

**THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
MESA ESTATES, GRAND JUNCTION, COLORADO**

**GRAND JUNCTION, COLORADO
MESA COUNTY**

**THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
MESA ESTATES, GRAND JUNCTION, COLORADO**

TABLE OF CONTENTS

ARTICLE	PARAGRAPH	<u>PAGE</u>
	PREAMBLE	1
<u>ONE:</u>	DEFINITIONS	
	1.1 Act	2
	1.2 Agencies	2
	1.3 Allocated Interests	2
	1.4 An Article	2
	1.5 Assessment	2
	1.6 Assessment Lien	2
	1.7 Association	2
	1.8 Board of Directors or Board	3
	1.9 Bylaws	3
	1.10 City	3
	1.11 Common Areas	3
	1.12 Common Expense Assessments	3
	1.13 Common Expense Liability	3
	1.14 Common Expenses	3
	1.15 Cost of Enforcement	3
	1.16 Declarant	3
	1.17 Declaration	3
	1.18 Dwelling Unit or Unit	3
	1.19 Eligible Mortgagee	4
	1.20 First Mortgagee	4
	1.21 First Security Interest	4
	1.22 Guest	4
	1.23 Improvements	4
	1.24 Lot	4
	1.25 Lots Created	4
	1.26 Managing Agent	5
	1.27 Member	5
	1.28 Notice and Hearing	5
	1.29 Owner	5
	1.30 Period of Declarant Control	5
	1.31 Person	5

1.32	Planned Community	5
1.33	Plat	5
1.34	Policies and Procedures	5
1.35	Project Documents	
1.36	Security Interest	5
1.37	Special Assessments	5
<u>TWO:</u>	SCOPE OF THE DECLARATION	
2.1	Property Subject to this Declaration	6
2.2	Owner's Rights Subject to this Declaration	6
2.3	Number/Boundaries of Lots	6
<u>THREE:</u>	THE COMMON AREAS	
3.1	Common Area Dedication	6
3.2	Duty to Manage and for Care for the Common Areas	6
3.3	Owner's Rights in the Common Areas	6
3.4	Delegation of Use	7
<u>FOUR:</u>	THE ASSOCIATION	
4.1	Association Name	7
4.2	Purposes and Powers	7
4.3	Board of Directors	8
4.4	Articles and Bylaws	9
4.5	Membership	9
4.6	Voting Rights	9
4.7	Budget	10
4.8	Association Agreements	10
4.9	Indemnification	10
4.10	Certain Rights and Obligations of the Association	11
4.11	Conflicts of Interest	11
	<u>See Policies and Procedures for more Information.</u>	
<u>FIVE:</u>	ASSESSMENTS	
5.1	Obligation	12
5.2	Purpose of the Assessments	12
5.3	Date of Commencement of Common Expense Assessments	12
5.4	Levy of Assessments	12
5.5	Due Date	13
5.6	Remedies for Nonpayment of Assessments	
	<u>See Policies and Procedures for more information.</u>	14

5.7	The Assessment Lien	14
5.8	Surplus Funds	15
5.9	Working Capital Fund	15
5.10	Certificate of Status of Assessments	16
5.11	No Offsets	16
5.12	Covenant and Rule Enforcement	16
	<u>See Policies and Procedures for more information.</u>	

SIX: ARCHITECTURAL APPROVAL / DESIGN REVIEW

6.1	Approval of Improvements Required	16
6.2	Criteria for Approval	17
6.3	Decision of the Board	17
6.4	Appeal to the Board of Directors	17
	<u>See Policies & Procedures for more information.</u>	

SEVEN: LAND USE AND OTHER RESTRICTIONS

7.1	Limitations and Restrictions	17
7.2	Land Use, Building Type and Building Envelopes	17
7.3	Building Locations and Height Restrictions & Lot Coverage	18
7.4	Restrictions on Garbage and Trash	19
7.5	Nuisances	19
7.6	No Annoying Lights, Sounds or Odors	19
7.7	No Hazardous Activities	19
7.8	No Unsightliness	20
7.9	Utilities	20
7.10	Flag/Sign Banner Policy	
	<u>See Policies & Procedures for more information.</u>	20
7.11	Compliance with Insurance Requirements	20
7.12	Compliance with Laws	20
7.13	Restoration in the Event of Damage or Destruction	20
7.14	Household Pets	21
	<u>See Policies & Procedures for more information.</u>	
7.15	Vehicular Parking, Storage, and Maintenance	21
7.16	Owner Caused Damages	21
7.17	Antennas/Satellite Dishes	21
7.18	Lease of a Dwelling Unit	21
	<u>See Policies & Procedures for more information.</u>	
7.19	Rules	21
7.20	Waiver of Summary Abatement	22
7.21	Snow Removal	22
7.22	Maintenance of Lots, Buildings, Improvements and Common Elements	22

7.23	Home Occupations and Offensive Activities	24
7.24	Fences	24
7.25	Irrigation	25
7.26	Parking	25
<u>EIGHT:</u>	EASEMENTS	
8.1	Utility Easements	26
8.2	Easements for the Board of Directors	26
8.3	Emergency Easements	26
8.4	Easements for Encroachments	26
8.5	Easements Deemed Appurtenant	26
<u>NINE:</u>	INSURANCE/CONDEMNATION	
9.1	Authority to Purchase/ General Requirements	26
9.2	Hazard Insurance	27
9.3	Liability Insurance	27
9.4	Fidelity Insurance	28
9.5	Additional Insurance	29
9.6	Payment of Insurance Premiums	29
9.7	Separate Insurance	29
9.8	Condemnation	30
<u>TEN:</u>	RESTORATION UPON DAMAGE OR DESTRUCTION	
10.1	Duty to Restore	30
10.2	Plans / Cost	30
10.3	Reconstruction of Less than the Entire Planned Community	30
<u>ELEVEN:</u>	MAINTENANCE, REPAIR AND RECONSTRUCTION	
11.1	Maintenance of the Common Areas	31
11.2	Maintenance of the Lots and Dwelling Units	31
11.3	Maintenance of Drainage Pattern	31
11.4	Board of Directors Access	32
<u>TWELVE:</u>	FIRST MORTGAGEE PROVISIONS	
12.1	Notices of Action	32
12.2	Amendment to Documents/Special Approvals	32
12.3	Special FHLMC Provisions	34
12.4	Implied Approval	34

12.5	Books and Records	34
	<u>See Policies and Procedures for more information.</u>	

THIRTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION

13.1	Duration	35
13.2	Amendments by Owners	35
13.3	Consent of Eligible Mortgagees	35
13.4	Expenses	35
13.5	Termination	36

FOURTEEN: GENERAL PROVISIONS

14.1	Right of Action	36
14.2	Successors and Assigns	36
14.3	Severability	36
14.4	No Waiver	36
14.5	Registration by Owner of Mailing Address	36
14.6	Conflict	36
14.7	Merger	37
14.8	Captions Arbitration and/or Attorney's Fees	37
14.9	Numbers and Genders	37
14.10	Dues	37
	Signature Blocks	38

EXHIBIT A		39
------------------	--	----

EXHIBITB		40
-----------------	--	----

**THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
MESA ESTATES, GRAND JUNCTION**

THIS DECLARATION is made on the date hereinafter set forth, by the Owners of the Mesa Estates Homeowners Association.

WHEREAS, the Association Owners are owners of certain real property situated in Grand Junction, Colorado, as more particularly described on Exhibits A and B attached hereto and incorporated herein by reference; and

NOW THEREFORE, the Association Owners hereby submit the real property described in Exhibits A and B, together with all easements, rights, and appurtenances thereto and improvements thereon to the provisions of the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et seq., as it may be amended from time to time. In the event the said Act is repealed, the Act as it exists on the date this Declaration is recorded shall remain applicable.

The Association Owners hereby declares that all of the said real property described in Exhibits A and B shall be held or sold, and conveyed subject to the following covenants, conditions and obligations, all of which are declared and agreed to be for the protection of the value of the said real property, and for the benefit of any persons having any right, title or interest in the said real property and which shall be deemed to run with the land and shall be a burden and a benefit to any persons acquiring such interest, their grantees, heirs, legal representatives, successors and assignees.

ARTICLE ONE: DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

- 1.1 **ACT** means the Colorado Common Interest Ownership Act, C.R.S. 38- 33.3-101, et seq., as it may be amended from time to time.
- 1.2 **AGENCIES** means and collectively refers to the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD/FHA), the U.S. Department of Veterans Affairs (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.
- 1.3 **ALLOCATED INTERESTS** means the votes in the Association and the Assessment Liability, which are allocated to each of the Lots in the Planned Community. The formulas used to establish the Allocated Interests are as follows:
 - (a) Votes: Each Lot in the Planned Community has one vote.
 - (b) Common Expense Assessment Liability. The Common Expense Assessment is levied upon all Lots based on a fraction, the numerator of which is one and the denominator of which is the total number of Lots then within the Planned Community.
- 1.4 An **ARTICLE** means the Articles of Incorporation of the Association.
- 1.5 **ASSESSMENTS** mean the Common Expense Assessments, Insurance Assessments, Special Assessments, Individual Assessments, and Fines levied pursuant to this Declaration.
- 1.6 **ASSESSMENT LIEN** means the statutory lien on a Lot for any assessment levied against that Lot together with all Cost of Enforcement as herein defined. All Costs of Enforcement are enforceable as Assessments.

If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.
- 1.7 **ASSOCIATION** means the Mesa Estates Homeowners Association, a Colorado Corporation, not for profit, organized pursuant to 38-33.3-301 of the Act, its successors and assignees, the Articles of Incorporation and Bylaws of which, as herein defined, along with this Declaration, shall govern the administration of the Planned Community, the Members of which shall be all the Owners of the Lots within the Planned Community.

1.8 **BOARD OF DIRECTORS** or **BOARD** means the Board of Directors of The Association duly elected pursuant to the Bylaws of the Association. The Board of Directors is the governing body of the Association and shall act on behalf of the Mesa Estates Association.

The term Board of Directors as used herein is synonymous with the term Executive Board as the latter term is used in the Act.

1.9 **BYLAWS** means the Bylaws that are adopted by the Board of Directors for the regulation and management of the Association including any amendments made.

1.10 **CITY** means the City of Grand Junction, CO.

1.11 **COMMON AREAS** means any real property (including all improvements thereon) owned by the Association other than a Lot or public street, all of which is held for the common use and enjoyment of the Owners, the descriptions of which are more fully described in Exhibit B attached hereto.

1.12 **COMMON EXPENSE ASSESSMENTS** means all those assessments defined in Paragraph 5.2 hereof.

1.13 **COMMON EXPENSE LIABILITY** means the liability for Common Expenses allocated to each Lot, which is determined in accordance with that Lot's Allocated Interests as set forth in Paragraph 1.3 hereof.

1.14 **COMMON EXPENSES** means expenditures made by or liabilities incurred by or on behalf of the Association, together with allocations to reserves.

1.15 **COST OF ENFORCEMENT** means all fees, late charges, interest, expenses, including receiver's fees, and reasonable attorneys' fees and costs incurred by the Association (a) in connection with the collection of the Assessments and Fines, or (b) in connection with the enforcement of the terms, conditions, and obligations of the Project Documents.

1.16 **DECLARANT** means The Mesa Estates Homeowners Association, a Colorado Corporation, or its successors as defined in 38-33.3-103 (12) of the Act.

1.17 **DECLARATION** means this Declaration, covenants, and restrictions for Mesa Estates, which may be amended from time to time, also including but not limited to plats and maps.

1.18 **DWELLING UNIT** means the residence constructed on each Lot within the Planned Community and any replacement thereof, including the patio, fence, basement, and garage, if applicable. Dwelling Unit shall include the Lot upon which such Dwelling Unit is constructed.

- 1.19 **ELIGIBLE MORTGAGEE** means a holder, insurer or guarantor of a First Security Interest who has delivered a written request to the Association containing its name, address, the legal description and the address of the Lot encumbered by its First Security Interest, requesting that the Association notify them on any proposed action requiring the consent of the specified percentage of Eligible Mortgagees.
- 1.20 **FIRST MORTGAGEE** means any Person which owns, holds, insures or is a guarantor of a Security Interest as herein defined, which is a First Security Interest encumbering a Lot within the Planned Community.
- 1.21 **FIRST SECURITY INTEREST** means a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).
- 1.22 **GUEST** means any person who has been invited to the Subdivision by an Owner or resident, including for example, but not limited to, family members, relatives and friends, for a period of not to exceed 30 days.
- 1.23 **IMPROVEMENT** means exterior improvements, structures and any appurtenances thereto or components thereof of every type or kind; the demolition or destruction, by voluntary action, of any building, structure or other improvements, including:
- (a) The grading, excavation, filling, or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern.
 - (b) All landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, private drives, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, wind brakes, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, sign, cooling, heating and water softening equipment; and
 - (c) Any change, alteration, modification, expansion, or addition to any previously approved Improvement, including any change of exterior appearance, finish material, color, or texture.
- 1.24 **LOT** means each platted Lot shown upon the Plat of the Planned Community, which is subject to this Declaration, except for any outlets and any public streets, together with all appurtenances, and improvements, now, or hereafter located thereon.
- 1.25 **LOTS CREATED** means one hundred and eight (108) total Lots that compose the Association.

- 1.26 **MANAGING AGENT** means any one or more persons employed by the Association who is engaged to perform any of the duties, powers, or functions of the Association.
- 1.27 **MEMBER** means each Owner, as defined in Paragraph 1.29 hereof.
- 1.28 **NOTICE AND HEARING** means a written notice and an opportunity for a hearing before the Board of Directors in the manner provided in the Bylaws.
- 1.29 **OWNER** means the recorded Owner of the fee simple title to any Lot which is a part of the Planned Community, whether one or more persons or entities.
- 1.30 **PERIOD OF DECLARANT CONTROL** was terminated on January 1, 2018.
- 1.31 **PERSON** means a natural person, a corporation, a partnership, and association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.
- 1.32 **PLANNED COMMUNITY** means such real property and the improvements located thereon as more fully described on Exhibits A and B attached hereto.
- 1.33 **PLAT** means the final plat recorded in the records of the Clerk and Recorder of Mesa County, Colorado
- 1.34 **POLICIES AND PROCEDURES** means the Policies and Procedures as referenced herein, adopted by the Board of Directors for the regulation and management of the Planned Community as amended from time to time.
- 1.35 **PROJECT DOCUMENTS** means this Declaration and the Plat recorded and filed pursuant to the provisions of the Act, the Articles of Incorporation and Bylaws for the Association, the Design Review Guidelines, and the Rules and Regulations, if any, as they may be amended from time to time. Any exhibit, schedule or certification accompanying a Project Document is a part of that Document.
- 1.36 **SECURITY INTEREST** means an interest in real estate or personal property created by contract or conveyance, which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.
- 1.37 **SPECIAL ASSESSMENTS** means those Assessments defined in Paragraph 5.4 hereof.

ARTICLE TWO: SCOPE OF THE DECLARATION

- 2.1 Property Subject to this Declaration. Each Owner of a Lot in the Planned Community shall be entitled to and required to be a Member of the Association, subject to the Voting Rights contained in Section 4.6.
- 2.2 Owner's Rights Subject to this Declaration. Each Owner shall own their Lot in fee simple and shall have full and complete dominion thereof, subject to the provisions of this Declaration.
- 2.3 Identification/Boundaries of Lots. The identification number and boundaries of each Lot are shown on the Plat of the Planned Community.

ARTICLE THREE: THE COMMON AREAS

- 3.1 Common Area Dedication. The Plat of the Planned Community, in the records of the County Clerk and Recorder of Mesa County, Colorado, has designated certain areas of the Planned Community as Common Areas, more fully described on Exhibit B attached hereto.
- 3.2 Duty to Manage and Care for the Common Areas. The Association shall manage, operate, care for, insure, maintain, repair, and reconstruct all of the Common Areas and improvements located thereon and keep the same in a safe, attractive and desirable condition for the use and enjoyment for all of the Owners.
- 3.3. Owners Right in the Common Areas. Every Owner and such Owner's Guests shall have the right and easement of use and enjoyment in, and to, the Common Areas, which shall be appurtenant to, and shall pass with the title of the Lot to such Owner, subject to the following rights of the Board of Directors:
 - (a) To borrow money to improve the Common Areas and to mortgage said Common Areas as security for any such loan; provided, however, that the Association may not subject any portion of the Common Areas to which at least (67%) sixty-seven percent of the votes in the Association are allocated set forth in 38-33.3-312 of the Act.
 - (b) To convey or dedicate all or any part of the Common Areas for such purposes and subject to such conditions as may be agreed to by the Owners to which at least (67%) sixty-seven percent of the votes in the Association are allocated, set forth in 38-33.3-312 of the Act.

The granting of permits, licenses and easements shall not be deemed a conveyance or encumbrance within the meaning of this Paragraph as more fully set forth in 38-33.3-312 of the Act.

- (c) To promulgate and adopt Rules and Regulations with which each Owner and their Guests shall strictly comply.
- (d) To suspend the voting rights of an Owner for any period during which an Assessment remains unpaid and, for a period not to exceed sixty (60) days, and/or until cured, for any infraction of the Bylaws or Rules and Regulations.
- (e) To take such steps as are reasonably necessary to protect the Common Areas against foreclosure.
- (f) To enter, make, perform, or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of Common Areas by Owners and Guests for any purpose the Board may deem to be useful, beneficial or otherwise appropriate.
- (g) To close or limit the use of the Common Areas temporarily while maintaining, repairing, and making replacements in the Common Areas, or permanently if approved by Owners to which at least (67%) sixty-seven percent of the votes in the Association are allocated.
- (h) To make such use of the Common Areas as may be necessary or appropriate for the performance of the duties and functions, which it is obligated or permitted to perform under this Declaration.
- (i) The rights granted to the Board of Directors in Paragraph 4.10 hereof.

3.4 Delegation of Use. Any Owner may delegate their right of enjoyment to the Common Areas and facilities to their Guests.

ARTICLE FOUR: THE ASSOCIATION

- 4.1 Association Name. The name of the Association is Mesa Estates Homeowners Association. It is a Planned Community.
- 4.2 Purpose and Powers. The Association through its Board of Directors shall perform functions and manage the Planned Community as provided in this Declaration to further the interests of the residents of the Planned Community and Members of the Association. Any purchaser of a Lot shall be deemed to have assented to, ratified, and approved such designations and management. The Association shall have all the power necessary or desirable to effectuate such purposes.

The Board of Directors shall have all the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Association.

- 4.3 **Board of Directors.** The affairs of the Association shall be managed by a Board of Directors which may by resolution delegate authority to a Managing Agent for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of the final responsibility.

The Board of Directors may act in all instances on behalf of the Association, except as provided in the Declaration, the Bylaws, Rules and Regulations and/or Policies and Procedures, in addition, but not limited to, any and all Association governing documents. The Board of Directors shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, including the following powers and duties:

- (a) Adopt and amend Bylaws and Policies and Procedures.
- (b) Adopt proposed budgets for revenues, expenditures, and reserves.
- (c) Collect Assessments from Owners.
- (d) Hire and discharge managing agents.
- (e) Hire and discharge employees, independent contractors, and agents other than managing agents.
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Governing Documents in the Association's name, on behalf of the Association or on behalf of two or more Owners in matters affecting the Common Interest Community.
- (g) Make contracts and incur liabilities.
- (h) Regulate the use, maintenance, repair, replacement, and modification of all property within the Community.
- (i) Cause additional improvements to be made as a part of the Common Elements.
- (j) Acquire, hold, encumber, and convey, in the Association's name, any right, title or interest to real estate or personal property, but Common Elements may be conveyed subject to a security interest only pursuant to C.R.S. 38-33.3-312.
- (k) Grant easements for any period of time, including permanent easements, and grant leases, licenses and concessions, through or over the Common Elements.

- (l) Impose and receive, on behalf of the Association, a payment, fee, or charge for services provided to Owners and for the use, rental, or operation of the Common Elements.
- (m) Establish from time to time, and thereafter impose, charges for late payment of Assessments or any other sums due and, after notice and hearing, levy a reasonable fine for a violation of the CC&R's, Bylaws or the Policies and Procedures.
- (n) Appoint any committee as required or permitted by the Declaration or the Bylaws or as may be deemed appropriate by the Board of Directors to carry out its purposes and duties, and by resolution, establish committees, permanent and standing, to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee.
- (o) By resolution, set forth policies and procedures which shall be considered incorporated herein by reference as though set forth in full, and which provide for corporate actions and powers which are different than those set forth herein, but which are permitted by herein to be "otherwise set forth in the Bylaws." Such resolutions shall be given the same force and effect as if specifically enumerated herein.
- (p) Exercise any other power necessary and proper for the governance and operation of the Association.
- (q) Exercise any other power that may be exercised in this state by a legal entity of the same type as the Association.

4.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association. In the event either the Articles or Bylaws conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

4.5 Membership. Members of the Association shall be every record owner of a Lot subject to this Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualifications for such membership. Where more than one person holds interest in any Lot, all such Persons shall be Members.

4.6 Voting Rights. The Association shall have one (1) class of voting membership. Owners shall be entitled to one (1) vote for each Lot owned.

The vote for such Lot, the ownership of which is held by more than one (1) Owner may be exercised by any one of them, unless an objection or protest by any other holder of an interest of the Lot is made prior to the completion of the vote, in which case the vote for such Lot shall not be exercised, as the persons holding such interest shall determine between themselves. Should the joint owners of a Lot be unable, within a reasonable time, to agree upon how they will vote on any issue, they shall be passed over and their right to vote on such issue shall be lost.

- 4.7 Budget. The Board of Directors shall cause to be prepared, at least sixty (60) days prior to the commencement of the Annual Meeting, a Budget for such calendar year. Within thirty (30) days after the adoption of any Budget by the Board, the Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the Budget not less than fourteen (14) days nor more than sixty (60) days prior to the Annual Meeting.

Unless at that meeting Owners to which at least sixty-seven (67%) percent of the votes in the Association are allocated reject the Budget, the Budget shall be deemed ratified whether or not a quorum is present. In the event the Budget is rejected, the Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget adopted by the Board of Directors.

If the Board of Directors deems it necessary or advisable to amend a Budget that has been ratified by the Owners, the Board may adopt a proposed amendment to the Budget, and deliver a summary of the proposed amendment to all Owners and set a date less than fourteen (14) days, nor more than sixty (60) days, after the delivery of the summary of the proposed amendment.

- 4.8 Association Agreements. Any agreement for professional management of Planned Community may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days written notice.

The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after such conversation upon not more than thirty (30) days' notice to the other party thereto.

- 4.9 Indemnification. There shall be no personal liability, either direct or indirect, of any director or officer of the Association to the Association or its members, for monetary damages as a director or officer to the fullest extent permitted by law. This provision is effective on the date of incorporation of the Association and shall not eliminate or limit the liability of a director or officer to the Association or to its members for monetary damages for any act or omission occurring prior to such date. This provision does not,

however, limit liability for willful or wanton acts taken by a director or officer which causes monetary damage to the Association.

However, this provision shall not limit the rights of directors or officers of the Association for indemnification or other assistance from the Association, and the Association shall provide indemnification either directly or indirectly through insurance policies or otherwise, to the fullest extent permitted by law, for any person who serves as a director, officer, employee or agent of the Association against liabilities and expenses such person incurs in connection with holding such position.

Also, this provision shall not restrict or otherwise diminish the provisions of section 13-21-116(2)(b), Colorado Revised Statutes, as amended, or any other law that would limit or eliminate liabilities. Any repeal or modification of the forgoing provisions of this Article by the members, or any repeal or modification of the provisions of the Colorado Revised Nonprofit Corporation Act which permits the limitation or elimination of liability of directors or officers, shall not adversely affect any elimination of liability, or any right or protection, for any breach, act, omission, or transaction that occurred prior to the time of such repeal or modification.

4.10 Certain Rights and Obligations of the Association.

- (a) Contracts, Easements, and Other Agreements. The Board of Directors shall have the right to enter, grant, perform, enforce, cancel and vacate contracts, easements, licenses, leases, agreements, and/or rights-of-way, for the use by Owners, their Guests, and other persons, concerning the Common Areas.

Any of such contracts, licenses, leases, agreements, easements and/or rights of way, shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors, without the necessity of the consent thereto, or joined therein, by the Owners or First Mortgagees.

- (b) Other Association Functions. The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Members on a self-supporting, Special Assessment or Common Expense Assessment basis.
- (c) Implied Rights. The Board of Directors shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights, or privileges

4.11 Conflicts of Interest.

See Policies and Procedures for more information.

ARTICLE FIVE: ASSESSMENTS

- 5.1 Obligation. Each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: Common Expense Assessments, Special Assessments, Fines, Individual Assessments, and Costs of Enforcement, which shall be a continuing lien upon the Lot against which each such Assessment is levied.

The obligation for such payments by each Owner to the Association is an independent personal covenant with all amounts due, from time to time, payable in full when due without notice or demand and without setoff or deduction. All Owners of each Lot shall be jointly and personally liable to the Association for the payment of all Assessments and Costs of Enforcement.

The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

- 5.2 Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents of the Planned Community and the Members of the Association; providing for the improvement, repair maintenance and reconstruction of the Common Areas; and satisfying any other purposes reasonable, necessary or incidental to such purposes.

Such assessments shall include the establishment and maintenance of a reserve fund for the improvement, maintenance, reconstruction, and repair of the Common Areas which the Association has an ongoing duty to replace, repair and/or maintain on a periodic basis.

- 5.3 Date of Commencement of the Assessments. The Common Expense Assessment began on the first (1st) day of the month following the effective date of the first (1st) Budget of the Association in 2008.

- 5.4 Levy of Assessments.

(a) Common Expense Assessments. Common Expense Assessments shall be levied on all Lots based upon a budget of the Association's cash requirements. The Common Expense Assessment shall be prorated among the Lots in accordance with that Lot's Common Expense Assessment Liability as set forth in Paragraph 1.3 hereof and shall commence in accordance with Paragraph 5.3 hereof.

(b) Individual Assessments. The Board of Directors shall have the right to individually levy upon any Owner or Owners amounts as provided for by this Declaration, to include but not be limited to, charges levied for damage caused by an individual owner, charges for HOA maintenance on an individual Owner's property, removal of unsightly materials etc. No Individual Assessment shall be levied until the

Owner or Owners to be charged, have been given a Notice of Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Costs of Enforcement.

- (c) Fines. The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles and the Rules and Regulations of the Association. No such Fine shall be levied until the Owner or Owners to be charged, have been given a Notice of Hearing as provided for in the Bylaws of the Association. Schedule of fine to be determined by the Board of Directors and provided to the Owner or Owners of said Lot, after the Owner's Board Meeting. Fines may be levied in a reasonable amount as determined from time to time by the Board of Directors in its discretion and uniformly applied. Fines shall be collected as part of the Costs of Enforcement.
- (d) Special Assessments. In addition to the other Assessments authorized herein, the Board of Directors, subject to the requirements set forth below, may levy a Special Assessment for the purpose of defraying, in whole or in part, any unexpected expense to include but not be limited to, the cost of any construction, reconstruction, improvement, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property relating thereto, or for the funding of any operating deficit incurred by the Association.

Any such Special Assessment shall be levied against each Lot in accordance with that Lot's Common Expense Liability determined in accordance with Paragraph 1.3 hereof.

The omission or failure of the Board of Directors to levy Assessments for any period shall not be deemed a waiver, modification, or a release of the Owners from their obligation to pay.

No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Areas or the abandonment of their Lot.

- e). An insurance Assessment shall be levied on all Lots upon the amount of the annual increase premium needed to provide the insurance required by Paragraphs 9.2 and 9.3 thereof. The insurance Assessments shall be prorated amount the Lots in accordance with the Lot's Common Expense Assessment Liability as set forth in Paragraph 1.3 hereof and shall commence in accordance with Paragraph 5.3 thereof.

5.5 Due Date. Fines and Individual Assessments shall be due and payable as established by the Board of Directors in accordance with the Association's Dues Collection Policy.

All other Assessments shall be levied on an annual basis and shall be due and payable in installments, in advance, in such frequency as the Board of Directors in accordance with the Association's Dues Collection Policy determines in its discretion from time to time.

Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount, and the date such Assessment is due in accordance with the Association's Dues Collection Policy.

5.6 Remedies for Nonpayment of Assessments.

See Policies & Procedures for more information.

5.7 The Assessment Lien. The Association is hereby granted an Assessment Lien against each Lot for any Assessment levied by the Board of Directors and for Costs of Enforcement levied against such Lot Owners when the Lot Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

The Association's lien on a Lot for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) Real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and
- (b) The Act does not affect the priority of mechanics or materialmen's liens.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. However, the Board of Directors may prepare, and record in the county in which the Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

Any First Mortgagee who acquires title to a Lot by virtue of foreclosing a first mortgage or by virtue of a deed in lieu of foreclosure will take the Lot free of any claims for unpaid Assessments and Costs of Enforcement against that Lot which have accrued prior to the time such First Mortgagee acquires title to the Lot, except to the extent the Act grants lien priority for Assessments of the Association.

Sale or transfer of any Lot shall not affect the lien for said Assessments except that sale or transfer of any Lot pursuant to foreclosure by any First Mortgagee, or any

proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Assessment Lien only to the extent provided by Colorado law. No such sale, deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot Owner from continuing liability for any Assessment thereafter becoming due, nor from the lien thereof.

In any action by an Association to collect Assessments and Costs of Enforcement or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Common Expense Assessments and Costs of Enforcement. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust.

The Assessment Lien hereby given shall also be a lien upon all the rents and profits of the encumbered Lot; provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

The Association's lien on a Lot for Assessments and Costs of Enforcement shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

- 5.8 Surplus Funds. "Surplus funds" does not include amounts that are held in reserve for the purpose of having at least one year's budgeted expenses as well as amounts up to the cost of ongoing maintenance of the common elements, as provided for in the budget.

The Board of Directors will review, after the budget has been approved and payment of common expenses has been made, and if there is a surplus of funds a payment shall be credited in portion to the owner's ledger.

The amount of reserve shall be increased each year according to that year's Cost of Living Index.

- 5.9 Working Capital Fund. At the closing of a sale of a home by an Owner, a non-refundable contribution shall be made by the new Owner to the Working Capital Fund of the

Association an amount to be determined by the Board of Directors. Said contribution shall be collected and transferred to the Association at the time of closing of the sale and deposited in the Reserve Account for the benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property, or services.

Such contribution to the working capital fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the transfer of their Lot, an owner shall be entitled to a credit from their transferee (but not from the Association) for the aforesaid contribution to the Working Capital Fund.

- 5.10 Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's First Mortgagee upon written request delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the number of unpaid Assessments currently levied against such Owner's Lot.

The statement shall be furnished within fourteen (14) business days after receipt or notification by the Title Company of the request and is binding upon the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or First Mortgagee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Lot for unpaid Assessments which were due as of the date of the request.

- 5.11 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

- 5.12 Covenant and Rule Enforcement:
See Policies & Procedures for more information.

ARTICLE SIX: ARCHITECTURAL APPROVAL AND DESIGN REVIEW

Each Improvement must be approved in accordance with the following:

- 6.1 Approval of Improvements Required. Any improvements to an Owner's property must be approved in advance by the Board of Directors. Owners must submit a Home Improvement/Alteration Review Application to the Board by regular mail or by email. The approval by the Board shall be required prior to the commencement of the construction of Improvements as defined in Paragraph 1.23 hereof on any portion of the Planned Community.

The Board of Directors or an appointed committee must approve all landscaping.

- 6.2 Criteria for Approval. The Board shall have the right to disapprove any proposed Improvement, which is not in accordance with the Association's Design Guidelines or is not suitable or desirable in the Board's opinion for aesthetic or other reasons.

In assessing the Improvement request, the Board shall have the right to take into consideration the suitability of the proposed Improvement and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the Improvement as planned on the outlook from the adjacent or neighboring property, and if it is in accordance with all of the provisions of this Declaration.

The Board may disapprove the proposed Improvement if the plans and specifications submitted are incomplete, or in the event the Board deems the materials submitted be contrary to the spirit or intent of the Declaration. The Board may condition its approval of any proposed Improvement upon the making of such changes thereon as the Board may deem appropriate.

- 6.3 Decision of the Board. The decision of the Board shall be made after receipt of all materials required by the Board unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed Improvement, the reasons therefore shall be stated. The decision of the Board shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Board.

A majority vote of the Board shall constitute the action of the Board.

The Board shall not be required to keep the materials submitted beyond one (1) year from date of approval.

- 6.4 Appeal to the Board of Directors:
See Policies & Procedures for more information.

ARTICLE SEVEN: LAND USE AND OTHER RESTRICTIONS

- 7.1 Limitations and Restrictions. All Lots and Common Areas shall be held, used and enjoyed subject to the following limitations and restrictions as set forth in the Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Committee of such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.
- 7.2 Land Use. Each Owner shall be entitled to the exclusive ownership and possession of their Lot. No Lot within the Planned Community shall be used for any purpose other than

single-family residential purposes as generally defined or for a home occupation so long as such occupation is allowed by the local Zoning Codes, employs no outside employees, and has no signage or parking requirements. Home-run businesses will be permitted as long as the following restrictions are adhered to, in addition to any other requirements of ARTICLE SEVEN, are followed:

- a) No home occupation or business should use more than fifteen percent (15%) of the total floor area of the home.
- b) The occupant of said residence must conduct the home businesses.
- c) No retail sales will be permitted in the residence or within public view.
- d) There can be no evidence of a home occupation or business from the outside of the residence.
- e) Uses described as "day care" or "childcare" facilities (licensed or unlicensed) shall fall under state rules and regulations and/or until otherwise, SB 22-226.
- f) No Improvement as herein defined, shall be erected on any part of the Planned Community which is not compatible with the character, quality and amenities associated with the neighborhood and approved in writing by the Committee in accordance with ARTICLE SIX hereof.
- g) No Lot may be divided or subdivided, or a fractional portion thereof, sold or conveyed so as to be held in divided ownership. The density of the Planned Community cannot exceed the sum of the original density of the individual 108 Lots approved under the subdivision plat.
- (h) No customers or clients that might come and go, utilizes the street for parking, and/or disrupt the residents of the community in any way are not allowed. Buying and selling that includes in-person clients/customers is strictly prohibited.

7.3 Building Locations, Height Restrictions and Lot Coverage. The Board of Directors shall approve the location, height and square footage of any Improvement placed on any Lot. No Improvement shall exceed the height as set forth in the City's Building Code.

The style, design, material and color of fencing must be consistent with designs, approved by the Board and meet with local code requirements.

Any such approvals must be obtained before commencement of any construction or alteration in accordance with ARTICLE SIX hereof.

Any necessary building permits will be obtained prior to commencement of any construction or alteration in accordance with ARTICLE SIX hereof.

- 7.4 Restrictions on Garbage and Trash. Each Owner shall keep all of their trash, garbage or other refuse in a container in their garage. Each Owner shall provide for a regular removal of garbage and agrees to use the trash company as designated by the Board of Directors if one is so designated. Trash containers are to be placed on the curbside in the late afternoon/evening of the day before scheduled trash pick-up and shall be removed by the end of the day of the scheduled trash pick-up. Containers shall be placed facing the street to accommodate mechanical loading of trash into the trash vehicle. Littering is not permitted. Each Owner shall keep their Lot at all times in a neat and clean condition. Grass and weeds shall be kept mowed. No trash, litter, garbage, grass or tree trimmings, plant waste, lumber, compost or debris of any kind shall be permitted to remain exposed upon any Lot that is visible from any neighboring Lot or from the street, except that any container containing such material may be placed outside at the proper times for trash pickup, and except that plant waste and compost is allowed in vegetable gardens. No burning of trash will be permitted.

The Board of Directors shall have the right and duty, through its agent and employees, after Notice and Hearing, to enter upon any Lot and remove such unsightly objects and materials. The cost of such removal shall be chargeable to such Owner by Individual Assessment in accordance with Paragraph 5.4 (b).

- 7.5 Nuisances. No noxious or offensive activity shall be carried on upon the Planned Community or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or which is or may cause an unreasonable embarrassment, disturbance or annoyance to others, or detract from its value as an attractive residential community. Habitually barking, howling or yelping dogs shall be deemed a nuisance.
- 7.6 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Planned Community that is unreasonably bright or causes unreasonable glare. No sound or odor shall be emitted from any portion of the Planned Community that would reasonably be found by others noxious or offensive. Without limiting the generality of the foregoing, no exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Planned Community except with the prior written approval of the Board.
- 7.7 No Hazardous Activities. No activity shall be conducted on any portion of the Planned Community that is, or might be, unsafe or hazardous to any person or property. The storage of hazardous and or flammable materials is prohibited.

No open fires shall be lighted or permitted on any portion of the Planned Community except in a contained barbecue unit while attended and in use for cooking purposes or

within a fireplace designed to prevent the dispersal of burning embers. Fireworks are prohibited on Lots or Common Areas.

- 7.8 No Unsightliness. All equipment shall be enclosed within an approved structure, including all tractors, snow removal equipment and garden or maintenance equipment, except when actually in use.

No clotheslines, drying yards, service yards, wood piles or storage areas shall be so located on any Lot as to be visible from neighboring Lots or from the street.

- 7.9 Utilities. All electric, television, radio and telephone line installations and connections from the Owner's property line to the Dwelling Unit shall be placed underground. The Board must approve all types of exterior refrigeration, cooling or heating apparatus. Prior to installation, the Board must approve all solar panel installations.

- 7.10 Flag/Sign/Banner Policy:
See Policy & Procedures for more information.

- 7.11 Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept in the Planned Community which may result in an increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

- 7.12 Compliance with Laws. No unlawful use shall be permitted or made of any Lot or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Lots, or any portion thereof, shall be observed.

- 7.13 Restoration in the Event of Damage or Destruction. If due to casualty or for any other reason a Dwelling Unit located on a Lot shall be destroyed or so damaged that the Dwelling Unit is no longer habitable, then the Owner of such Lot shall, within a reasonable time not to exceed one hundred and twenty (120) days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction on the Dwelling Unit or demolish the same. Demolition of a Dwelling unit shall include removal of any foundation slab, basement walls and floors, regarding the Lot to a level condition and the installation of such landscaping as may be required by the Board pursuant to a plan submitted to the Board by the Lot Owner of said Lot.

If the Lot owner does not either commence repair, reconstruction or demolition activities within a reasonable time as provided herein above and diligently pursue the same in conformance with the plans approved by the Board, then the Association may, in its reasonable discretion, after providing the Notice and Hearing, enter upon the Lot for the purpose of demolishing the Dwelling Unit and landscape the Lot in conformance with approved plans. The cost related to such demolition and landscaping shall be levied against the Owner as an Individual Assessment in accordance with Paragraph 5.4 (b) hereof.

7.14 Household Pets.

See Policy & Procedures for more information.

- 7.15 Vehicular Parking, Storage and Maintenance. No house trailer, camping trailer, horse trailer, camper, camper shells, boat trailer, hauling trailer, boat or boat accessories, truck larger than one-ton, recreational vehicle or equipment, mobile home, or commercial vehicle may be parked or stored anywhere within the Planned Community so they are visible from neighboring Dwelling Units or from the street except in emergencies or as a temporary expedience. (This applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles".)

No emergency or temporary parking or storage shall continue for more than seventy-two (72) hours. Parking is not allowed on landscaped areas or lawn areas.

No abandoned, wrecked, or inoperable vehicles of any kind shall be stored or parked in driveways. All vehicles parked on a public street must comply with local and state laws related to the public use of right-of-way. All parking matters shall be addressed by the City of Grand Junction law enforcement.

Automotive repairs are forbidden in the driveway, or in plain view. Oil and grease must not accumulate or be visible on the driveway or in visible areas.

- 7.16 Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property within the Common Areas and any other real property which the Association has an obligation to repair, maintain and/or reconstruct, such Owner shall be liable and responsible for the payment of the same. Owner or collective owners are responsible for any necessary repair to fences including common fences.

The Board of Directors shall determine whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 7.16. and in accordance with the Association's Policies and Procedures.

- 7.17 Antennas/Satellite Dishes. Any exterior radio antenna, television antenna or other antenna, satellite dish, or audio or visual reception device intended to be placed on any Lot must be approved by the Board in advance and in compliance with Article 6.1. No satellite dishes shall be placed on the front half of the roof.

7.18 Lease of a Dwelling Unit.

See Policies & Procedures for more information.

- 7.19 Rules. Every Owner and their Guests shall adhere strictly to the Rules as promulgated by the Board of Directors, as amended from time to time.

7.20. Waiver of Summary Abatement. The Association waives the right to use summary abatement or similar means to enforce the restrictions herein contained. Judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.21 Snow Removal. Snow must be removed from homeowner's walks and entries in accordance with local laws and codes. The Homeowners Association Board will hire outside snow removal contractors for snow removal. The policy is for the HOA contractor to remove snow for storm totals greater than 2 inches. Removal of snow for storm totals less than two inches is the responsibility of the individual Homeowners. Associated fees for the removal of snow are budgeted annually as an estimate for snowfall removal expenses as part of the Common Expense Assessment paid through the monthly dues.

7.22 Maintenance of Lots, Buildings, Improvements and Common Elements

(a). The HOA shall procure a single-year contract, annually (but may procure a longer term contract at their own discretion if it financially benefits the Association), for the maintenance of the Common Areas and front yards to include the following:

(i) Lawn Maintenance

The Contractor will mow common and front yard turf areas weekly as needed during growing season, weather permitting. Lawns will be mowed bi-weekly in April. The Contractor will edge tree rings, plant beds, and all surfaced areas bordered by grass (i.e., sidewalks, fences, driveways, etc.) weekly. The Contractor will clean all clippings from sidewalks, curbs, and roadways immediately after mowing and/or edging.

(ii) Gravel Landscape Maintenance

The Contractor will blow/rake debris out of all common and front yard graveled areas as needed. The Contractor will remove all debris from sidewalks, curbs, and roadways after blowing graveled areas. All weeds will be controlled in all common and front yard graveled areas by spraying pre-emergent two (2) times per year. Any emerged weeds will be pulled or sprayed weekly during mowing visits.

(iii) Pruning, Fertilizer, & Aeration – The Contractor will prune all shrubs and trees (under 10' tall) in the spring and in the fall that are in common areas and front yards. Plants will be pruned according to proper horticulture standards practices preventing damage to plant life. A spring cleanup and fall cleanup will be performed in April and November. Fertilizer applications will be applied in spring and summer per the lawncare contract. Lawns will not be mowed on days that fertilizers are applied or

if it is determined that lawns are too wet from rainfall. Aeration will be done in the spring per the lawncare contract.

(iv) Irrigation Systems – The Contractor shall perform startup of the irrigation system in the spring, adjust heads and bubblers for proper watering, and notify management of any problems. The Contractor will winterize all irrigation systems in the fall to include front and back yards and common areas. This does not include any backflow testing. This includes setting the pumps up in the spring and winterizing them in the fall.

(b). Owners Responsibility

The Owners shall keep, maintain and repair their individual Lots, Buildings and Improvements, including landscaping and vegetation in a neat, clean, cultivated, attractive and well-maintained condition, free from the accumulation of trash or debris or visual deterioration. This maintenance includes replacement of dead shrubs and trees. The individual Owner shall be responsible for the repair and maintenance of individual front yard sprinklers, sprinkler filters, sprinkler nozzles and shrub irrigation emitters & lines and individual system filters. In the event the Owners fail to keep, maintain or repair their Lots, Buildings or Improvements in accordance herewith, the Association shall conduct such maintenance, repairs or restoration and assess the cost thereof to the Lot owner on whose Lot, Building or Improvements the maintenance or repairs were conducted as a reimbursement assessment pursuant to Article 5 hereof.

(c). The Owners shall not cause or permit any damage, deterioration or the accumulation of trash and debris upon the Common Elements.

(d). The Common Elements shall be owned in common by all of the Owners of The Lots and shall remain undivided. By the acceptance of their deed or other instrument of conveyance or assignment, each Owner specifically waives their right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements.

Further, all Owners covenant that they shall neither by act nor omission seek to abandon, subdivide, encumber, sell or transfer the Common Elements without first obtaining the written consent of sixty-seven percent (67%) of the Owners of the individual Lots. Each such Owner shall have one (1) vote for each Lot owned by it. Any such action without the written consent of such Owners shall be null and void.

(e). Each Owner may use the General Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners.

- (f). No Lot shall be used as a dumping ground for rubbish. No garbage, rubbish or trash shall be allowed to accumulate on any Lot or the Common Elements. All garbage, rubbish and trash shall be placed and kept in covered containers. All containers shall be kept within garages or enclosed backyards so as to not be visible from neighboring property, except to make the same available for collection during regular trash collection days, and in accordance with Article 7.4.
- (h). It is the responsibility of each individual Lot owner to maintain rear and side yard drainage features as they are on each Lot.
- (i). No sporting equipment shall be left in the front of the home, including the driveway, street, or lawn, when not in use (i.e., basketball hoops, volleyball nets, ping pong tables, etc.). No trampolines shall be placed in the front of the home at any time.

7.23 Home Occupations and Offensive Activities

- (a). No Lot or Building may be used for commercial purposes of any type whatsoever excepting for home occupations, subject to the provisions of 7.2 above. For purposes of this section, "home occupations" shall mean an occupation by the resident conducted entirely within the residential building which does not entail the employment of third persons on the premises and does not entail visits by customers to the premises. For example, but not by limitation, an insurance agent may use their residence as a personal office so long as their customers are not permitted to come to the residence; however, the establishment of a barber shop or a beauty shop is prohibited.
- (b). No firearms, fireworks, explosives, air rifles, BB guns, crossbows or similar weapons or devices shall be discharged on the Properties or Common Areas.

7.24 Fences

No fence shall be erected on a Lot without the approval of the Board. Fences four (4) feet in height or less will be considered for placement at any location on the Lot. Fences greater than four (4) feet in height but not exceeding six (6) feet in height will be considered for placement along the rear Lot line and the side Lot line up to the rear of the Building and also around outdoor living areas, such as patios, decks, and hot tub areas to provide for privacy or to screen from public view, the location of which is specifically subject to Architectural Committee approval. All fences shall be of wood, masonry or other materials as approved by Board. In addition, all Lot fencing shall be subject to the requirements of and enforcement by the City of Grand Junction Zoning and Development Code.

7.25 Irrigation

- b). Ownership of Irrigation Equipment. The Association shall own and be responsible for the maintenance of the irrigation pond, pumps, controller Common Area timer and primary distribution water lines and associated equipment and fixtures to deliver water to the individual properties. As detailed herein, Owners shall own and be responsible for the maintenance of all irrigation lines, filters, sprinklers and drip emitters located within the boundaries of the Owners Lot (if any) with the following exception:
1. The Association will be responsible for the repair of equipment that impacts:
 - a. Timers that control the front yard lawn or drips for shrubs.
 - b. Valves that control water flow to the front yard lawn or shrub drips.
 - (c). All Lot Owners agree to irrigate any and all landscaping in accordance with the Irrigation Watering Schedule and should not utilize the irrigation system during the on-peak time period.

7.26 Parking

- (a). All improvements shall be constructed so as to provide off street parking for at least three (3) automobiles per Lot.
- (b). Ownership of each Lot shall entitle the Owner or Owners thereof to the use of automobile parking spaces within the perimeter of each Lot.
- (c). All boats, campers, trailers, snowmobiles, motorcycles, or other recreational vehicles, and stationary vehicles shall be parked inside garages.
- (d). Vehicle parking: Vehicle parking order preference:
 - (1) parked in the garage,
 - (2) parked on the driveway,
 - (3) parked in the street in front of your home or
 - (4) on the street.

Any vehicles parked on the street shall not be parked within five (5) feet of either side of a driveway.
- (e). Vehicles shall have a license plate displayed with current registration and tags.

- (f). Automotive repairs are forbidden in the driveway, or in plain view. Oil and grease must not accumulate or be visible on the driveway or in visible areas.

ARTICLE EIGHT: EASEMENTS

- 8.1 Utility Easements. Easements for utilities over and across the Common Areas shall be those shown upon the plat of the Planned Community, and such other easements as may be established pursuant to the provisions of this Declaration.
- 8.2 Easements for the Board of Directors. Each Lot shall be subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) to perform its obligations pursuant to this Declaration.
- 8.3 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Planned Community, to enter upon any part of the Planned Community in the performance of their duties.
- 8.4 Easements for Encroachments. If any part of the Common Areas encroaches or shall hereafter encroach upon a Dwelling Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Dwelling Unit encroaches or shall hereafter encroach upon the Common Areas, or upon another Dwelling Unit, the Owner of that Dwelling Unit shall and does have an easement for such encroachment and for the maintenance of it.

Such easements shall extend for whatever period of time the encroachment shall exist. Such encroachments shall not be considered to be encumbrances either upon the Common Areas or upon a Dwelling Unit. Encroachments referred to herein include, but are not limited to, encroachments made by error in original construction of the Dwelling Unit, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of Dwelling Units within the Planned Community or any part thereof.

- 8.5 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be deemed appurtenant to the Lots owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

ARTICLE NINE: INSURANCE/CONDEMNATION

- 9.1 Authority of Purchase Requirements. The Association is required to maintain adequate insurance coverage to cover potential liability of the Association itself, its directors, officers and employees, to protect its assets, and to cover the interests and liabilities of its membership. The Association shall maintain, at all times, policies for general liability,

hazard, directors and officers liability, and such other insurance as deemed necessary and desirable by the Board of Directors.

The Association is not required to carry, and does not carry, hazard insurance on or for improvements Owners construct or maintain on their Lots.

- 9.2 Hazard Insurance. The Board of Directors maintains a blanket, "at- risk" form policy of hazard insurance with extended coverage for; vandalism, malicious mischief, windstorm, debris removal, costs of demolition and water damage endorsements, insuring all insurable improvements located on The Common Areas including fixtures, machinery, equipment and supplies maintained for the service of the Common Areas as well as common personal property and supplies and other personal property belonging to the Association; including fixtures and building service equipment to the extent that they are part of the Common Areas.

The Board of Directors shall review at least annually all its insurance policies to ensure that the coverages contained in the policies are sufficient. The Board of Directors shall, consistent with good business practices, and at reasonable intervals, obtain a written appraisal for insurance purposes, showing that the insurance represents one hundred percent of the current replacement cost as defined above for all insurable improvements located on the Common Areas, together with any personal property owned by the Association.

Such policies shall also provide:

- (a) The following endorsements or their equivalent: Contingent Liability from Operation of Building Laws or Codes Endorsement, Costs of Demolition Endorsement, Increased Cost Of Construction Endorsement, Agreed Value and Inflation Guard, and Inflation Guard Endorsement, if available.
- (b) That any "no other insurance" clause expressly exclude individual Owners' policies from its operation so that the property insurance policy purchased by the Board of Directors shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchase by individual Owners or their First Mortgagees, unless otherwise required by law.

- 9.3 Liability Insurance. The Board of directors shall obtain and maintain comprehensive general liability (including eviction, libel, slander, false arrest and invasion of privacy) and property damage insurance covering all of the Common Areas, public ways within the Planned Community and any other areas that are under the Association's responsibility and commercial spaces owned by the Association whether or not they are leased to some third party insuring each officer, director, the Managing Agent and the Association.

Such coverage under this policy shall include, without limitation, the legal liability of the insureds for property damage, bodily injuries and deaths of persons that result from the operation, maintenance or use of the Common Areas and the legal liability arising out of lawsuits relating to employment contracts in which the Association is a party.

Such insurance shall be issued on a comprehensive liability basis. Additional coverages may be required to include protection against such other risks as are customarily covered with respect to the Planned Community similar in construction, location, and use, including, but not limited to, Host Liquor Liability coverage with respect to events sponsored by the Association, Workmen's Compensation and Employer's Liability Insurance, Comprehensive Automobile Liability Insurance, and Severability of Interest Endorsement.

In the event the Association hosts a function and charges for food or drink, and liquor is served, there will be "No Host Liquor Liability" coverage for the Association. If money were charged, a "liquor Liability Policy" would be needed to give coverage to the Association.

The Board of Directors shall review such limits when needed or at their own discretion; but in no event shall insurance be less than one million dollars covering all claims for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

- 9.4 Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance coverage for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The insurance shall name the Association as insured and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The fidelity insurance policy should cover the maximum funds (including Reserve Funds) that will be in the custody of the Association or its management agent at any time while the policy is in force.

The policy must include a provision that calls for ten (10) days' written notice to the Association before the policy can be cancelled or substantially modified for any reason. The same notice must also be given to each provider that services a Fannie Mae-owned or secured mortgage in the Planned Community.

A management agent that handles funds for the Association should be covered by its own fidelity insurance policy that must provide the same coverage required of the Association.

9.5 Additional Insurance.

- (a) Adequate Directors and Officers liability insurance, if available, and if deemed consistent with good business practices, for errors and omissions on all Directors and Officers to be written in an amount which the Board of Directors deems adequate;
- (b). Workman's Compensation and Employer's Liability Insurance and all other similar insurance with respect to employees of the Association in the amount and in the forms now or hereafter required by law.
- (a) Such other insurance of a similar or dissimilar nature, as the Board of Directors shall deem appropriate with respect to the Planned Community.

9.6 Payment of Insurance Premiums. The cost of the insurance obtained by the association in accordance with this Article, insuring all Common Areas, except for premiums on fidelity insurance maintained by a Managing Agent for its Officers, employees and agents, shall be paid from Association funds and shall be collected from the Owners as part of the Insurance Assessment as provided for in Paragraph 5.4 (e) hereof.

In the event there aren't sufficient funds generated from the Insurance Assessment to cover the cost of the insurance provided for above, then the deficiency shall be chargeable to each Owner by a Special Assessment in accordance with Paragraph 5.4 (d) hereof and such assessment shall be exempt from any special voting requirements of the Membership. Such assessment shall be prorated among Owners in the same proportion as the Annual Assessment for Common Expenses.

9.7 Separate Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the unit(s) and structures constructed thereon. Insurance obtained on the properties within the Planned Community, shall at a minimum comply with the applicable provisions of this Section 10.2 and shall also provide for the following endorsements or their equivalent: Contingent Liability from Operation of Building Laws or Codes Endorsement, Cost of Demolition Endorsement, Increased Cost of Construction Endorsement, Agreed Value and Inflation Guard, and Inflation Guard Endorsement, if available. All such insurance shall be in a face amount sufficient to cover the full replacement cost of all insured structures.

Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than destruction of structures comprising their Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with ARTICLE ELEVEN of this Declaration. The Owner shall pay any costs of repair or reconstruction that are not covered by insurance proceeds.

- 9.8 Condemnation. If an entire Lot is acquired by condemnation or if a part of a Lot is acquired by condemnation leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award must include compensation to the Owner for that Lot and its Dwelling Unit.

If parts of the Common Areas are acquired by condemnation, that portion of any award attributable to the Common Areas taken must be paid to the Association.

ARTICLE TEN: RESTORATION UPON DAMAGE OR DESTRUCTION

- 10.1 Duty to Restore. Any portion of the Planned Community for which insurance is required under the Act or for which insurance carried by the Association is in effect that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Planned Community is terminated.
- (b) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety.
- (c) Owners of Lots to which at least sixty-seven (67%) percent of the votes in the Association are allocated, including every Owner of a Dwelling Unit that will not be rebuilt, vote not to rebuild.

In the event the Planned Community is not repaired or reconstructed in accordance with the above, the Planned Community shall be sold, and the proceeds distributed pursuant to the procedures provided for in the Act for termination of a Planned Community.

- 10.2 Plans/Cost. The Planned Community must be repaired and restored in accordance with either the original plans and specifications to other plans and specifications which have been approved by the Board of Directors and by Owners of Lots to which at least sixty-seven (67%) percent of the votes in the Association are allocated. The cost of repair or reconstruction in excess of insurance proceeds and reserves is a Common Expense.

- 10.3 Reconstruction of Less Than the Entire Planned Community. If the entire Planned Community is not repaired or reconstructed, the insurance proceeds attributable to the damaged Planned Community shall be used to restore the damaged area to a condition compatible with the remainder of the Planned Community, and:

- (a) The insurance proceeds attributable to a Dwelling Unit that is not reconstructed must be distributed to the Owner of that Dwelling Unit and to the holders of Security Interests, as their interests may appear; and

- (b) The remainder of the proceeds must be distributed to each Owner and holders of Security Interests, as their interests may appear, in accordance with each Owner's Common Expense Assessment liability set forth in Paragraph 1.3 hereof.

ARTICLE ELEVEN: MAINTENANCE, REPAIR AND RECONSTRUCTION

- 11.1 Maintenance of the Common Areas. The Association shall provide for the repair, maintenance and/or reconstruction of the Common Areas. Without limiting the generality of the foregoing and by way of illustration, the Association shall keep said Common Areas safe, attractive, clean, functional and in good repair and may make necessary or desirable alterations or improvements thereon.

The Association shall also be responsible for the maintenance, repair and/or reconstruction of (a) the perimeter fence which was constructed by the Declarant on a portion of the Planned Community, (b) the entryway treatment at the entrance to the Planned Community, and (c) all common areas designated as Tracts on recorded Final Plat of the Planned Community.

In the event such repair, maintenance and/ or reconstruction is resulting from the willful neglect or destruction by an Owner or such Owner's Guest, the Board of Directors shall have the right, after Notice and Hearing, to repair, maintain and/or reconstruct said Common Areas. The cost of such maintenance, repair and/or reconstruction shall be chargeable to such Owner by an Individual Assessment in accordance with Paragraph 5.4 (b) hereof.

Determination with respect to whether or not a particular activity by occurrence shall constitute a violation of this Paragraph 11.1 shall be made by the Board of Directors and shall be final.

- 11.2 Maintenance of the Lots and Dwelling Units. Each Owner shall be responsible for the maintenance, repair, and reconstruction of the exterior of such Owner's Dwelling Unit and such Owner's Lot.

In the event any Owner shall fail to maintain their Lot in a manner satisfactory to the Board of Directors, the Board of Directors shall have the right and duty, after Notice and Hearing, to enter upon said Lot and repair, maintain and/or reconstruct the Lot. The cost of such maintenance, repair and/or reconstruction shall be chargeable to such Owner by an Individual Assessment in accordance with Paragraph 5.4 hereof.

- 11.3 Maintenance of Drainage Pattern. There shall be no interference with the established drainage pattern initially established by the Declarant over any portion of the Planned Community.

The "established drainage pattern" shall mean, the drainage pattern that exists at the time the overall grading of any property was completed by the Declarant and shall include any established drainage pattern shown on the plans. The established drainage pattern may include the drainage pattern from the Common Areas over any Lots within the Planned Community and from any Lot within the Planned Community over Common Areas, or from any Lot over another Lot.

- 11.4 Board of Directors Access. Access to all the Lots within the Planned Community to perform the said repair, maintenance and/or reconstruction by the Board of Directors, its agents and employees shall be made pursuant to the maintenance easement granted in accordance with Paragraph 8.2 hereof.

ARTICLE TWELVE: FIRST MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, or guarantors of holders of first mortgages recorded against Lots within the Planned Community who qualify as an Eligible Mortgagee as defined by Paragraph 1.19 hereof. To the extent applicable, necessary, or proper, the provisions of this ARTICLE TWELVE apply to both this Declaration and to the Articles and Bylaws of the Association.

- 12.1 Notices of Action. An Eligible Mortgagee shall be entitled to timely written notice of:
- (a) Any material condemnation loss or any casualty loss which affects a material portion of the Planned Community or any Lot in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee;
 - (b) Any default in the performance by an individual Borrower of any Obligation of the Declaration not cured within sixty (60) days;
 - (c) Any lapse, cancellation, or material modification of any mandatory insurance policy of fidelity bond maintained by the Association.
 - (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees; and
 - (e) Any material judgment rendered against the Association.

- 12.2 Amendment to Documents/Special Approvals.

- (a) The consent of Owners to which at least fifty-one (51%) percent of the votes in the Association shall be required to add to or amend any material provisions of this Declaration of the Articles or Bylaws of the Association. A change to any of the following would be considered material:

- (i) Voting rights;
 - (ii) Increase the Common Expense Assessment annually by more than 25% over the previously levied Common Expense Assessment, assessment liens, or the priority of the assessment liens;
 - (iii) Reduction in the reserves for maintenance, repair and replacement of the common Areas;
 - (iv) Responsibility for maintenance and repairs;
 - (v) Right to use the Common Areas;
 - (vi) Convertibility of Lots into Common Areas or vice versa;
 - (vii) Hazard or fidelity insurance requirements.
 - (viii) Restrictions on the leasing of Lots.
 - (ix) Restrictions on a Lot Owner's right to sell or transfer their Lot.
 - (x) Restoration or repair of the planned Community (after damage or partial condemnation) in a manner than that specified in the Project Documents.
 - (xi) Any provision that expressly benefits mortgage holders, insurers, or guarantors.
- (b) The Association may not take any of the following actions without the consent of Owners to which at least fifty-one (51%) percent of the votes in the Association are allocated and the approval of at least fifty-one (51%) percent of the Eligible Mortgagees.
- (i) Reconstruct or repair the Planned Community after damage due to an insurable hazard or a partial condemnation in a manner other than specified in the Project Documents.
 - (ii) Merge the Planned Community with any other planned community.
 - (iii) Assign the future income of the Association, including its right to receive Common Expense Assessments.
 - (iv) Not repair or reconstruct, in the event of substantial destruction, any part of the Common Areas.

(v) Turning an Owner over to a collection agency or attorney to enforce the nonpayment of assessments.

(c) Any action to terminate the legal status of the Planned Community after substantial destruction or condemnation occurs must be agreed to by Owners to which at least fifty-one (51%) percent of the votes in the Association are allocated, and by fifty-one (51%) percent of the Eligible Mortgagees.

(d) Any action to terminate the legal status of the Planned Community for reasons other than substantial destruction or condemnation occurs must be agreed to by Owners to which at least fifty-one (51%) percent of the votes in the Association are allocated, and by fifty-one (51%) percent of the Eligible Mortgagees.

12.3 Special FHLMC Provisions. Except as provided by statute in the case of a condemnation or a substantial loss to the Lots and/or Common Areas, unless at least two thirds (2/3) of the Eligible Mortgagees (based on one vote for each first mortgage owned) or Owners have given their prior written approval, the Association may not:

(a) By act or omission seek to abandon or terminate the Planned Community;

(b) Change the pro rata interest or obligations of any Lot in order to levy assessments, allocate distribution of hazard insurance proceeds or condemnation awards;

(c) Seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas by act or omission.

The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas is not a transfer within the meaning of this Paragraph 12.3 (c).

(d) Use hazard insurance proceeds for losses to any planned community property for other than the repair, replacement or reconstruction of the planned community property.

12.4 Implied Approval. Implied approval by an Eligible Mortgagee shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after said Eligible Mortgagee receives proper notice of the proposal, provided this notice was delivered by certified or registered mail with return receipt requested.

12.5 Books and Records.
See Policies and Procedures for more information.

ARTICLE THIRTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION

- 13.1 Duration. The covenants, restrictions and obligations of this Declaration shall run with and bind the land in perpetuity until this Declaration is terminated in accordance with Paragraph 13.5 below.
- 13.2 Amendments by Owners. This Declaration may be amended by the written agreement by Owners to which at least sixty-seven (67%) percent of the votes in the Association are allocated.

Any such amendment shall be effective upon the recording of the amendment together with a notarized Certificate of the Secretary of the Association certifying that the requisite number of Owners and Eligible Mortgagees, if required, have given their written consent to the amendment. The Secretary shall further certify that originals of such written consents by Owners and Eligible Mortgagees, as applicable, along with the recorded amendment, are in the records of the Association and available for inspection.

Each amendment to the Declaration must be recorded in accordance with 38-33.3-217(3) of the Act.

Where a Lot is owned by more than one person, the execution of any amendment shall be valid if executed by any one Owner. Signatures need not be notarized. The signature need not be identical to the name of the recorded Owner but shall be sufficiently close as to be identified as a proper signature of such person.

All signatures shall be irrevocable even upon death or conveyance of the Lot, except that if an amendment is not recorded within three years of the date of signature, then the executing Owner or their successor or assigns may revoke their signature by a written and notarized document delivered to the Secretary of the Association.

Amendments can be executed in counterparts, provided that such recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are part of the whole.

No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of the Association's Declaration, Articles of Incorporation or Bylaws unless it is commenced within one year from the date of the recording of said amendment, unless fraud or willful negligence is asserted and proven.

- 13.3 Consent of Eligible Mortgagees. Amendments may be subject to the consent requirements of Eligible Mortgagees as more fully set forth in ARTICLE FOURTEEN hereof.
- 13.4 Expenses. All expenses associated with preparing and recording an amendment shall be allocated in accordance with 38-33.3-217(6) of the Act.

- 13.5 Termination. Except in the case of taking of all the Lots by condemnation, the Planned Community may be terminated only by agreement of Owners to which at least sixty-seven (67%) percent of the votes in the Association are allocated, as more fully set forth in 38-33.3-218 of the Act and the approval of at least fifty-one (51%) percent of the Eligible Mortgagees.

The proceeds of any sale of real estate together with the assets of the Association shall be held by the Association as trustee for Owners and holders of liens upon the Lots as their interests may appear, as more fully set forth in 38-33.3-218 of the Act.

ARTICLE FOURTEEN: GENERAL PROVISIONS

- 14.1 Right of Action. The Association and any aggrieved Owner shall have an appropriate right of action against an Owner for such Owner's failure to comply with this Declaration, the Articles of Incorporation and Bylaws of the Association, the Rules and Regulations of the Association or with decisions of the Board of Directors which are made pursuant thereto. Owners shall have a similar right of action against the Association.
- 14.2 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association and each Owner and their heirs, personal representatives, successors and assigns.
- 14.3 Severability. Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.
- 14.4 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- 14.5 Registration by Owner of Mailing Address. Each Owner shall register their mailing address and email address with the Association. Notices related to meetings, monthly statements, or other business of the Association shall be sent to each owner via e-mail, unless the Owner designates that they wish the notices would be mailed to their mailing address by regular mail. If no designation is made, the notices shall be e-mailed. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by regular mail, postage prepaid, to Registered Agent for the Association.
- 14.6 Conflict. The Project Documents are intended to comply with the requirements of the Act and the Colorado Nonprofit Corporation Act. If there is any conflict between the Project

Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Project Documents, this Declaration shall control.

- 14.7 Mergers. The Planned Community may be merged or consolidated with another planned community of the same form of ownership by complying with 38-33.3-221 of the Act.
- 14.8 Captions. The Captions and headings in this Declaration are for Convenience only and shall not be considered in constructing any provisions of this Declaration.
- 14.9 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.
- 14.10 Dues. All homeowners will be responsible to pay Association dues.

IN WITNESS WHEREOF, the Mesa Estates Board of Directors has caused this Declaration to be executed this 3rd day of June 2025.

MESA ESTATES HOMEOWNERS' ASSOCIATION

Sandra L. Geer, President, Mesa Estates Homeowners Association

STATE OF COLORADO)

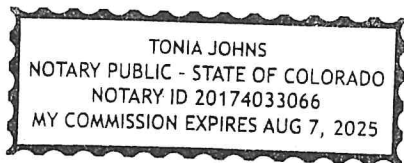
) ss.

COUNTY OF MESA)

Sworn to before me and subscribed in my presence by Sandra Geer, President, Mesa Estates Homeowners Association on this 3rd day of June 2025.

WITNESS my hand and official seal.

My commission expires: 8/7/25

Notary Public

**EXHIBIT A
TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
MESA ESTATES**

**LEGAL DESCRIPTION OF THE REAL PROPERTY
SUBMITTED TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
MESA ESTATES**

The Blocks and Lots listed below as shown on the Final Plat for the Mesa Estates Subdivision. A subdivision in Mesa County, Colorado.

- Block 1, Lots 1 through 18
- Block 2, Lots 1 through 14
- Block 3, Lots 1 through 30
- Block 4, Lots 1 through 46

**EXHIBIT B
TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
MESA ESTATES**

**LEGAL DESCRIPTION OF THE COMMON AREAS
SUBMITTED TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
MESA ESTATES**

Tracts A, B, C, D, E, F, G, H, I, and J as shown on the Final Plat of Mesa Estates
Subdivision. A subdivision in Mesa County, Colorado