary (the "Roadway"). Use of the Roadway described in the Easement Agreement is subject to said Easement Agreement. The Association shall be responsible for the improvement, repair, and maintenance of the Roadway and bridge improvements pursuant to the Easement Agreement and for establishing and collecting assessments from Association Members as may be necessary for such improvement, repair, and maintenance.

2.4.5. Roads. In accordance with the Plats, the roads within the Property have been dedicated for the use and benefit of the Owners, and the Owners' guests, invitees, licensees, lessees, contractors, agents and assigns. The roads within the Property shall be maintained by the Association.

3. ARCHITECTURAL CONTROL COMMITTEE

3.1. Architectural Control Committee Membership. The Board shall appoint the Architectural Control Committee ("ACC") to administer the architectural approvals required pursuant to the Declaration, which shall consist of three (3) members. Absent a specific appointment by the Board, the members of the Board shall be the members of the ACC. Members of the ACC may be removed at any time without cause by the Board. From among the members of the ACC, the Board may appoint a Chairman of the ACC who shall coordinate the operation of the ACC.

3.2. Purpose and General Authority. The ACC will review, study and either approve or reject proposed improvements on the Property, all in compliance with this Declaration and as further set forth in the Architectural Guidelines and such policies and procedures as the ACC

may establish to govern its proceedings. No building, outbuilding, fence, driveway, or other improvement shall be constructed, erected or maintained on any Lot, nor shall any construction, repair, reconstruction or addition thereto, or alteration therein be made, until plans and specifications showing the design, dimensions, color, location, materials, landscaping, and such other information relating to such improvements as the Committee may reasonably require shall have been submitted to and approved by the Committee in writing. Notwithstanding the foregoing, improvements that are contained completely within a building may be undertaken without such approval, subject to the Architectural Guidelines. All improvements will be constructed only in accordance with approved plans.

3.3. Committee Discretion. The ACC will exercise its best judgment to see that all improvements conform and harmonize with any existing structures as to external design, garage placement, quality and type of construction, seals, materials, color, location on the Building Site, height, grade and finished ground elevation, and the schemes and aesthetic considerations of the Property. In passing upon plans and specifications, the ACC will endeavor to consider the following criteria:

3.3.1. the suitability of the improvement and materials of which it is to be constructed to the lot or parcel of land upon which it is to be located.

3.3.2. the nature of adjacent and neighboring improvements;

3.3.3. the quality of the materials to be utilized in any proposed improvements;

3.3.4. the affect of any proposed improvement on the outlook of any adjacent or neighboring property;

3.3.5. whether the proposed improvement is so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired;

3.3.6. the proposed location of an improvement in relation to existing and future improvements on adjacent property, taking into account such other monetary or aesthetic considerations the ACC may deem appropriate.

The ACC, 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. Each Owner acknowledges that the persons reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the

improvements involved, but the ACC may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

3.4. Effect of Committee's Failure to Act. In the event the Committee fails to approve or disapprove plans and specifications submitted to it within thirty (30) days of submission of all requested information and a completed application and no suit to enjoin the construction has been commenced by any Owner within the time for approval or disapproval, ACC approval shall not be required and the related covenants shall be determined to have been fully complied with.

3.5. Organization and Operation of Committee.

3.5.1. Term. The term of office of each member of the ACC, will be two (2) years, and continuing until his successor shall have been appointed. Should an ACC member die, retire, or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed.

3.5.2. Operations. The ACC chairman will take charge of and conduct all meetings and will provide for reasonable notice to each member of the ACC prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

3.5.3. Voting. The affirmative vote of a majority of the members of the ACC will govern its actions and be the act of the ACC.

3.5.4. Expert Consultation. The ACC may avail itself of technical and professional advice and consultants as it deems appropriate, and the ACC may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the ACC. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire ACC.

3.6. Expenses. Except as provided in this section below, all expenses of the ACC will be paid by the Association and will constitute a Common Expense.

3.7. Other Requirements. Compliance with the Association's architectural review process is not a substitute for compliance with the Chaffee County building, zoning, and subdivision regulations, and any other applicable state, federal, or local code or regulation. Each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. Further, the establishment of the ACC and procedures for architectural review will not be construed as changing any rights or restrictions upon Owners to

maintain and repair their Lots and improvements as otherwise required under the Association Documents.

3.8. Limitation of Liability. The ACC will use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the ACC, the Association, the Board, nor any individual Board or ACC member will be liable to any person for any official act of the ACC in connection with submitted plans and specifications. Approval by the ACC does not necessarily assure approval by the appropriate governmental board or commission for Chaffee County. Notwithstanding that the ACC has approved plans and specifications, neither the ACC nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval or denial of the construction of the improvements. Neither the Board, the ACC, nor any agent thereof, nor Declarant, nor any of its members, managers, employees, agents, or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the ACC will be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the ACC's decision.

3.9. Enforcement.

3.9.1. Inspection. Any member or authorized consultant of the ACC, or any authorized officer, Director, employee or agent of the Association may enter upon any Lot at any reasonable time after reasonable notice to the Owner, without being deemed guilty of trespass, in order to inspect improvements constructed or under construction on the Lot to determine whether the improvements have been or are being built in compliance with Association Documents and the plans and specifications approved by the ACC.

3.9.2. Completion of Construction. Before any improvements on a Lot may be occupied, the Owner of the Lot will be required to obtain a temporary certificate of compliance issued by the ACC indicating substantial completion of the improvements in accordance with the plans and specifications approved by the ACC, and imposing such conditions for issuance of a final certificate of compliance issued by the ACC as the ACC may determine appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the ACC may require that the Owner deposit with the ACC such sums as may be necessary to complete the construction and landscaping on the Lot by a specified date. If the construction and landscaping is not completed as scheduled, the ACC may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Association for the failure of the Owner to comply with these Covenants, including without limitation the remedies set forth in Section 3.8.3. Landscaping shall be subject to approval by the ACC.

3.9.3. Certificate of Compliance. Upon completion of construction, the ACC will issue an acknowledged certificate of compliance setting forth generally whether, to the best of the ACC's knowledge, the improvements on a particular Lot are in compliance with the terms and conditions of the approved plans.

3.9.4. Fines for Violations. The Board may adopt a schedule of fines for failure to abide by the ACC policies or procedures and the Architectural Guidelines, provided that the imposition of such fines are subject to CCIOA and the Association's Responsible Governance Policies including fines for failure to obtain any required approval from the ACC.

3.9.5. Action for Removal of Nonconforming Improvements. The Association, upon request of the ACC, and after giving the Owner reasonable notice and an opportunity to be heard in accordance with CCIOA and the Association's Responsible Governance Policies (including provisions regarding mediation), may commence a legal action seeking a court order to enjoin an Owner from constructing, reconstructing, refinishing, altering, or maintaining any improvement that is found to be in violation of these Covenants and/or the Architectural Guidelines ("Nonconforming Improvements"), and/or a court order requiring an Owner to remove, correct, or abate construction of any Nonconforming Improvement, and for such other relief as the Association may be entitled to under the law. The prevailing party in any such action shall be entitled to an award of attorney fees and costs in accordance with this Declaration and CCIOA.

3.10. Continuity of Construction. All improvements commenced on the Lot will be prosecuted diligently to completion and will be completed within the time set forth in the Architectural Guidelines, unless an exception is granted in writing by the ACC. If an improvement is commenced and construction is then abandoned (as defined in the Architectural Guidelines), or if construction is not completed within the required time limits, then after notice and opportunity for hearing, the Association may impose a fine to be established by the Board to be charged against the Owner of the Lot until construction is resumed, or the improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board that such abandonment is for circumstances beyond the Owner's control.

4. PROPERTY USE RESTRICTIONS

4.1. General Restriction. The Property will be used only for residential purposes as set forth in this Declaration, and such other uses as are incidental to such residential use, as permitted by the applicable ordinances of Chaffee County and the laws of the State of Colorado and the United States, and as set forth in the Association Documents or other specific recorded covenants affecting all or any part of the Property.

4.2. Residential Use of Lots.

4.2.1. Commercial Activity. No Business, commercial, industrial, trade, professional or other non-residential activity or use of any nature, type, kind or description shall be operated upon or from any Lot or within any improvements constructed or located thereon, except as set forth herein. No business or occupation shall be conducted on the Property that has any outward appearance or effect inconsistent with the residential character of the Property. Any acceptable home occupation must be clearly incidental and secondary to the primary use of the dwelling for residential purposes and shall be carried on wholly within the residence or garage structures. No occupation or activity shall be conducted on any Lot that includes any one or more of the following:

(a) Any use that involves customers, clients, or the general public coming onto the premises for goods or services.

(b) The generation of increased traffic or parking.

(c) Visible evidence of a home occupation outside the building in which the activity is conducted.

(d) Utilization of equipment or material which produces noise, electrical or magnetic interference, heat, smoke, dust, light, odors, or other nuisance detectable by ordinary sensory perception outside the building in which the activity is conducted. No hazardous or dangerous material may be used or stored.

(e) Outside use or storage of heavy equipment, vehicles, or materials of a commercial nature.

(f) Employment of people, other than immediate family members residing in the dwelling unit, to participate in an occupation on the property.

(g) The use of a sign, advertisement or indication in any manner on the property of the home occupation or business.

(h) Use of water for other than residential purposes.

4.2.2. Compliance with Local and State Laws. Home occupations shall additionally be subject to compliance with all other applicable laws and regulations of the State of Colorado, Chaffee County, and other local or regional authorities which impose further requirements than those contained herein. The Association shall also deem any violation of these governmental regulations a violation of this Declaration, subject to remedial action in accordance with CCIOA and the Association's Responsible Governance Policies.

4.2.3. Construction and Sales Activities by Owners. These requirements do not

exclude appropriate contracted operations such as approved construction and maintenance or the sale of a Lot in the normal development and functioning of the Property approved construction or maintenance on individual properties. However, no Owner, real estate agent or contractor shall establish any type of office or business facility, whether in the form of a structure, trailer, vehicle, or other facility, on any Lot.

4.2.4. Violations. In the event that the Board of Directors finds reasonable indication that a violation of this Section 4.2 may exist, it will give written notice to the Owner in accordance with the Association's Responsible Governance Policies. In the event that a violation is found after notice and an opportunity to be heard, the Board may then take further action in accordance with the Responsible Governance Policies. Such action may include the imposition of fines and the suspension of voting rights. If such violation continues, subject to the Association's mediation policies, the Board may take appropriate legal action to abate any such violation, and may recover attorney fees and costs incurred by the Association in remedying the violation and correcting any resulting damage.

4.2.5. Rules and Regulations. The Board shall have authority to adopt additional Rules and Regulations concerning home occupations, which may limit the specific types of home occupations, and may require home occupations to be pre-approved by the Board.

4.3. Leasing and Rental of Lots. The following conditions and requirements are imposed with respect to any use or occupancy by tenants:

4.3.1. Lease. There must be a written lease or rental agreement between the Owner and the tenant (herein the "Lease Agreement") which shall require that the tenant and other occupants comply with all provisions of this Declaration, the Association's Bylaws and all Rules and Regulations. The Board shall have authority to adopt Rules and Regulations concerning the leasing and rental of homes and Lots including the establishment of minimum terms and including the permitting or prohibition of vacation rentals and the establishment of additional requirements for vacation rentals, if permitted. The Owner shall be responsible for ensuring that all tenants receive a copy of key Association rules and regulations. The key rules and regulations for tenants to be aware of shall be developed by the Board and communicated to all property owners.

4.3.2. Assessments. Regardless of whether the Lease Agreement imposes upon the tenant the obligation to pay Regular and other assessments or to pay any other monetary obligations due the Association under this Declaration, the Owner shall remain personally liable with respect to all such assessments and monetary obligations, as well as for any damages caused to the Association by the tenant's breach of any provisions of this Declaration or the Association's Bylaws and Rules.

4.3.3. Limit on Time Sharing and House Exchange. No Owner of any Lot shall offer or sell any interest in such Lot under a “timesharing” or “interval ownership” plan, or any similar plan.

4.4. Construction Standards. There shall be no more than one (1) single family resident dwelling constructed on each Lot. Modular homes and modular components may be permitted only if approved by the ACC in accordance with the Architectural Guidelines. Manufactured housing built to U.S. Department of Housing and Urban Development standards is not permitted. All residences shall contain a minimum of one thousand five hundred (1,500) square feet of enclosed, heated living area, exclusive of garages, carports, porches, decks, and appurtenances. The ACC shall determine from the design of the improvements whether or not an area partially below grade and/or second level shall qualify as enclosed living space of the purpose of determining minimum area requirements. One attached or detached garage shall be permitted. Other structures and outbuildings shall only be allowed if in compliance with all applicable county regulations and with Architectural Standards adopted by the Association.

4.5. Maintenance Guidelines.

4.5.1. Construction materials required for the improvement of a home or Lot should be neatly stored in as unobtrusive a location on the Lot as possible when not in use.

4.5.2. The exterior of a home must be maintained in an attractive manner. No significant blistering or peeling of exterior stained or painted surfaces is permitted. Stucco surfaces shall be maintained.

4.5.3. Any exterior building components (i.e., siding, gutters and downspouts, roof shingles, windows and doors) which are missing, broken or otherwise in a state of disrepair must be repaired within ninety (90) days of sustaining the damage.

4.6. No Partition or Subdivision. No action shall be brought for partition or subdivision of a Lot between or among the Owners thereof. Each Owner expressly waives any and all such rights of partition or subdivision he may have by virtue of ownership of a Lot. This section shall not, however, be interpreted to prevent adjustments to Lot lines agreed to by the Owners of the Lots affected, or the combining of adjoining Lots into a single Lot, subject to Association and Chaffee County approval. Any Lot created by combining two or more Lots will pay assessments according to the number of Lots combined.

4.7. Drilling, Mining Activities. No water drilling (except as noted in Section 4.10 below), oil drilling, mining, prospecting or mineral operation or exploration of any kind shall be permitted on any lot.

4.8. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot or in any improvement thereon, except domestic dogs, cats and household pets; provided that no commercial use shall be made of such pets. Domestic animals kept within the Property as household pets shall not be permitted to run freely within the confines of the Property without the direct attention and supervision of their owner(s) or other responsible party. The sole exception to the livestock restriction set forth in this paragraph 4.8 shall be for the Owner(s) of Lot 20, which shall be permitted to keep no more than four horses for personal, non-commercial purposes, provided that 1) said animal(s) shall be kept in a corral and shelter that is approved by the ACC; 2) all waste from said animal(s) be removed from the Property at least once per month; 3) no waste from said animal(s) shall be permitted to lie in the roadways of the Property; 4) said animal(s) shall not be left unattended and/or unsupervised for periods of time exceeding two (2) days; and 5) the keeping of said animal(s) shall not violate the provisions of this Declaration as it pertains to nuisances within the Property.

4.9. Property Displays. No property displays such as signs, billboards, poster boards or advertising structure of any kind shall be erected or maintained on any lot or structure for any purposes whatsoever, except such signs as have been approved by the Committee as reasonably necessary for identification of residence. Notwithstanding the foregoing, 1) display of the American flag is not prohibited if flag is displayed in the proper manner; 2) display a military service flag during a time of active war or combat is not prohibited; 3) political signs shall be allowed during election season, which shall be defined as forty-five (45) days before through seven (7) days after an election, with such signs being limited to one sign per issue or candidate, or as otherwise permitted by the ordinances and regulations of Chaffee County; and 4) real estate signs are not prohibited.

4.10. Water and Sewage.

4.10.1 Private wells are authorized as a source of water for domestic purposes in accordance with the Property's augmentation plan, water decrees, and any and all state and local laws. The location and construction of wells and septic tanks for each dwelling shall conform to State and County Health Department rules and regulations.

4.10.2 Wells restricted to household use only without irrigation will be allowed within the Property, subject to change in the water augmentation program for the Property providing additional water for domestic and other pursuits, as authorized by competent authority. All Owners that have a well shall have an installed, properly functioning water meter. All Owners will take a reading of their water meter annually. Readings will be reported at the time and in the format proscribed by the Board. The Board may impose fines for Owners who fail to comply with water meter installation and reporting requirements.

4.10.3 Septic systems within the Property shall be constructed and maintained in conformance with the laws, ordinances, and regulations of the County and State Health

Departments. There shall be no evapotranspiration sewage treatment units.

4.11. Trash and Garbage. No trash, ashes or other refuse may be thrown or dumped on any land within the Property. The burning of refuse out of doors shall not be permitted. No incinerators or other devices for burning of refuse outdoors shall be constructed, installed or used by any person, except as approved by the Committee. Each property owner shall provide suitable receptacles for the collection of refuse. Such receptacles shall be screened from public view and protected from disturbance.

4.12. Nuisances. No noxious or offensive activity shall be carried on, nor shall anything be done or permitted which shall constitute a private or public nuisance in or on the Property. Nothing shall be done or permitted on a Lot that interferes with the ability of other Owners to enjoy the peace, quiet, comfort or serenity of their Lots.

4.13. Fences. No fences, walls or other barriers shall be permitted for the purpose of enclosing or demarcating property unless written permission is given by the Committee.

4.14. Landscaping. The Board or the ACC may adopt reasonable Rules, Regulations or Policies concerning landscaping; provided, however, a) zeriscape and drought tolerant plants shall not be prohibited, and b) the removal of trees, shrubs, and other vegetation shall not be prohibited if done for the purpose of fire mitigation in accordance with this section.

4.15. Fire Mitigation. In accordance with any guidelines set forth by the Association, owners are responsible for creating a defensible space around their personal dwellings for fire mitigation.

4.16. Open Fires. Property owners are responsible for complying with applicable fire restrictions promulgated by Chaffee County Fire Protection District and any other relevant governmental authorities.

4.17. Trucks and Recreational Vehicles.

4.17.1. The Board may adopt reasonable Rules and Regulations governing the use and parking of large trucks, recreational vehicles, ATVs, snowmobiles, boats, motorhomes, motorcycles, campers, trailers and similar vehicles.

4.17.2. Notwithstanding the foregoing, the Association shall not prohibit an Owner from parking a motor vehicle on a Lot or road adjacent to a Lot within the Property if the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's employment and all of the following criteria are met:

(a) The vehicle has a gross vehicle weight rating of ten thousand pounds

or less;

(b) The Owner is a bona fide member of a volunteer fire department or is employed by an emergency service provider, as defined in section 29-11-101(1.6), C.R.S.;

(c) The vehicle bears an official emblem or other visible designation of the emergency service provider, or the vehicle is an unmarked vehicle that is used for volunteer emergency response purposes for a bona fide volunteer emergency response agency, and the Owner has so notified the Association in writing; and

(d) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other Owners to use streets and driveways within the common interest community.

4.17.3. Within the Property, recreational motor vehicles shall be operated exclusively by licensed and insured drivers for non-recreational purposes only.

5. OWNERS' OBLIGATIONS FOR MAINTENANCE

5.1. Owner's Responsibility for Lot. Except as provided in Association Documents or by written agreement with the Association, all maintenance of a Lot and the improvements located on it will be the sole responsibility of the Owner of the Lot. Each Owner will maintain his Lot in accordance with the community wide standard of the Property. The Association will, at the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within thirty (30) days after the mailing of such written notice, then the Association may proceed with remedial action in its discretion. The expenses of the maintenance by the Board will be reimbursed within the thirty (30) day period that follows the Board's action.

6. ASSESSMENTS

6.1. Personal Obligation for Assessments. Each Owner of any Lot, by accepting a deed for a Lot, is deemed to covenant to pay to the Association (a) the Annual Assessments imposed by the Board as necessary to fund the maintenance of the Common Areas (as shown on the Plat of the Property) and to generally carry out the functions of the Association; (b) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (c) Default Assessments which may be assessed against a Lot pursuant to Association Documents for the Owner's failure to perform an obligation under Association Documents or because the Association has incurred an expense on behalf of the Owner under Association Documents.

6.2. Annual Assessments.

6.2.1. Calculation of Annual Assessments. The Board shall prepare a budget prior to the beginning of each fiscal year of the Association, and not less than ninety (90) days prior to the commencement of each fiscal year, the Board shall adopt a final budget and shall determine, levy, and assess the Assessments for the following year in accordance with the Colorado Common Interest Ownership Act as now existing or as the same may be amended, modified, or changed. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Areas; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds and common lighting within the Common Areas; routine renovations within the Common Areas; wages of agents and employees; common water and utility charges for the Common Areas; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of improvements within the Common Areas on a periodic basis.

6.2.2. Approval of Budget. Within ninety days after adoption of any proposed budget for the common interest community, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as provided for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and will be deemed approved by the Owners in the absence of a veto at the noticed meeting by a majority of the all of the Owners of Lots within the Property, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners.

6.2.2. Apportionment of Annual Assessments. Each Owner will be responsible for that Owner's share of the Common Expenses, which will be divided equally among the Lots included in the Property under this Declaration. Accordingly, at any given time, an Owner's share of Common Expenses will be determined as a fraction, the numerator of which is the number of Lots owned by the Owner, and the denominator of which is the number of Lots then platted and incorporated in the Property.

6.2.3. Collection. Annual Assessments will be collected as the Board may determine, but until the Board directs otherwise, they will be payable annually within ninety (90) days of mailing of assessment notice.

6.3. Special Assessments.

6.3.1. Determination by Board. The Board may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, or after adopting and submitting a revised budget to the Association as may be required by CCIOA, to make up any shortfall in the current year's budget. Provided, however, that any and all Special Assessments must be approved by the Owners of at least fifty-one percent (51)% of the Lots in the Property.

6.3.2. Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least thirty (30) days prior to the due date.

7. ENFORCEMENT OF ASSESSMENTS

7.1. Nonpayment of Assessments. Any Assessment, whether Regular, Special, or Default Assessment, which is not paid within ninety (90) days of the due date shall be deemed delinquent. In the event that any Assessment becomes delinquent, the Association shall follow the procedure set forth in the Association's Responsible Governance Policies, which shall comply and be adopted in accordance with Colorado Revised Statutes § 38-33.3-209.5, as amended. After providing Notice of Delinquency and an opportunity to cure as provided in the Responsible Governance Policies, if an Owner fails to cure the delinquency, the Board may take any or all of the following actions:

7.1.1. Assess a late charge, to be determined by the Board and set forth in the Association's Responsible Governance Policies, on the amount due and owing per each delinquency.

7.1.2. Assess an interest rate charge from the date of delinquency at a rate determined by the Board and set forth in the Association's Responsible Governance Policies.

7.1.3. Suspend the voting rights of the Owner during any period of delinquency, subject to the requirements of CCIOA and the Association's Responsible Governance Policies.

7.1.4. Bring an action against any Owner personally obligated to pay the delinquent Assessment, subject to the requirements of CCIOA and the Association's Responsible Governance Policies.

7.1.5. File a Statement of Lien with respect to the Lot and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with

the Clerk and Recorder of Chaffee County, Colorado, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of the delinquent Assessments then owing. The Statement of Lien shall be signed and acknowledged by the President, Vice President, or Secretary of the Association, and shall be sent by certified mail, postage prepaid, to the Owner of the Lot at the latest address the Association may have in its records as to the Owner. Such Statement of Lien shall secure all Assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same have been satisfied and released, together with the Association's attorneys' fees and cost incurred in the preparation and recording of such Statement of Lien and any release thereof.

7.1.6. Foreclose the Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Provided, however, no action to foreclose shall be commenced unless the Association has followed the procedures set forth in the Association's Responsible Governance Policies, and unless the balance of the assessments and charges secured by the Lien equals or exceeds six months of common expense assessments based on a periodic budget adopted by the Association. Prior to bringing any such action, the Board must formally resolve, by a recorded vote, the filing of a legal action against the specific unit on an individual basis. In any action for the payment or foreclosure of such Assessment, the Association shall be entitled to recover as part of the action, the interest, costs, and reasonable attorneys' fees with respect to the action.

7.2. Successors' Liability for Assessments. In addition to the personal obligation of each Owner of a Lot to pay all Assessments and the Association's lien on a Lot for such Assessments, all successors to the ownership of a Lot shall be jointly and severally liable with the prior Owner for any and all unpaid Assessments, interest, costs, expenses, and attorneys' fees against such Lot.

7.3. Liens for Unpaid Assessments.

7.3.1. The Association has a statutory lien on a Lot for Assessments levied against the Lot or fines imposed against its Owner from the time the Assessment or fine becomes due. Fees, charges, late charges, fines, and interest charged pursuant to CCIOA and the Association Documents are also enforceable as Assessments under this Section. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for an Assessment is not required.

7.3.2. As provided in CCIOA, a lien under this Section is prior to all other liens and encumbrances on a Lot except: (a) liens and encumbrances recorded before the recordation of the Declaration; (b) a first Security Interest on the Lot recorded before the date on which the

Assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section is also prior to all Security Interests described in subdivision (b) of this subsection to the extent that the Assessments are based on the periodic budget adopted by the Association pursuant to Section 6.2.1 and would have become due in the absence of acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association's lien of an action or a non-judicial foreclosure either to enforce or extinguish the Association's lien. This subsection does not affect the priority of mechanic's or materialmen's liens or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the exemptions provided by Colorado homestead laws, which are specifically waived by an Owner as evidenced by acceptance of a deed to a Lot.

8. INSURANCE AND ASSUMPTION OF RISK

8.1. Authority to Purchase. All insurance policies relating to the Association, will be purchased by the Board or its duly authorized agent. The Board will not be liable for failure to obtain any coverage required by this Section or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs. Notwithstanding the foregoing, if the insurance described in Sections 8.3 and 8.4 below is not reasonably available, or if any policy of such insurance is cancelled or not renewed without a replacement policy having been obtained, the Association promptly will cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and any other parties in interest.

8.2. General Insurance Provisions. All such insurance coverage obtained by the Board will be governed by the following provisions:

8.2.1. The deductible, if any, on any insurance policy purchased by the Board may be treated as a Common Expense payable from Annual Assessments or Special Assessments (allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners), or as an item to be paid from working capital reserves established by the Board.

8.2.2. Any loss covered by the physical damage insurance policy described in Section 8.3 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the common interest community is terminated.

8.3. Physical Damage Insurance on Common Area. The Association will obtain insurance for all insurable common improvements, if any, in an amount equal to the full replacement value (i.e., 100% of the current “replacement cost” exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which will include all building service equipment and the like, common personal property and supplies, and any common fixtures or equipment. In addition, such policy will afford protection against at least the following:

8.3.1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard “all-risk” endorsement covering sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage.

8.3.2. Such other risks as will customarily be covered with respect to projects similar in construction, location, and use to the Property.

8.4. Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of this Section above will be subject to the following provisions and limitations:

8.4.1. The named insured under any such policies will include the Association, as attorney-in-fact for the Owners, or the authorized representative of the Association (including any trustee with whom the Association may enter into any insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the Insurance Trustee), who will have exclusive authority to negotiate losses under such policies.

8.4.2. Each Owner will be an insured person with respect to liability arising out of the Owner’s interest in the Common Areas or membership in the Association.

8.4.3. In no event will the insurance coverage obtained and maintained pursuant to this Section be brought into contribution with insurance purchased by the Owners or their Mortgagees.

8.4.4. The policies will provide that coverage will not be prejudiced by (a) any act or neglect of any Owner (including an Owner’s family, tenants, servants, agents, invitees and guests) when such act or neglect is not within the control of the Association, or (b) any act or neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control.

8.4.5. The policies will contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be cancelled in the middle or at the end of any policy year or

other period of coverage or substantially modified or reduced (including cancellation for nonpayment of premiums) without at least thirty (30) days' prior written notice mailed to the Association and to each Owner, Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known address.

8.4.6. The policies will contain a waiver by the insurer of any right to claim by way of subrogation against the Board, the Association, the Manager, and any Owner and their respective agents, employees, or tenants, and in the case of Owners, members of their households.

8.4.7. The policies described in Sections 8.3 and 8.4 above will provide that any "no other insurance" clause will expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Board will be deemed primary coverage, and any individual Owners' policies will be deemed excess coverage.

8.5. Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance will be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

8.6. Workers' Compensation Insurance. The Association will obtain workmen's compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

8.7. Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it deems appropriate with respect to the Association's responsibilities and duties.

8.8. Insurance Obtained by Owners. Each Owner will have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot and improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right of subrogation against the Association and other Owners, if reasonably available.

8.9. Security and Safety. Each owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the community. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to enhance the level of safety or security

which each person provides for himself and his property. The Association shall not in any way be considered insurers or guarantors of safety or security within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its Board, Officers and Committees, are not insurers or guarantors of security or safety and that each person within the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

8.10. Liability Insurance. The Association will obtain a comprehensive policy of commercial general liability insurance (including libel, slander, false arrest, and invasion of privacy coverage) and property damage insurance with such limits as the Board may determine, insuring each member of the Board, the Association and the respective employees, agents, and all persons acting as agents against any liability to the public or the Owners (and their guests, invitees, tenants, agents, and employees) arising in connection with the ownership, operation, maintenance, or use of the Common Areas within the Property and any other areas under the control of the Association. The Owners will be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Areas. Such comprehensive policy of commercial general liability insurance will include the following:

8.10.1. Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, host liquor liability, employer's liability, and such other risks as will customarily be covered with respect to developments similar to the Property in construction, location, and use.

8.10.2. A cross liability endorsement under which the rights of a named insured under the policy will not be prejudiced with respect to an action against another insured.

8.10.3. A "severability of interest" endorsement which will preclude the insurer from denying liability coverage to an Owner because of the negligent act of the Association or another Owner.

The Board will review the coverage limits at least once every two years, but, generally the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Property, and in no event will such coverage be less than \$1,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence. Reasonable

amounts of “umbrella” liability insurance in excess of the primary limits will also be obtained in an amount not less than \$2,000,000.00.

8.11. Limitation of Liability. Neither the Association nor any officer or member of the Board or Committee member will be liable to any party for any action or failure to act with respect to any matter arising by, through or under Association Documents if the action or failure to act was made in good faith. The Association will indemnify all of the officers, Board members, ACC members, and other Committee members with respect to any act taken in their official capacity to the fullest extent provided by law, and as further provided in the Association Documents.

9. EASEMENTS.

9.1. Easements Generally. Easements and rights-of-way for roads, pedestrian access, electricity, lighting, gas, telephone, cable, television, internet or other data transmission, water, and any other kind of public or quasi-public utilities and/or services are created and reserved as shown on the Plats. No structure, fence, wall, hedge, barrier or other improvements shall be erected or maintained along, on, across or within areas reserved for easements and rights-of-way, except to prevent rocks from falling on the road and to stabilize the hillside, a “jersey wall” or other type of retaining wall may be placed or constructed along the east side of the road right-of-way and/or on adjacent Lots from the river bridge along the road as it goes up into the subdivision. Any placement of a retaining-type wall on any of the Lots past the road right-of-way can only be done with the property owner’s agreement. Easements and rights-of-way are exclusively for access and service to Lots within the Property. Roads, easements and/or rights-of-way shall not be used for service or access to any adjoining or other property for any purpose. Notwithstanding the foregoing, that any Lot adjoining public land may be used by the Owner of such Lot for access to the public land, subject to federal, state and local laws.

9.2. Association’s Easement. The Association, including members of the Board, officers, agents, employees and assigns, is granted an easement upon, across, over, in and under the Property to make emergency repairs and to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Association Documents, including the right to enter upon any Lot for the purpose of performing maintenance to the landscaping or the exterior of improvements to such Lot, subject to the provisions of the Association Documents and CCIOA.

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

10. ENFORCEMENT

10.1. Violation Deemed a Nuisance. Every violation of this Declaration, the Articles and Bylaws of the Association, Architectural Guidelines or any Rules and Regulations adopted by the Board shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof, subject to the provisions of CCIOA, the Association's Responsible Governance Policies, and other Rules and Regulations of the Association.

10.2. Failure to Comply. The failure to comply with this Declaration, the Architectural Guidelines, or any Rules and Regulations adopted by the Board shall be grounds for an action to recover damages, or for injunctive relief or for specific performance, subject to the provisions of CCIOA, the Association's Responsible Governance Policies, and other Rules and Regulations of the Association.

10.3. Who May Enforce. Any action to enforce any violation of any provision of this Declaration may be brought by the Association in name of the Association and on behalf of the Owners, or by the Owner of any Lot.

10.4. No Waiver. The failure of the Board, the Association, or any Owner to enforce or obtain compliance as to any violation, shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

10.5. Attorneys' Fees. If any legal action is commenced or maintained in court, whether in law or in equity, as to the interpretation, enforcement, construction, or the determination of the rights and duties of the parties to this Declaration for the Property or any provision of the Association Documents provided herein, the prevailing party in any such action shall be entitled to reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.

11. DURATION OF THESE COVENANTS AND AMENDMENT

11.1. Amendment. The covenants, conditions, restrictions and liens of the Declaration shall run with and bind the land in perpetuity, unless terminated in accordance with CCIOA, as amended, subject to amendment at any time as set forth herein and in accordance with CCIOA. The Association shall have the authority to record minor and technical amendments to this Declaration and the Plat at any time for the purpose of correcting spelling, grammar, dates, or typographical errors, without the consent of any of the Owners or first mortgagees. Otherwise, this Declaration may be amended, at any time, by an instrument signed by the Owners of more than fifty percent (50%) of all Lots. If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that such Owner has the authority to so consent and that there is no contrary provision in any mortgage or contract between Owner and a third party that will affect the validity of such consent.

11.2. Notice of Amendment. No amendment, revocation, or termination of this Declaration will be effective unless a written notice of the proposed amendment is sent to every Owner reasonably in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto. Notwithstanding, amendments that do not require approval of the Owners may be made in accordance with the provisions of CCIOA and Section 11.1 of this Declaration.

11.3. Effective on Recording. Any modification, amendment or revocation will be immediately effective upon recording in Chaffee County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the President of the Association or other Officer authorized by the Association to execute such amendment.

12. MISCELLANEOUS PROVISIONS

12.1. Severability. Any provision of this Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

12.2. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

Approved by the Association Members and hereby adopted by **Mt. Harvard Valley Development Property Owners Association, Inc.**, a Colorado nonprofit corporation, on behalf of the Members.

(See next page)

Mt. Harvard Valley Development Property Owners Association, Inc.

By: *JR Evans*

Its: President

STATE OF COLORADO)
) ss.
COUNTY OF CHAFFEE)

The foregoing instrument was acknowledged before me this 27th day of August, 2015 by Thomas R. Evans as President of **Mt. Harvard Valley Development Property Owners Association, Inc.**, a Colorado nonprofit corporation, on behalf of said corporation.

Witness my hand and official seal.

Nichol M. McCoy
Notary Public
My commission expires: 7-7-16

