

**Amended and Restated Declaration  
of  
Covenants, Conditions, Restrictions and Easements  
for  
The Village At Peregrine**

THIS AMENDED AND RESTATED DECLARATION is effective upon recording.

*RECITALS:*

A. On January 9, 1997, Lifestyle Builders, Inc., a Colorado corporation, submitted the real property described on Exhibit A to that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Peregrine, recorded in the real property records of El Paso County, Colorado at Reception No. 097003188, as may have been amended ("Original Declaration");

B. The Owners within the Village at Peregrine Community desire to amend and restate the Original Declaration by virtue of this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Peregrine ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration; and

C. The Original Declaration provides for and allows for this Declaration in Section 14.3, which provides as follows:

Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members with at least sixty-seven percent of the voting power of this Association, in accordance with the requirements of Section 217 of the Colorado Common Interest Ownership Act, Section 38-33.3-217, Colorado Revised Statutes;

D. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

E. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

F. The purposes of the amendments in this Declaration are to remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions.

G. The purpose of the Association as provided in the Declaration is to preserve the value and desirability of the Community and the Lots and to further the interests of the residents of the Community and Members of the Association; and

H. Pursuant to the requirements set forth in Section 14.3 of the Original Declaration, Members with at least 67% of the voting power of the Association, in accordance with the requirements of Section 217 of the Colorado Common Interest Ownership Act, Section 38-33.3-217, Colorado Revised Statutes, have approved this Declaration.

NOW THEREFORE, the Original Declaration is replaced and superseded by the covenants, servitudes, easements and restrictions set forth below:

ARTICLE 1  
GENERAL

Section 1.1 Common Interest Community. The name of the common interest community created by this Declaration is "The Village at Peregrine". The Village at Peregrine is a planned community as defined in the Colorado Common Interest Ownership Act, Section 38-33.3-103(22), Colorado Revised Statutes. All of The Village at Peregrine is located in El Paso County, Colorado.

Section 1.2 Property Affected. The real property described on Exhibit A is referred to in this declaration as the "Community Area".

Section 1.3 Purposes of Declaration. This Declaration is executed and recorded (a) in furtherance of a common and general plan for those parcels of land which are part of the Community Area; (b) to protect and enhance the quality, value, desirability and attractiveness of all property within the Community area; (c) to provide for the Association to hold, maintain and manage certain common properties and amenities in the Community Area and to perform certain functions for the benefit of owner of land within the Community Area; (d) to define the duties, powers and rights of the Association, and (e) to define certain duties, powers and rights of Owners.

Section 1.4 Declaration. The Association, for itself, its successors and assigns, hereby declares that the Community Area, and each part thereof, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions and other provisions set forth in this Declaration, all of which are declared to be a part of and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Community Area. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with Section 14.1 hereof, shall bind, be a charge upon and inure to the mutual benefit of (a) all of the property within the Community Area and each part or parcel thereof; (b) the Association and its successors and assigns; and (c) all other persons and entities having or acquiring any right, title or interest in any property which is part of the Community Area or any part or parcel thereof or any Improvement thereon, and their encumbrancers, claimants, heirs, personal representatives, successors and assigns.



ARTICLE 2  
DEFINITIONS

Unless otherwise expressly provided in this Declaration, the following words and phrases, whenever used in this Declaration, shall have the meanings specified in this Article 2.

Section 2.2 Architectural Review Committee. "Architectural Review Committee" shall mean the approving authority described in Section 6.1 of this Declaration.

Section 2.3 Assessment. "Assessment" shall mean a "Common Assessment", a "Special Assessment", or a "Site Assessment", pursuant to Article 10.

Section 2.4 Association. "Association" shall mean The Village at Peregrine Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

Section 2.5 Association Documents. "Association Documents" shall mean the various operative documents of the Association, whether recorded or adopted at this time or as the same have been or may be amended, modified, supplemented, or otherwise changed from time to time, all of which are incorporated herein by this reference, and shall include the following:

- (a) the Articles of Incorporation of the Association,
- (b) the Bylaws of the Association,
- (c) this Declaration, including the Plat and all amendments to this Declaration;
- (d) any Supplemental Plat;
- (e) any policies and procedures; and
- (f) the Rules and Regulations.

Section 2.6 Board of Directors. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

Section 2.7 Common Area. "Common Area" shall mean all real and personal property, together with any and all Improvements now or hereafter thereon and appurtenances and rights thereto, hereafter owned by the Association. The Common Area shall include those parcels and tracts of land identified as Common Area on the Plat. The Common Area may include Landscaping or easements dedicated to the City of Colorado Springs but maintained by the Association.

Section 2.8 Community Area. "Community Area" shall mean the real property described on Exhibit A, together with any and all Improvements now or, hereafter on such real property and appurtenances and rights to such real property.

Section 2.10 Declaration. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for The Village at Peregrine, in its entirety, including all attached exhibits and all subsequent amendments.

Section 2.11 Dwelling Unit. "Dwelling Unit" shall mean an Improvement on a Lot which is intended or used for residential occupancy, including, without limitation, any individual single family attached or detached home.

Section 2.14 Improvements. "Improvements" shall mean all structures and any appurtenances thereto or components thereof of every type or kind, including, but not limited to, buildings, , swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of

visible structure, additions, walkways, bicycle and/or pedestrian trails, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures. "Improvements" shall also mean an excavation of fill the volume of which exceeds two cubic yards, and any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

Section 2.15 Landscape. "Landscape" shall mean the treatment of ground surface with live plant materials, wood chips, crushed stone, decorative rocks, mulch materials, sod or other decorative surfacing materials approved by the Architectural Review Committee pursuant to Article 6. For purposes of this definition, the word "Landscape" shall include all other forms of the word Landscape, such as "Landscaped" and "Landscaping".

Section 2.16 Lot. "Lot" shall mean a parcel of land subject to this Declaration which is identified as a Lot on Exhibit A or shown as a separate parcel on the Plat or any Supplemental Plat upon which one Dwelling Unit may be constructed pursuant to the ordinances of the City of Colorado Springs, and which is not owned by the Association. Each Lot constitutes a "unit" as described in the Colorado Common Interest Ownership Act, Section 38-33.3-103(30), Colorado Revised Statutes. The maximum number of Lots that may be created within the Community Area is 49.

Section 2.17 Lot Lines. Front, side and rear "Lot Lines" shall be the same as defined in the zoning regulations of the City of Colorado Springs in effect from time to time

Section 2.18 Member. "Member" shall mean a member of the Association, who must also be an Owner Membership in the Association shall be appurtenant to, and may not be severed from, ownership of a Lot.

Section 2.19 Owner. "Owner" shall mean the record titleholder, whether one or more Persons, of fee simple title to a Lot, including sellers under executory contracts of sale and excluding buyers thereunder.

Section 2.20 Person. "Person" shall mean a natural person, a corporation, a partnership or any other public or private entity recognized as being capable of owner real property under Colorado law.

Section 2.21 Plat. "Plat" shall mean the plat(s) and/or map(s) of the Community Area and any improvements thereon that are subject to this Declaration and which are designated in said plat(s) recorded in the records of the Office of the Clerk and Recorder of El Paso County. More than one plat, map or supplement thereto may be recorded, and, if so, then the term "Plat" or "Map" shall collectively mean and refer to all of such plats, maps and supplements thereto.

Section 2.22 Related User. "Related User" shall mean: (a) any Person who resides with an Owner within the Community Area; (b) a guest or invitee of an Owner; (c) an occupant, tenant or contract purchaser of any Dwelling Unit on a Lot; and (d) any family member, guest, employee, agent, representative, licensee, contractor, invitee or cohabitant of any of the foregoing Persons.

Section 2.23 Rules and Regulations. "Rules and Regulations" shall mean the rules and regulations adopted by the Board of Directors as provided in Section 8.7 of this Declaration.



ARTICLE 3  
COVENANTS TO PRESERVE THE RESIDENTIAL  
CHARACTER OF THE COMMUNITY AREA

Section 3.1 Property Uses. All lots in the Community Area shall be used exclusively for private residential purposes. No Dwelling Unit erected or maintained within the Community Area shall be used or occupied for any purpose other than for a single-family dwelling. No business, profession or other activity conducted for gain shall be carried on or within any Lot or Dwelling Unit, except as follows:

- (a) The following activities are permissible within a Dwelling Unit:
  - (i) the use of an office inside a Dwelling Unit by the occupants of the Dwelling Unit;
  - (ii) the use of a personal computer for business or commercial purposes; and
  - (iii) any business activity that is conducted by telephone, mail or their equivalents.
- (b) The following activities are permissible, but only if the Owner or Related User engaged in the activity obtains the prior written consent of the Board or Directors, only if the activity is not readily visible or apparent from any location outside the boundaries of the Lot on which the activity is being conducted, only if the activity does not, in the sole discretion of the Board, generate excessive traffic within the Community Area and only if the activity is permissible under the zoning ordinances and regulations of the City of Colorado Springs:
  - (i) the production, creation or assembly of tangible personal property for the purpose of sale off the premises;
  - (ii) the sale or offering for sale of a service either on or off the premises;
  - (iii) the holding of meetings relating to any business or functions of the Association; and
  - (iv) the holding of periodic meetings for business purposes.

Section 3.2 Improvements. No Improvement shall be erected within the Community Area except single-family Dwelling Units and other improvements which have been approved by the Architectural Committee. No Improvement other than a Dwelling Unit with an attached garage for a minimum of two cars, and no trailer, tent or other similar or dissimilar temporary quarters may be used for living purposes. No other Improvement may be placed on any Lot before completion of the Dwelling Unit upon such Lot except with the permission of the Architectural Committee.

Section 3.3 Construction Type. All construction shall be new. No building previously used at another location nor any dwelling may be moved onto a Lot.

Section 3.4 Storage. No building materials shall be stored on any Lot except temporarily during continuous construction of a building or its alteration or improvement.

Section 3.5 Completion of Work. A Dwelling Unit shall not be occupied in the course of original construction until substantially completed. All construction work shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 3.6 Construction Completion. The exterior of all Dwelling Units or other Improvements must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. For purposes of this Section 3.6, "commencement of construction" for a Dwelling

Unit is defined as the obtaining of necessary building permits and the excavation of earth for a foundation, and for all other Improvements is defined as the undertaking of any visible exterior work. If construction is not completed within one year after commencement, or if construction shall cease for a period of sixty days without permission of the Architectural Committee, the Architectural Committee will give the Owner thereof written notice of such fact, and if construction on such Improvement is not diligently commenced within thirty days after such notice, the unfinished improvement or unfinished portion thereof shall be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner.

Section 3.9 Trees and Boulders. No trees, surface boulders, or scrub oak shall be removed from any Lot, except those that would interfere with the actual construction of a Dwelling Unit, and except for: (i) removal of dead trees, and (ii) removal of trees and shrubs for the purposes of fire mitigation and/or disease, both of which must be approved by the Architectural Review Committee and Board.

Section 3.10 Drilling Structures. No derrick or other Improvement designed for use in or used for boring or drilling for water, oil or natural gas shall be permitted upon or above the surface of any Lot, nor shall any water, oil, natural gas, petroleum, asphaltum or other hydrocarbon substances be produced from any well located upon, in or under any Lot.

Section 3.11 Underground Utilities. All utilities except lighting standards and customary service devices for access, control or use of utilities shall be installed underground.

#### ARTICLE 4

##### DENSITY, SETBACK AND QUALITY STANDARDS

Section 4.1 Limitations on Dwellings and Subdivisions. No more than one Dwelling Unit shall be erected or maintained within any Lot. No Lot shall be replatted or otherwise subdivided.

Section 4.3 Dwelling Area Requirements. No Dwelling Unit shall be erected which, exclusive of basements, porches, patios, covered but unenclosed areas, garages and any other buildings, has a gross livable floor area of less than 1200 square feet if a single-story Dwelling Unit, or less than 1600 square feet if a Dwelling Unit with more than one story.

Section 4.4 Height Restrictions. No Dwelling Unit shall be more than thirty feet in height. The height of a Dwelling Unit is defined and determined by the approved Hillside Ordinance of the City of Colorado Springs.

Section 4.5 Exterior Materials and Colors. Unless otherwise approved by the Architectural Committee, exterior walls of Dwelling Units shall be constructed of or covered by stone and stucco. Primarily earth tone colors shall be used on exterior trim and garage doors. The Architectural Committee shall not approve exterior materials for Dwelling Units and other Improvements if such materials are not compatible with materials used on neighboring Dwelling Units.

Section 4.6 Roofs. All roof areas shall be of concrete tile or other material approved by the Architectural Committee.

Section 4.7 Antennae and Roof Projections. No roof projection, including but not limited to lightning rods and weather vanes, shall be maintained on the roof or any other exterior location of a Dwelling Unit, other Improvement or Lot, unless fully screened in a manner approved by the Architectural Committee so as not to be visible at ground level from neighboring property or adjoining streets.



"Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on a Lot which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Lot.

Section 4.8 Rebuilding or Restoration. Any Dwelling Unit or other Improvement which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to a slightly condition, such rebuilding or restoration to be completed with reasonable promptness. Any restoration must meet the same footprint, exterior design and finish as the original Dwelling Unit, including but not limited to the requirements set forth in Sections 4.3 and 4.4 above,

Section 4.9 Fences. Except as provided in Section 4.10, fencing around individual Dwelling Units shall not be permitted.

Section 4.10 Dog Runs. Small fenced dog runs may be erected on Lots with the prior approval of the Architectural Review Committee and Board, in locations and in accordance with plans approved by the Architectural Review Committee and Board. Maintenance of the area fenced shall be the sole responsibility of the Owner. Chain link metal fence, whether or not galvanized, may not be used in erecting dog runs. Dog runs shall not be wider than the Dwelling Unit.

## ARTICLE 5

### LIVING ENVIRONMENT STANDARDS

Section 5.1 Building and Grounds Conditions. Each Owner shall maintain the exterior of his or her Dwelling Unit in good condition and shall cause the Dwelling Unit to be repaired as the effects of damage or deterioration become apparent. If the Owner fails to properly perform such maintenance, the Association may, after giving thirty (30) days written notice, effect such repairs and maintenance as it deems necessary in its judgment to maintain the standards of the Community Area. Entry to effect such repairs and maintenance shall not be deemed a trespass and the Owner shall be liable for all costs incurred in connection with the repairs and maintenance.

Section 5.2 Garage Doors. Garage Doors shall be kept closed except when being used to permit ingress or egress to or from the garage.

Section 5.3 Maintenance Equipment. All maintenance equipment shall be stored in an enclosed building within the footprint of house, or otherwise adequately screened (with screening to be



approved by the Architectural Review Committee pursuant to Article 6) so as not to be visible from neighboring property or adjoining streets. Outbuildings are not permitted. An "outbuilding," for the purposes of this Section, shall mean an enclosed or covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, trailers, mobile homes, tents, shacks, barns, or detached garages or carports, shall be allowed on any Lot. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

Section 5.4 Clotheslines. Outdoor clothes poles, clotheslines, and other facilities for drying or airing of clothing or household goods shall not be placed on any Lot; provided, however, that retractable clotheslines, which comply with reasonable aesthetic regulations adopted by the Board, shall be permitted on the Lot

Section 5.5 Swingsets and Play Areas. All swingsets, jungle gyms, slides and other similar improvements shall not exceed a height of eight feet, must be approved by the Architectural Committee prior to construction or installation of such Improvements, and shall be situated on the Lot so as not to obstruct the view from neighboring Lots.

Section 5.6 Refuse. No unsightly objects or materials, including but not limited to ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefore, shall be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street, except during refuse collections. After a period of two weeks of continued violation of this Section 5.6, the Association shall have the right to enter upon the Lot involved and remove such unsightly objects or materials at the expense of the Owner. Such an entry shall not be deemed a trespass and the Owner shall be liable for all costs incurred relative thereto.

Section 5.7 Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No offensive or hazardous activities may be carried on within any Lot or in any Dwelling Unit. No annoying lights, sounds or odors shall be permitted to emanate from any Lot or Dwelling Unit.

Section 5.8 Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices except security devices used exclusively for security purposes shall be located, used or placed on any Improvement or within any Lot.

Section 5.9 Landscaping. Owners wishing to add or modify Landscaping on the property shall do so only after prior written approval of the Architectural Review Committee pursuant to Article 6.

Section 5.10 Weeds. All yards and open spaces and the entire area of every Lot on which no building has been constructed shall be kept free from plants or weeds infected with noxious insects or plant diseases, and from weeds which in the reasonable opinion of the Association are likely to cause the spread of infection or weeds to neighboring property, and free from brush or other growth or trash which in the reasonable opinion of the Association causes undue danger of fire.

Section 5.11 Transmitters. Except as otherwise provided by law, no electronic or radio transmitter of any kind other than garage door openers and remote control devices for televisions, stereos, video cassette recorders and similar equipment shall be operated in or on any Improvement or Lot.



Section 5.12 Animals. No animals except domesticated birds or fish and other small domestic animals, as may be defined in the Rules and Regulations of the Association, permanently confined indoors and except an aggregate of three domesticated dogs or cats shall be maintained in or on any Lot within the Community Area and then only if kept as pets. No animal of any kind shall be permitted which in the opinion of the Association makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Community Area for any commercial purposes. No dogs or other pets shall be chained or enclosed on a Lot outside of the Dwelling Unit, except the Architectural Review Committee and the Board, in their sole discretion, may approve dog runs or enclosures, subject to the provisions of Section 4.10.

Section 5.13 Parking of Vehicles.

- (a) Parking upon any Common Area shall be regulated by the Association. The Board has express authority to adopt additional Rules and Regulations further regulating the parking pads, including without limitation, how many vehicles per Dwelling Unit may be parked thereon, types of vehicles that may be parked thereon, whether certain parking pads may be used for guest parking only, the right to charge for use of the parking pads, and other such regulations.
- (b) Given the limited amount of parking within the Community Area, Owners and Related Users must park the maximum number of vehicles in their garages. Use of the garage for storage areas or workshop areas that hinder or prevent the parking of the number of vehicles for which the garage was originally designed is prohibited. Owners and Related Users must park their vehicles in the following order: (i) first in the garage, and (ii) second in the driveway.
- (c) No motor vehicles owned, leased, rented or used by Owners or Related Users shall be parked overnight on any street within the Community Area
- (d) No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, any towed trailer unit or truck shall be parked overnight on any street or within any Lot except in a completely enclosed building such as a garage, or unless screened in a manner approved by the Architectural Committee. Pickup trucks having a ¾ ton or less manufacturer's rated capacity, with or without bed covers, and passenger vans for the private use of residents of a Dwelling Unit primary transportation on a day-to-day basis, shall not be considered trucks for purposes of the foregoing restrictions

Section 5.14 Inoperative Vehicles. No unused, stripped down, partially wrecked or inoperative motor vehicle or part thereof shall be permitted to be parked on any street or on any Lot in such a manner as to be visible at ground level from any neighboring property or street, unless fully screened in a manner approved by the Architectural Committee. An unused vehicle shall be any vehicle which is not properly licensed or registered or has remained immobile for more than a week as determined by the Association.

Section 5.15 Vehicle Repairs. No servicing, repair, dismantling, sanding or repainting of any type of vehicle, boat, machine or device may be carried on except within a completely enclosed Improvement which screens from the sight and sound of the activity from adjoining streets and from neighboring property.

Section 5.16 Signs. The only signs permitted on any Lot or Improvement shall be:

- (a) one sign of customary size for offering of the signed property for sale or for rent;

- (b) one sign of customary size for identification of the occupant and address of any Dwelling Unit;
- (c) signs as may be necessary to advise of rules and regulations or to caution or warn of danger;
- (d) political signs, which are signs intended to impact the outcome of an election or ballot issue, and only in accordance with additional Rules and Regulations that may be adopted by the Board on size, placement and number, and
- (e) such signs as may be required by law.

Except for permitted signs, there shall not be used or displayed on any Lot or Improvement, any signs or any banners, streamers, flags, light or other devices calculated to attract attention in aid of sale or rental. Architectural Review Committee permitted signs must be professionally painted, lettered and constructed.

## ARTICLE 6

### ARCHITECTURAL REVIEW

Section 6.1 Architectural Committee. The Board shall appoint three or more members of the Association to act as the Architectural Review Committee ("ARC"). The Board shall have authority to remove any members of the Architectural Review Committee at its discretion. The Committee shall exercise the functions assigned to it by this Declaration including reviewing and approving all plans for Improvements as provided in this Declaration. In the event that no one is willing to serve on the Committee, the Board shall perform all duties of the ARC.

(a) The Board, in delegating authority to the Committee, retains responsibility for all actions of the ARC. The Board has the right to approve, disapprove or alter any or all of the ARC's decisions. The Board will serve as a second reviewer on major projects, and shall have discretion to determine which projects shall be considered "major" for purposes of its review.

Section 6.2 Approval Required. No Improvement shall be placed, erected, installed or permitted to occur or exist on any Lot, nor shall the exterior of any existing Improvements be altered, nor shall any construction be commenced on any Improvements, unless and until the plans and specifications for such Improvements shall have been submitted to and approved in writing by the ARC. Matters which require the approval of the ARC include but are not limited to:

- (a) the construction, installation, erection or expansion of any Dwelling Unit or any building, structure, or other Improvements (as defined in Section 2.14);
- (b) the installation of Landscaping;
- (c) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;
- (d) the grading, excavation, filling or similar disturbance to the surface;
- (e) any change or alteration of any previously approved Improvements, including any change of exterior appearance, finish material, color or texture.

Section 6.3 Plans Submissions. All plans, samples and other materials to be submitted to the ARC chair or managing agent The minimal scale of these plans shall be one-twentieth inch equals one foot. The plat plan in this minimum scale shall show the location of all buildings, drives, walks, fences and any other Improvements. Proposed new contours throughout the Lot and abutting street elevations on all sides shall be shown. Structure plans shall show all exterior elevations, and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples.



Section 6.4 Acknowledgment of Owners. Owners acknowledge, accept and agree to the following:

- (a) Owners will not commence construction or installation of an Improvement until they have submitted plans and specifications and received written approval from the ARC;
- (b) Owners shall immediately comply with any request by the Association for additional information relating to an Improvement prior to the ARC's approval of a request and/or prior to the completion of an Improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of ARC approval, if previously granted;
- (c) ARC approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;
- (d) Owners, by submitting an application for approval, hereby certify: (i) they will construct or modify Improvements located only on their own Lot or upon Property which they have permission to construct, modify or improve; and (i) they will not violate any easements, rights-of-way, or other rights appurtenant to such Property.
- (e) Owners shall notify the ARC of completion of the Improvement's installation or construction within ten (10) days of such completion;
- (f) Upon completion of an Improvement, Owners authorize the ARC or its representative(s) to enter onto the Lot for exterior inspection;
- (g) Failure of an Owner to notify the ARC of completion of an approved Improvement, or refusal to allow inspection, shall result in the withdrawal of the ARC's approval;
- (h) If the Improvement as built does not conform to the Improvement as approved by the ARC, the ARC's approval will be deemed withdrawn, and upon written request of the ARC, Owners shall, at their own expense and cost, promptly bring the Improvement into compliance with the submitted and approved plans and specifications;
- (i) In the event of withdrawal of ARC approval for any reason(s) cited in this Section, and upon written request from the ARC, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the Improvement's installation or construction. Such withdrawal will be deemed to suspend the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

Section 6.5 Approval Process. All action required or permitted to be taken by the ARC shall be in writing and any such written statement shall establish the action of the ARC and shall protect any person relying on the statement. If the ARC does not reply to a submittal of plans within thirty (30) days after delivery of all the required and complete materials to the members of the ARC, the materials so delivered shall be deemed approved for the purpose of this Declaration. If the Board is reviewing a major project pursuant to Section 6.1(a) above, its review shall also be within the 30 day timeframe.

The ARC may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to this Declaration, not including reimbursement or compensation to the members of the ARC for their services. The ARC shall be entitled to retain one copy of all approved plans as part of its files and records. Approvals of all plans and specifications for an Improve-



ment will automatically expire within one year after approval if construction is not commenced within one year after approval, and if approval so expires, the applicant must resubmit a request for approval of the Improvement.

Section 6.6 Approval Standards. In granting or withholding approval of matters submitted to it, the ARC shall consider, among other things, the adequacy of the materials for their intended use; the compatibility and harmonization of the external appearance of the Improvement in question with the surroundings, the proper relation of the Improvement to the size, shape and terrain of the Lot, the environment and the surrounding uses; the extent of disturbance of slopes and natural vegetation; and the degree, if any, to which the proposed Improvement will cause intrusions of sound, light or other effects on neighboring sites beyond those to be expected in a quality area from considerate neighbors. The ARC shall have the right to establish reasonable and consistent design standards and guidelines applicable to Improvements, provided they are not in conflict with any express provisions of this Declaration. The ARC shall have the right to disapprove any plans, specifications, or details submitted to it if it determines the proposed Improvement is not consistent with the above standards, if the plans and specifications submitted are incomplete, or if the ARC deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the Community Area, the Association or the Owners. If the ARC believes there may be questions of structural integrity, it may, as part of the approval requirements, require certification of the final plans and specifications by a professional architect or engineer licensed in Colorado. The decisions of the ARC shall be final and binding unless they are clearly arbitrary and there is no evidence to support the ARC's decision.

Section 6.7 ARC Variances. The ARC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

Section 6.8 Variances from Governmental Requirements. Before submitting a request for a building, subdivision, zoning or any land use variance to the City of Colorado Springs or other governmental agency, an Owner must submit his request to the ARC for review and comment. Within thirty days after submittal, the Committee will provide comments and, in the event of disagreement, work with the Owner to reach agreement. Notwithstanding the fact that an Owner obtains a variance from the City of Colorado Springs or other governmental agency, the ARC shall, by majority vote, have the right to disapprove construction, additions, alterations or repairs if it finds that the Owner's proposal will not be in the interests of the Association or its Members. This power amounts to a veto. It may be enforced if necessary by legal action if the Association's Board of Directors so decides.

Section 6.9 Conditions of Approval. In the discretion of the Board or the ARC, an Owner may be required to enter into a written agreement establishing the approval of the application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration

Section 6.10 Right to Appeal. If the Board of Directors is not acting as the ARC, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the ARC to the Board of Directors. The Board of Directors shall review the decision of the ARC pursuant to the criteria set forth in this Article and/or the architectural guidelines. Any decision of the ARC may be overruled and reversed on appeal by a majority of the directors by a written decision setting forth the



reasons for the reversal when the directors conclude that the ARC's decision was inconsistent with the criteria set forth in this Article and the guidelines.

Section 6.10 No Liability. Neither the Board nor the ARC or any member thereof shall be liable in damages or otherwise to anyone submitting plans to them for approval or requesting a variance, or to any Owner by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval or failure to approve any plans, specifications or variance. Approval by the ARC shall not mean that plans and specifications are in compliance with the requirements of any local building codes, zoning ordinances or other governmental regulations, and it shall be the responsibility of the Owner or other person submitting plans to the ARC to comply with all codes, ordinances and regulations.

## ARTICLE 7

### ASSOCIATION OPERATION

Section 7.1 Association Structure. The Association has been formed as a Colorado corporation under the Colorado Common Interest Ownership Act and the Colorado Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in the Association Documents. As more specifically set forth hereinafter, the Association shall have Board of Directors to manage its affairs. The Board of Directors shall be elected by its Members.

Section 7.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number, terms and qualifications of the members of the Board of Directors shall be fixed in the Articles of Incorporation and/or Bylaws of the Association. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for the management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized committee, officer, agent or employee without a vote of Members, except as otherwise specifically provided in this Declaration or by Colorado law. All lawful decisions, agreements and undertakings by the Board, or its authorized representatives, shall be binding upon all Members, Owners, Related Users and other Persons.

Section 7.3 Membership in Community Association. Each owner shall be a Member of the Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Lot, and the membership shall automatically pass with fee simple title to the Lot. Membership in the Association shall not be assignable separate and apart from the fee simple title to a Lot, except that an Owner and as Member of the Association to a contract purchaser, tenant or First Mortgagee shall be extinguished automatically upon termination of the First Mortgage, sales contract or tenancy. The assignment of rights by an Owner pursuant to this section shall not be subject to any present or future statutory time limit for the duration of duly notarized proxy rights, but shall be in writing, and delivered to the Association before such Person shall be entitled to exercise any membership rights or privileges. All rights, title and privileges of membership shall be subject to the Association Documents.

Section 7.4 Voting Rights of Members. Members shall have the right to cast votes for the election of Board of Directors and on such other matters to be voted on by the Members, as provided in the Association Documents. One vote is allocated to each Lot and Members shall have one vote for each Lot owned.



## ARTICLE 8

### DUTIES AND POWERS OF ASSOCIATION

Section 8.1 General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or representatives to whom the Board has delegated such powers, shall have the duties and powers given non-profit corporations, including without limitation those hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the Common Area, and to improve and enhance the attractiveness, desirability and safety of the Common Area. The Association shall have and may exercise all powers enumerated in Section 302 of the Colorado Common Interest Ownership Act, Section 38-33.3-302, Colorado Revised Statutes. Except as expressly otherwise provided in the Association Documents or by Colorado law, the Association shall act through the Board of Directors, without the vote or meeting of the Members, and the Board may exercise all rights, powers and interests of the Association, as described in this Article or elsewhere in the Association Documents.

Section 8.2 Duty to Manage and Care for Property. The Association shall manage, operate, care for, maintain and repair all Common Area and keep the same in an attractive and desirable condition for the use and enjoyment of the Members.

The Association shall also maintain any Landscaped area within Lots owned by the Owners of the Lots, except those areas inside fence lines erected pursuant to Section 4.10, which the Owner is obligated to maintain as provided in Section 4.10. The foregoing maintenance obligation over the Lot does not extend to restoring damaged landscape to its original condition if the damage was caused by the Owner or a Related User. The Association shall maintain all private roads.

Section 8.3 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with this Declaration and as required by Colorado law. Insurance shall include liability coverage for the Association's common areas and easements, as more particularly provided in Article 11.

Section 8.4 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

Section 8.5 Duties with Respect to Architectural Approvals. The Board shall perform functions to assist the Architectural Review Committee as elsewhere provided in this Declaration, including the right of the Board to conduct a second review, as described in Section 6.1(a) above.

Section 8.6 Power to Acquire and Maintain Property and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners, including Improvements and personal property. The Association may construct or reconstruct Improvements on property and may demolish existing Improvements. The Association shall have the power to maintain public or private rights of way and to perform maintenance on any portion of the Community Area, whether or not owned by the Association. This shall include maintenance of private roads, utilities and walkways.

Section 8.7 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce such Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and matters related thereto, the operation of the Association, the use of and enjoyment of Common Area, and the use of any other property within the Community Area, including Lots. Any such Rules and Regulations shall be reasonable and



uniformly applied as determined by the Board in its sole discretion. Rules and Regulations shall be effective upon adoption by resolution of the Board of Directors. Written notice of the adoption, amendment, or repeal of any Rule or Regulation shall be provided to all Members in the manner determined by the Board, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the copying cost. Each Owner, Related User, Member and other Person shall comply with such Rules and Regulations and shall see that Related Users of such Member comply with the Rules and Regulations. Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration, the provisions of this Declaration shall prevail.

Section 8.8 Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of the Association Documents, and shall take such action as the Board deems necessary or desirable to cause compliance by each Member, other Person, and Related Users of each Member without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Association Documents by any one or more of the following means: (a) by entry upon any property within the Community Area after reasonable notice to the Owner (unless a bona fide emergency exists), without liability to the Owner or occupants thereof, for the purpose of enforcement of or causing compliance with the Association Documents; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach of threatened breach of the provisions of the Association Documents, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Association Documents; (d) by exclusion of any Member, related User or other Person from use of any Common Area for a period not to exceed sixty days as a penalty for any breach of the Association Documents by a Member, Related User or other person; (e) by suspension of the voting rights of a Member during and for up to sixty days following any breach by such Member or a Related User of such Member of the Association Documents, unless the breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after notice and opportunity for a hearing a Site Assessment against any Member for breach by the Member or a Related User of such a Member of the Association Documents; (g) by levying and collecting, after any notice and an opportunity for a hearing, reasonable and uniformly applied fines and penalties, established in advance in the enforcement and fine policy of the Association, from any Member, Related User or other person for breach by such Member, Related User, or other person of the Association Documents, (h) by performing any duty of any Member, Related User or other Person or correcting any violation or breach of the Association Documents and oppugning, upon demand, reimbursement for all expenses related thereto as a Site Assessment; and (i) by exercising any right or remedy permitted by law or in equity.

Section 8.9 Power and Duty to Enforce Association Documents. The Association shall have the power and duty to enforce the covenants, terms and provisions of the Association Documents.

Section 8.10 Power to Operate and Charge for Facilities. The Association shall have the power to acquire, create, own and operate any and all such facilities and services as it deems appropriate, including, without limitation, sod maintenance and refuse collection, or any other similar or dissimilar function, and to establish charges for the use of facilities and services. The charges may include admission, rental or other fees and charges for any use of property, facilities, or services of the Association. Such charges or fees, which may include charges for refuse and use of the parking pads, shall be as determined from time to time by the Board of Directors.

Section 8.11 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under Association Property for any lawful purpose, including, without limitation, the provision of emergency services, utilities, telephone, television, or other uses or services to some or all of the Members.



Section 8.12 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a manager or managers to undertake any of the management of any functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to the manager. Any contract or agreement with a manager shall be terminable by the Association with or without cause, and without payment of a termination fee, on at least thirty days prior written notice. No such contract or agreement shall be for a term of more than one year. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board of Directors shall remain ultimately responsible for the performance and exercise of such duties, power and functions.

Section 8.13 Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents (except as otherwise provided in management contracts) and retain and pay for such legal and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under the Association Documents.

Section 8.14 General Corporate Power. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act and all powers contained in the Colorado Common Interest Ownership Act, Section 38-33.3-101, et seq., Colorado revised Statutes, subject to any limitations, restrictions, or requirements expressly set forth in the Association Documents.

Section 8.15 Other Powers. The Association shall have the power to regulate the days and hours during which trash and solid waste may be collected or put out to collection in any portion of the Community Area, and the Association may require all Owners to use a common trash collection company or entity selected by the Board. The Association shall also have the power to provide services for the collection of trash and solid waste within all or any portions of the Community Area. The Association shall have the power, but not any duty, to sponsor or conduct various community activities or special events of a social or recreational nature, to hire and provide a security or courtesy patrol, which shall be unarmed and shall not be a substitute for the municipal police, and to provide general informational services which may include, without limitation, community newsletter, radio broadcast, cable television services, and similar services.

## ARTICLE 9

### COMMON AREA

Section 9.1 Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate use of Common Area by Members. The Association will maintain all Common Area as provided in Section 8.2.

Section 9.2 No Partition of Common Area. No Owner shall have the right to partition or seek partition of the Common Area or any part thereof.

Section 9.3 Liability of Owners for Damage. Each Owner shall be liable to the Association for any damage to Common Area or for any expense or liability incurred by the Association, to the extent not covered by insurance, which may be sustained by reason of the negligence or willful misconduct of such Owner or a Related User of the Owner, or sponsored guest/visitor, and for any violation by such Owner or a Related User of the Owner, and for any violation by such owner or Related user of the Association Documents. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Site Assessment against a member, Owner, Residential Site, Related User, or other Person to cover the costs and expenses incurred by the Association on



account of any such damage or any such violation of the Association Documents, including without limitation, interest, costs, expenses and attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 9.4 Damage to Common Area. In the event of damage or destruction of all or a portion of the Common Area due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage or destruction, then the Association shall levy a Special Assessment in the aggregate amount of such insufficiency pursuant to this Declaration and shall proceed to make such repairs or reconstruction, unless the Owners agree not to repair and reconstruct such damage in accordance with the terms and provisions of this Declaration. No distributions of insurance proceeds shall be made to the Owners, unless made jointly payable to Owners and the First Mortgagees, if any. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction or replacement, the Association may use the excess for future maintenance, repair, and operation of and improvements to Common Area. Any Special Assessment levied pursuant to this Section shall not require Owner approval.

Section 9.5 Association Powers in the Event of Condemnation.

- (a) If proceedings are initiated by any government or agency thereof seeking to take any real property owned by the Association or any interests therein or part thereof; including any Improvements, the Association shall give prompt notice thereof, including a description of the part of or interest in the property owned by the Association nor Improvements thereon sought to be so condemned, to all Owners. The Association shall have full power and authority to defend in said proceedings, and to represent the Owners in any negotiations, settlements and agreements with a condemning authority for acquisition of the property owned by the Association, any part thereof or any interest therein, and each Owner hereby appoints the Association as the Owner's attorney-in-fact for such purposes. Any award or proceeds of settlement shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings.
- (b) If all of the property owned by the Association is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, any award or settlement shall be apportioned by the Association on such fair and equitable basis as the Association determines to be appropriate in the circumstances, or as determined by judicial decree. If the allocation of the condemnation award is already established in the negotiations, judicial decree, or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent that it is relevant and applicable.
- (c) If less than all of the property owned by the Association is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance of condemnation, the condemnation award shall first be applied by the Association to the rebuilding and replacement of those Improvements on the property owned by the Association which are damaged or taken by the condemning public authority, if such rebuilding or replacement is reasonably practical, unless Members with at least sixty-seven percent of the voting power of the Association and unless sixty-seven percent of the First Mortgagees (based upon one vote for each First Mortgage held) agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be distributed by the Association on the same basis as indicated in the subparagraph (b) of this section. No provision of this Declaration or any other document relating to the property owned by the Association shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee, pursuant to a first mort-



gage, awarding distribution of insurance proceeds or condemnation awards for losses to or taking of property owned by the Association.

ARTICLE 10  
ASSESSMENTS

Section 10.1 Obligation for Assessments. Each Owner, for each Lot owned within the Community Area, by acceptance of a deed therefore or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all Assessments which are described in the Association Documents and which shall be both a personal obligation of the Owner and a lien against his Lot as provided therein. Each Owner shall be jointly and severally liable to the Association for the payment of all Assessments attributable to them and/or their Lot. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for herein by non-use of the Common Area or the facilities contained therein, by abandonment or leasing of his Lot, or by asserting any claims against the Association, or any other person or entity. In addition, of the foregoing Assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Lot. All property dedicated to and accepted by a public or governmental authority and the Common Area shall be exempt from Assessments hereunder.

Section 10.2 Purpose of Assessment. The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Area as more specifically provided herein.

Section 10.3 Common Assessments. The Common Assessment may include, but shall not be limited to, the following common expenses:

- (a) expenses of management of the Association and its activities;
- (b) taxes and special assessments upon the Association's real and personal property;
- (c) premiums for all insurance which the Association is required or permitted to maintain;
- (d) common services to Owners as approved by the Board;
- (e) landscaping and care of the Common Area and any recreational or other Association facilities or improvements located thereon, and of sodded areas within Lots;
- (f) repairs and maintenance that are the responsibility of the Association;
- (g) wages for Association employees and payments to Association contractors;
- (h) legal and accounting fees for the Association;
- (i) any deficit remaining from a previous Assessment year;
- (j) the creation of reasonable contingency reserves, surpluses, and sinking funds, and adequate reserve funds for maintenance, repairs and replacement of those elements of Association Property or maintenance that must be done or replaced on a periodic basis and are payable in regular installments, rather than by Special Assessments;
- (k) the creation of reasonable contingency reserves for any applicable insurance deductibles and emergencies,
- (l) any fees, charges, late fees, attorney fees, fines and interest charged by the Association, and any additional fees charged by the managing agent, including but not limited to, administration and witness fees, and/or any other charges that may be assessed and/or levied or may be agreed to in the process of collecting past due As-



assessments, including but not limited to, credit card convenience fees from whatever source, and

- (m) any other costs, expenses, and fees which may be incurred or may reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Owners under or by reason of this Declaration.

Common Assessments shall be paid monthly as provided in Section 10.4.

Section 10.4 Common Assessment Procedure. The Board of Directors shall set the total annual Common Assessment based upon an advanced budget of the Association's requirements for the following Assessment year. Within thirty days after adoption of the Association's budget for each year by the Board, the Board shall mail by ordinary first-class mail, or otherwise deliver, a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing or other delivery of the budget summary. Unless at that meeting a majority of all Owners rejects the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

After ratification of the budget by the Owners, the Board shall cause to be prepared, delivered or mailed to each Owner, at least thirty days in advance of the date payment is due, a payment statement setting forth the annual Common Assessment. That annual Common Assessment shall be payable in advance in monthly installments due on the first day of each successive month. All payments of Common Assessments shall be due and payable, without any notice or demand, on the due dates declared by the Board. Common Assessments shall be applicable to all Lots. Each Owner shall become responsible for Common Assessments on a Lot as of the date the Lot is transferred to such Owner. .

Section 10.5 Rates of Assessment. Common Assessments and Special Assessments shall be sufficient to meet the expected needs of the Association. Common Assessments and Special Assessments shall be allocated equally and uniformly among all Lots, so that each Owner is obligated to pay an equal Common Assessment and Special Assessment for each Lot owned.

Section 10.6 Failure to Fix Assessments. The failure by the Board of Directors to levy an Assessment for any period shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Owner to pay Assessments for that or any subsequent period.

Section 10.7 Special Assessments. In addition to Common Assessments, the Board of Directors may, subject to the provisions of this section and upon the approval of a budget for Special Assessments ratified by the Owners in accordance with the procedures set forth in Section 10.4, levy Special Assessments for the purpose of raising funds to construct or reconstruct, repair or replace capital Improvements upon Common Area, including personal property relating thereto; to add to the Common Area: to provide for necessary facilities and equipment; to offer the services authorized in this Declaration, to correct any deficit or cost overrun; or to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. Special Assessments shall be equally, uniformly imposed upon Lots. At any time that insurance proceeds are insufficient to repair or reconstruct any damaged or destroyed Improvements on the Common Area, or on any other property which the Association maintains, the Association may levy Special Assessments for the purpose of repair or reconstruction of such damaged or destroyed Improvements, all such Special Assessments shall be equal to the amount by which the cost of repair or reconstruction of Improvements exceeds the sum of insurance proceeds awarded for the damage or destruction, and shall be set in the same manner as other Special Assessments. The Association shall notify Owners in writing of the amount of any



Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable, and the Owner shall pay any such Special Assessment in the manner so specified.

Section 10.8 Site Assessments. The Board of Directors may, subject to the provisions of this section, levy a Site Assessment against any Member, Owner, or Lot if the willful or negligent acts or omissions of the Member, Owner or a Related User cause any violation of the Association Documents or cause any loss or damage to the Association or Common Area or any other property maintained by the Association, or cause an expenditure of funds in connection with the enforcement powers of the Association. Except for a default consisting solely of a failure to timely pay any Assessment, including, without limitation, Special Assessments or Common Assessments, which shall not require any notice and hearing, a Site Assessment shall be levied only after such notice and hearing, as may be required by the Bylaws. The amount of the Site Assessment shall be due and payable to the Association upon notice by the Board that the Site Assessment is owing. Imposition or non-imposition of Site Assessments shall not preclude the Association from pursuing simultaneously or subsequently all other legal or equitable rights and remedies.

Section 10.9 Supplemental Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

- (a) Those amounts expended by the Association for the benefit of one or more, but less than all, Lots or any occupant(s) thereof, including but not limited to: improvement, repair, replacement or maintenance specific to a Lot(s), such as water and sewer line repairs;
- (b) All fines and costs assessed against an Owner pursuant to the Association Documents; and
- (c) Any other expenditures or charges which the Board reasonably determines to be allocable to a particular Lot.

Section 10.10 Costs of Enforcement, Late charges and Interest. If any Assessment is not paid within ten days after it is due, the Member, Owner or other Person obligated to pay the Assessment may be additionally required to pay all costs of enforcement, including without limitation, reasonable attorneys' fees, court costs, witness expenses, and all related expenses, and to pay reasonable late charges to be determined by the Board. Any Assessment which is not paid within ten days after the date of any notice of default given under Section 10.12 shall bear interest from the due date at a rate determined by the Board, not to exceed the lower of twenty-one percent (21%) per annum, or the maximum rate permitted by law, from the due date until paid.

Section 10.11 Attribution of Payments. If any Assessment payment is less than the amount assessed, the sums received by the Association from that Owner shall be credited applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the governing documents, prior to application of the payment to any Common or Special Assessments due or to become due with respect to such Owner.

Section 10.12 Notice of Default and Acceleration of Assessments. If any Assessment is not paid within thirty days after its due date, the Board of Directors may mail a notice of default to the Owner containing the information set forth in the collection policy adopted by the Board, and pursuant to the procedures contained therein. A default shall not be considered cured unless the past due sums, collection expenses, and all sums coming due through the date of payment are paid to the Association. If the delinquent Assessment and any collection expenses, late charges or interest thereon, plus any



other sums due as of the date of payment, are not paid in full on or before the date specified in the notice, the Board, at its option, may enforce the collection of the Assessment and all charges and interest thereon in any manner authorized by law or in the Association Documents, including causing the total amount of such Owner's Common Assessment for the remainder of the fiscal year to become immediately due and payable (i.e., acceleration) the option of the Board. The Board may, in its discretion, decelerate the Owner's annual Common Assessment.

Section 10.13 Remedies to Enforce Assessments. Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom it is assessed. In the event of a default in payment of any Assessment, the Board may, in addition to any other remedies provided under the Association Documents or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided. Each owner, by acceptance of a deed to a Lot, whether or not it is expressed in such deed, is deemed to covenant and agree to pay to the Association all Assessments, together with interest, late charges, and expenses of collection, and this covenant shall be a charge on the land and a continuing lien upon the Residential Site against which the Assessment is made. The lien created hereby shall exist from the date of each Assessment and shall be a continuing lien upon the Site against which each such Assessment or charge is made until all sums are paid, whether or not a Notice of Lien is filed in accordance with Section 10.15.

Section 10.14 Lawsuit to Enforce Assessments. The Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charge, interest, and other costs of enforcement against the defaulting Owner, including, without limitation, reasonable attorneys' fees.

Section 10.15 Lien to Enforce Assessments. The Association shall have a lien for Assessments (the "Lien") as provided in Section 316 of the Colorado Common Interest Ownership Act, Section 38-33.3-316, Colorado Revised Statutes. In addition to or in lieu of bringing suit to collect Assessments, the Association may foreclose its lien as provided by law and in this section. The Board may elect (but is not required to) to file a claim of lien against the Lot of the defaulting Owner by recording a notice ("Notice of Lien") substantially setting forth (a) the amount of the claimed delinquency, (b) the interest and expenses of collection of which have accrued thereon, (c) the legal description and street address of the Lot against which the lien is claimed, and (d) the name of the record Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The Lien shall have the priority provided by the Colorado Common Interest Ownership Act and shall be prior to any declaration of homestead rights recorded after the time that the Lot becomes part of the Community Area. The acceptance of a deed to a Lot subject to this declaration shall constitute a waiver by the Owner of the homestead exemption as against said Lien, the Lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Lien, including, without limitation, all court costs, recording costs and filing fees, have been fully paid or satisfied, the Association shall execute and record a notice releasing the Notice of Lien, if recorded, upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the cost of preparing and recording the release of the Notice of Lien. Unless paid or otherwise satisfied, the lien may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including deeds of trust), or in any other manner permitted by law. The Association shall have the right and power to bid on the Lot at the sale and to acquire and hold, lease, mortgage, and convey the same.

Section 10.16 Estoppel Certificates. Upon the payment of such reasonable fee as may be determined from time to time by the Board of Directors, and upon the written request of any Member or Owner and any Person which has, or intends to acquire, any right, title or interest in the Lot of such



Member or Owner, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the Owner thereof, and setting forth the amount of any Assessment levied against such Site which is not yet due and payable. Such statement shall, with respect to the Person whom it is issued, if relied thereupon in good faith and without actual knowledge to the contrary, be conclusive against the Association.

Section 10.17 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offset, abatement or reduction thereof shall be permitted for any reason whatsoever, including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration, or for inconvenience or discomfort arising from any activity of the Association, including the making of repairs or Improvements to Common Area, or because an Owner claims that particular function funded by the Assessment does not benefit that Owner directly, or for any other reason.

## ARTICLE 11

### INSURANCE

Section 11.1 Insurance on Common Area. The Association shall maintain insurance covering all insurable Common Area. The Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a common expense. Notwithstanding any of the specific insurance requirements specified in this Article 12, the Association may also consider, in determining the type and amount of insurance it needs to obtain, the then-existing requirements of the Agencies.

- (a) A policy of property insurance covering all insurable Common Area for broad form covered causes of loss, in an amount not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. Such insurance as maintained by the Association pursuant to this subsection shall afford protection against at least the following:
  - (i) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and
  - (ii) such other risks as at the time are customarily covered with respect to associations having property similar in construction, location and use, including all periods normally covered by the standard "all risk" endorsement, where such is available
- (b) A comprehensive policy of commercial general liability insurance covering all of the Common Area, insuring the Association in an amount considered acceptable to FNMA but not less than \$1,000,000.00, covering bodily injury, including death, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths in connection with the operation, maintenance or use of the Common Area, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles. Such coverage may also include, if applicable, comprehensive automobile liability insurance, garage keepers liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and insurance coverage of such other



risks as are customarily required by private institutional mortgage investors with respect to associations having property similar in construction, location and use. This policy shall insure the Association, the Board of Directors, the Associations managing agent (if any), and their respective employees, agents and all persons acting as agents. The Owners shall be included as additional insureds but only for claims and liabilities arising from the ownership, existence, use or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties

- (c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all other who handle or are responsible for handling funds of the Association, in an amount at least equal to the estimated maximum of funds, including reserves, held by the Association at any given time; provided, however, that such fidelity coverage or fidelity bonds shall not be in an amount less than two months aggregate Common Assessments on all Lots, plus the Associations reserve finds. Such fidelity coverage or bonds shall meet the following requirements:
  - (i) all such fidelity coverage or bonds shall name the Association as an obligee,
  - (ii) such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of person who serve without compensation from any definition of "employee" or similar expression.

In the event that the Association has delegated some or all of its responsibility for the handling of funds to a manager, the Association may require the manager to purchase, at the manager's own expense, a policy of fidelity insurance or bonds which fully complies with the provisions of this paragraph (c).

- (d) In addition, the Association may obtain insurance against such other risks of similar or dissimilar nature as it shall deem appropriate, to the extent that such coverage is reasonably available, including but not limited to personal liability insurance to protect directors and officers of the Association and the members of the Architectural Committee and other representatives.
- (e) Notwithstanding any other provision of the Association Documents, all insurance acquired by the Association shall satisfy the requirements of Section 313 of the Colorado Common Interest Ownership Act, Section 38-33.3-313, Colorado Revised Statutes.

Section 11.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association, or its designee, as trustee and attorney-in-fact for all Owners, as the insured, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory First Mortgagees clause in favor of each First Mortgagee, and a provision that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty days' prior written notice thereof is given to the insured and to each First Mortgagee, insurer or guarantor of a First Mortgage. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest including First Mortgagees, upon request and payment of a reasonable fee. Any such Owner's policy shall also contain waivers of subrogation. Additionally, all policies shall contain waivers of any defense based on invalidity arising from any act or neglect of an Owner where such Owner is not under the control of the Association.

Section 11.3 Deductibles. No policy or insurance of which the Association or its designee is the beneficiary shall include a deductible clause in an amount which is greater than the lesser of



\$10,000.00 or one percent of the face amount of the policy. Any deductible shall be payable by the Person responsible for the repair and maintenance of the damaged or destroyed property which is the subject of an insurance claim. In the event of a joint duty of repair and maintenance of the damaged or destroyed property, then the deductible may be apportioned among the parties sharing in such joint duty, or may be partly or wholly borne by the Association, at the election of the Board of Directors.

Section 11.4 Insurance Trustee. The Association may authorize a representative to act for it, including any trustee or successor thereto, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance. Such insurance trustee shall act as attorney-in-fact for the purpose of purchasing and maintaining insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose. Said party may also receive, hold or otherwise properly dispose of any proceeds of insurance in trust for Owners and their First Mortgagees as their interests may appear.

Section 11.5 Acceptable Insurance Companies. Each hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current credit or financial rating, which meets any applicable requirements of the Agencies, and is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy in (a) the terms of the insurance company's charter, bylaws, or policy provide that contributions or assessments may be made against mortgagor or mortgagee's designee, or (b) the terms of the carrier's charter, bylaws, or policy provide that loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent First Mortgagees or any Owner from collecting insurance proceeds.

Section 11.6 Other Insurance to be Maintained by Owners. Insurance coverage on the Dwelling Units, furnishings and other items of personal property belonging to an Owner, public liability insurance coverage upon each Lot, and hazard insurance coverage on the Improvements owner by each Owner shall be the responsibility of the Owner of such Lot.

Section 11.7 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association

Section 11.8 Owners' Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of any or all of the Association Property is caused by the willful or negligent act or omission of any Owner, or a Related User of such Owner, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction may be collected as Site Assessment as provided in this Declaration or by the Association exercising any rights or remedies under the Association Documents or otherwise as permitted by law. A determination of the negligence or willful act or omission of any Owner or any Related User of such Owner, and the amount of the Owner's liability therefore, shall be determined by the Board of Directors at a hearing after any notice required by the Bylaws to be given to the Owner, but any determination by the Board of Directors shall be subject to judicial review as appropriate.



## ARTICLE 12

### EASEMENTS

Section 12.1 Easement for Encroachments. If any portion of an Improvement encroaches upon the Association Property, including any fixture encroachments arising or resulting from erosion or subsidence, or from the repair or reconstruction of an Improvement subsequent to its damage, destruction or condemnation, the Board may grant a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, for so long as such encroachment exists, but subject to any conditions or restrictions imposed by the Board.

Section 12.2 Association Easement. An easement to perform its maintenance or other rights or obligations pursuant to this Declaration is hereby granted to the Association, its officers, agents, employees and assigns, upon, across, over, in and under the Community Area, together with the right to make such use of the Community Area and to enter upon any and all Lots as may be necessary or appropriate in carrying out such maintenance or other rights or obligations.

Section 12.3 Landscaping Easements. The Association has a perpetual alienable, divisible and releasable easement on, over, under, in and across each of the areas shown as Landscaping Easements on the Plat, to plant, cultivate, install, maintain, repair and replace Landscaping. The Association is obligated to maintain all sod within these Landscaping Easements.

Section 12.4 Utilities. The Association has:

- (a) perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the seven foot strips along and adjoining each rear Lot Line of each Lot, and each of the five foot strips along and adjoining each side Lot Line of each Lot for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, (or water lines, for utility lines, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes; and
- (b) a blanket easement across, over and under the Common Area for access, utilities, drainage and the installation, replacement, repair and maintenance of utilities, including but not limited to water, water, gas, telephone and electricity.

If any utility or quasi-utility company furnishing a service covered by the easements created herein requests a specific easement by separate recordable document, the Association reserves and is hereby given the right and authority to grant such easement. The easement provided for in this section shall in no way affect, avoid, extinguish or modify any other recorded easement on the Community Area

Section 12.5 Easements Deemed Created. All conveyance of Lots hereafter made, whether by the Association or otherwise, shall be construed to grant and reserve the easements contained in this Article 13, whether or not specific reference to such easements or to this Article appears in the instrument of such conveyance.

Section 12.6 Easements of Record. In addition to the easements created in this Article 12, the Community Area is subject to those easements and other matters currently of record in El Paso County, Colorado and identified on Exhibit C of the Original Declaration.



ARTICLE 13  
MISCELLANEOUS

Section 13.1 Term of Declaration. Unless amended as herein provided, all provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective for twenty years after the date when this Declaration was originally recorded, and, thereafter, shall be automatically extended for successive periods of ten years which unless terminated by agreement of the Owners with at least two-thirds of the voting power of the Association, in the manner provided in Section 218 of the Colorado Common Interest Ownership Act, Section 38-33.3-218, Colorado Revised Statutes.

Section 13.2 Amendment of Declaration by the Association. The Association may amend the Declaration as permitted by the Colorado Common Interest Ownership Act

Section 13.3 Amendment of Declaration by Members. Any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the amendment or repeal by Members with at least sixty-seven percent of the voting power of this Association, in accordance with the requirements of Section 217 of the Colorado Common Interest Ownership Act, Section 38-33.3-217, Colorado Revised Statutes.

Section 13.4 Notices. Except as otherwise provided by Colorado law, any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, facsimile, or electronically. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person of the Association for the purpose of service of such notice, or to the Lot of such Person if no address has been given to the Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

Section 13.5 Persons Entitled to Enforce Declaration. The Association, acting by authority of the Board, or any Member, shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Association Documents. The right of enforcement shall include, without limitation;

- (a) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
- (b) suspending the right to vote and the right to use Common Area;
- (c) exercising self-help (including, but not limited to, performing such maintenance responsibilities which are the Owner's responsibility under this Declaration and assessing all costs incurred by the Association against the Lot and the Owner as an Assessment) or taking action to abate any violation of the Association Documents;
- (d) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Association Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass, with all fees and costs in



connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;

- (e) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;
- (f) levying a Site Assessment to cover costs incurred by the Association to bring a Lot into compliance with the Association Documents; and
- (g) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Association Documents, the Association may record a notice of violation against the Owner and the Lot.

Section 13.6 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 13.7 Remedies Cumulative. Each remedy provided under the Association Documents is cumulative and not exclusive.

Section 13.8 Costs and Attorneys Fees. In any action or proceeding under the Association Documents, the party which seeks to enforce the Association Documents and prevails, shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney's fee and expert witness fees.

Section 13.9 Limitation on Liability. The Association, the Board of Directors, the Architectural Committee, and any member, agent or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice, and shall be indemnified by the Association to the fullest extent permissible by the laws of Colorado, including without limitation, circumstances in which indemnification is otherwise discretionary under Colorado law, in accordance with and subject to the terms and limitations contained in the Bylaws.

Section 13.10 Liberal Interpretation. The provisions of the Association Documents shall be liberally construed as a whole to effectuate the purposes of the Association Documents. The use herein of the word "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

Section 13.11 Governing Law. The Association Documents shall be construed and governed under the laws of the State of Colorado.



Section 13.12 Severability. Each of the provisions of the Association Documents shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial enforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 13.13 Number and Gender. Unless the context requires a contrary construction, as used in the Association Documents, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.

Section 13.14 Captions for Convenience. The titles, headings and captions used in the Association Documents are intended solely for convenience of reference and are not intended to affect the meaning of any provisions of this Declaration.

Section 13.15 Mergers or Consolidation. The Association may merge with another incorporated association to the extent permitted by law. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Community Area together with the covenants and restrictions established upon any other property, as one plan.

Section 13.16 Conflicts in Documents. In case of any conflict between this Declaration and the Articles of incorporation or the Bylaws of the Association, this Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

The undersigned, being the president and the Secretary of The Village at Peregrine Homeowners Association, Inc., hereby certify that the Association has obtained written approval of this Declaration from Members with at least sixty-seven percent of the voting power of this Association, or alternatively, a court order entered by the District Court for El Paso County, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration. Approvals obtained shall remain in effect until this Declaration is approved unless approval is expressly revoked in writing.

**THE VILLAGE AT PEREGRINE HOMEOWNERS  
ASSOCIATION, INC.,**

a Colorado nonprofit corporation,

By: Linda A. Henning  
President


ATTEST:

Denise Leccese  
Secretary



STATE OF COLORADO )  
 ) ss.  
COUNTY OF El Paso )

The foregoing Declaration was acknowledged before me by Linda A. Heming, as President and by Denise Leccese, as Secretary, of The Village at Peregrine Homeowners Association, Inc., a Colorado nonprofit corporation, on this 15 day of February, 2017.

  
\_\_\_\_\_  
Notary Public

My commission expires: 26 MARCH, 2019

**Stephen Kouri**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
**NOTARY ID: 20074012381**  
**MY COMMISSION EXPIRES MARCH 26, 2019**



EXHIBIT A  
LEGAL DESCRIPTION

AS FURTHER CLARIFIED ON THE VILLAGE AT PEREGRINE FILING NO. 1 PLAT, RECORDED ON JANUARY 9, 1997, AT RECEPTION NO. 97003189, IN THE OFFICE OF THE CLERK AND RECORDER, EL PASO COUNTY, COLORADO:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 2, TOWNSHIP 13 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 13 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTH QUARTER CORNER WITH A 3-1/4" BLM BRASS CAP AND AT THE NORTHWEST SECTION CORNER WITH A 3-1/4 BLM BRASS CAP, IS ASSUMED TO BEAR N89°38'31"W, A DISTANCE OF 2635.38 FEET.

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 15, HIDDEN VALLEY AT PEREGRINE, RECORDED IN PLAT BOOK D-4 AT PAGE 200, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF BEGINNING; THENCE S86°37'58"E. ON THE SOUTHERLY LINE OF SAID LOT 15, A DISTANCE OF 291.95 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 15, SAND POINT BEING ON THE EASTERLY BOUNDARY OF A TRACT OF LAND DESCRIBED IN BOOK 5362 AT PAGE 790, RECORDS OF EL PASO COUNTY, COLORADO; THENCE SOUTHERLY AND EASTERLY, ON THE BOUNDARY OF SAID TRACT, THE FOLLOWING TWO (2) COURSES:

1. S01°05'13"E, A DISTANCE OF 1034.36 FEET;
2. S79°12'36"E, A DISTANCE OF 301.75 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE WESTERLY LINE OF A TRACT OF LAND DESCRIBED IN BOOK 5607 AT PAGE 18, RECORDS OF EL PASO COUNTY, COLORADO;

THENCE ON S01°32'50"E, ON SAID SOUTHERLY EXTENSION, A DISTANCE OF 99.94 FEET TO A POINT ON THE NORTHERLY RIGH-OF-WAY LINE OF WOODMEN ROAD, PLATTED IN WOODMEN ROAD FILING NO.1, RECORDED IN PLAT BOOK C-4 AT PAGE 37, RECORDS OF EL PASO COUNTY, COLORADO; THENCE WESTERLY, ON SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING FOUR (4) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS N21°24'22"W, HAVING A DELTA OF 60°39'38", A RADIUS OF 885.00 FEET, A DISTANCE OF 936.97 FEET TO A POINT OF REVERSE CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, WHOSE CENTER BEARS S39°15'16"W, HAVING A DELTA OF 11°29'25", A RADIUS OF 740.00 FEET, A DISTANCE OF 148.40 FEET TO A POINT OF REVERSE CURVE;
3. ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS N27°45'51"E, HAVING A DELTA OF 86°56'34", A RADIUS OF 10.00 FEET, A DISTANCE OF 15.17 FEET TO A POINT OF TANGENT;
4. N24°42'5"E, A DISTANCE OF 8.73 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF DUTCHROCK ROAD, PLATTED IN DUTCHROCK ROAD FILING NO. 1, RECORDED IN PLAT BOOK C-4 AT PAGE 173, RECORDS OF EL PASO COUNTY COLORADO;

THENCE NORTHERLY, ON SAID EASTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SIX (6) COURSES:

1. N24°42'25"E, A DISTANCE OF 45.83 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 14°51'53", A RADIUS OF 270.00 FEET, A DISTANCE OF 70.05 FEET TO A POINT OF REVERSE CURVE;



3. ON THE ARC OF A CURVE TO THE LEFT, WHOSE CENTER BEARS  $N50^{\circ}25'42''W$ , HAVING A DELTA OF  $19^{\circ}41'01''$ , A RADIUS OF 630.00 FEET, A DISTANCE OF 216.43 FEET TO A POINT OF REVERSE CURVE;
4. ON THE ARC OF A CURVE TO THE RIGHT, WHOSE CENTER BEARS  $S70^{\circ}06'43''E$ , HAVING A DELTA OF  $50^{\circ}38'29''$ , A RADIUS OF 270.00 FEET, A DISTANCE OF 238.64 FEET TO A POINT OF TANGENT;
5.  $N70^{\circ}31'46''$ , A DISTANCE OF 75.49 FEET TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF  $141^{\circ}18'24''$ , A RADIUS OF 280.00 FEET, A DISTANCE OF 641.23 FEET TO THE POINT OF BEGINNING:

CONTAINING A CALCULATED AREA OF 12.468 ACRES.