

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR VENTANA VILLAS HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VENTANA VILLAS HOMEOWNERS ASSOCIATION, INC. is made and entered into this __18__ day of _____July_____, 2020.

RECITALS

A. By that certain Declaration of Covenants, Conditions and Restrictions recorded in the official records of Weld County, Colorado on June 10, 1993 at Reception No.: 02336460, (the “Declaration ”), the then declarant imposed certain conditions, covenants, restrictions and created other property and contract rights burdening and benefiting the real property described in the Declaration;

B. The Declaration provides for the amendment of the Declaration by a seventy-five percent (75%) vote of the then owners and first mortgagees of the lots covered by the Declaration, but pursuant to C.R.S. § 38-33.3-217, the 75% approval requirement of owners and first mortgagees is now void and the Declaration may be amended by a vote of sixty-seven percent (67%) of the owners and first mortgagees;

C. Notice was provided to First Mortgagees in accordance with C.R.S. § 38-33.3-217 and no objections have been received;

D. This Amended and Restated Declaration does not terminate the Community;

E. The purposes of the amendments in the Amended and Restated Declaration include, but are not limited to the following:

- To update the Amended and Restated Declaration to comply with current state law;
- To delete declarant rights and responsibilities that are no longer applicable;
- To change restrictions in the Community;
- To update provisions to allow the Association to operate efficiently and handle Community concerns; and
- To add provisions that provide tools for the Association to effectively solve problems and enforce the Amended and Restated Declaration, Bylaws and Rules and Regulations; and

F. Owners holding at least sixty-seven percent (67%) of the total Association vote desire to amend the Declaration, have approved this Amended and Restated Declaration in writing and have determined it to be reasonable.

NOW THEREFORE, The Declaration is deleted and replaced in its entirety with the following Amended and Restated Declaration:

ARTICLE I. DEFINITIONS

1. "Act" means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 *et. seq.*, as amended and supplemented from time to time, or any successor legislation to these statutes.
 2. "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.
 3. "Amended and Restated Declaration" shall mean and refer to this Amended and Restated Declaration, including any amendments hereto, and also including, but not limited to, the Plat.
 4. "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.
 5. "Association" shall mean and refer to Ventana Villas Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns, organized and existing under the laws of the State of Colorado.
 6. "Board" shall mean and refer to the Board of Directors of the Association.
 7. "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.
 8. "Clerk and Recorder" shall mean and refer to the office of the Clerk and Recorder of Weld County, Colorado.
 9. "Common Elements" shall mean and refer to that certain real property and the Improvements presently located thereon or subsequently constructed thereon owned by the Association and located in the County of Weld, State of Colorado, legally described on the plat, ***Exhibit B***, which is attached hereto and incorporated herein by reference.
 10. "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Lot pursuant to this Amended and Restated Declaration.
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11. "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. These expenses for the operation of the Community include, but are not limited to:
 - (a) Expenses of administering, maintaining, repairing, improving, insuring, or replacing the Common Elements.
 - (b) Expenses of maintaining, repairing, improving, and replacing the Landscaping outside of the Lots.
 - (c) Expenses of snow removal for driveways and sidewalks.
 - (d) Premiums for the insurance to be procured and maintained by the Association.
 - (e) Expenses declared to be Common Expenses by this Amended and Restated Declaration.
 - (f) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Common Elements, Landscaping, or any other real or personal property acquired or held by the Association.
 12. "Community" shall mean and refer to the Real Estate.
 13. "Documents" shall mean and refer to this Amended and Restated Declaration, the Plat, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as supplemented or amended from time to time.
 14. "First Mortgage" means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.
 15. "First Mortgagee" means the holder of a First Mortgage.
 16. "Improvements" means all Buildings, parking areas, sidewalks, fences, walls, hedges, plantings, lighting, poles, driveways, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" include(s) both original improvements and all later changes and improvements.
 17. "Landscaping" shall mean and refer to all trees, shrubs, grasses, flowers, and other plants and plant materials, decorative rock and other landscape materials on the Lots and Common Elements.
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18. "Lots" shall mean and refer to a physical portion of the Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Plat, for purposes of illustration the Plat typically describes the Lots as the location of the Residence plus two feet from the exterior of the Residence. The term "Lots" shall not mean or include the Common Elements.
 19. "Mortgage" means any mortgage, deed of trust, or other document which is recorded in the office of the Clerk and Recorder, and which encumbers any portion of the Real Estate or interest therein as security for payment of a debt or obligation.
 20. "Mortgagee" shall mean and refer to any Person who has a Security Interest in a Lot and who has provided actual written notice of such Security Interest to the Association. Recording of a Mortgage, deed of trust, or other Security Interest in the office of the Clerk and Recorder, shall not be considered actual written notice to the Association of a Security Interest.
 21. "Notice" shall mean and refer to any notice required or desired to be given pursuant to the Documents. Unless otherwise provided in the Documents, all notices shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested; sent by facsimile with a hard copy sent by regular mail; sent by a nationally recognized receipted overnight delivery service, including, by example and not limitation, United Parcel Service, Federal Express, or Airborne Express; or sent by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by facsimile or electronic mail, on the day sent if sent on a business day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next business day; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses, telephone numbers, and electronic mail addresses for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided.
 22. "Owner" shall mean and refer to any Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.
 23. "Person" shall mean and refer to a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or combination thereof.
 24. "Plat" shall mean and refer to the First Replat of the VILLAGE CENTER ESTATES, recorded on the 17th day of June, 1993, at Reception No. 02337411 in the office of the Clerk and Recorder, and all recorded amendments thereto.
 25. "Real Estate" shall mean the real property that is subject to this Amended and Restated Declaration as legally described in *Exhibit A*.
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26. "Related User" shall mean and refer to any Person who: (a) resides with an Owner within a Lot; (b) is a guest or invitee of an Owner; (c) is an occupant or tenant of a Lot; or (d) is a family member, guest, invitee or cohabitant of the foregoing.
27. "Residence" shall mean and refer to a Single Family residential dwelling unit constructed on a Lot.
28. "Residential Use" shall mean and refer to use of a Residence as a dwelling by a Single Family.
29. "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Community, including any amendment to those instruments.
30. "Security Interest" shall mean and refer to an interest in real property created by contract or conveyance which secures payment or performance of an obligation if the Association is given actual written notice of such interest. The term includes a lien created by Mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation of which the Association has been given actual written notice. "First Security Interest" shall mean and refer to a Security Interest in a Lot of which the Association has been given actual written notice prior to all other Security Interests, except the Security Interest for real property taxes and assessments made by Weld County, Colorado, or other governmental authority having jurisdiction over the Community. For purposes of this Amended and Restated Declaration, the recording of any document or instrument in the office of the Clerk and Recorder, shall not be considered actual written notice to the Association of any Security Interest created by the recording of such document or instrument.
31. "Single Family" shall mean and refer to any individual or group of persons related by blood or marriage or any unrelated group of not more than three (3) persons living together in a Residence.
32. Other terms in this Amended and Restated Declaration may be defined in specified provisions contained herein and shall have the meaning assigned by such definition.

ARTICLE II. COMMUNITY

1. Name. The name of the Community is Ventana Villas.
 2. Association. The name of the Association is Ventana Villas Homeowners Association, Inc.
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3. Planned Community. The Community is a planned community.
4. County. The name of the county in which the Community is situated is Weld County, Colorado.
5. Legal Description. A legal description of the Real Estate included in the Community is set forth on *Exhibit A* attached hereto.
6. Boundaries of Lots. The boundaries of each Lot are set forth on the Plat.
7. Allocated Interests. The Common Expense Liability and votes in the Association shall be allocated among the Owners as follows:
 - (a) Subject to Section 3 of Article X of this Amended and Restated Declaration each Owner's share of the Common Expenses shall be one-twentieth (1/20), or five percent (5%).
 - (b) Each Owner shall be entitled to one (1) vote for each Residential Lot owned.
8. Recording Data. All easements and licenses to which the Community is presently subject are shown on the Plat, *Exhibit B* attached hereto.

ARTICLE III. ASSOCIATION

1. Purpose. The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are as follows: (a) to operate the Community; (b) to promote the health, safety, welfare, and common benefit of the residents of the Community; (c) to maintain, repair, replace and improve the Common Elements; (d) to maintain, replace, and improve the Landscaping on the Common Elements; (e) to procure and maintain insurance, and (f) to do any and all permitted acts, and to have and exercise any and all powers, rights, and privileges which are granted to an association under the laws of the State of Colorado, this Amended and Restated Declaration, and the Bylaws, Rules and Regulations, and other governing documents of the Association.
 2. Authority. The business and affairs of the Community shall be managed by the Association. The Association shall be governed by this Amended and Restated Declaration and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as amended from time to time.
 3. Powers. The Association shall have all of the powers and authority permitted by the Act, by other applicable law, and pursuant to the Documents which are necessary and proper to manage the business and affairs of the Community.
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4. Membership. Each and every Owner shall be a Member of the Association. By acquiring title to a Lot, the Owner of the Lot shall be deemed to have consented to become a Member of the Association. Membership in the Association shall be appurtenant to the Lot owned. No Owner of a Lot may transfer such Owner's Membership Interest in the Association, or any right arising therefrom except as appurtenant to the transfer of such Owner's Lot.

5. Board Powers and Duties. The Board may act in all instances on behalf of the Association. The Board shall have, subject to the limitations contained in this Amended and Restated Declaration, the powers and duties necessary for the administration of the affairs of the Association and of the Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws.
 - (b) Adopt and amend Rules and Regulations.
 - (c) Adopt and amend budgets for revenues, expenditures, and reserves.
 - (d) Collect Common Expense assessments from Owners.
 - (e) Hire and discharge independent contractors, employees, and agents including, but not limited to, a professional manager, managing agent or property management company to manage the business and affairs of the Association.
 - (f) Institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association.
 - (g) Make and enter contracts and incur liabilities.
 - (h) Regulate the use of the Common Elements.
 - (i) Maintain, repair, replace, and improve the Common Elements, and Landscaping within the Community.
 - (j) Cause additional Improvements to be made as a part of the Common Elements.
 - (k) Acquire, hold, encumber, and convey in the Association's name any right, title, or interest to real estate or personal property, but the Common Elements may be conveyed or subjected to a Security Interest only pursuant to this Amended and Restated Declaration and applicable law.
 - (l) Grant easements for any period of time, including permanent easements, leases, licenses, and concessions through or over the Common Elements, subject to the restrictions and limitations of this Amended and Restated Declaration and applicable law.
 - (m) Impose a reasonable charge for late payment of assessments and levy a reasonable fine for violation of the Documents.
 - (n) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Amended and Restated Declaration and for statements of unpaid assessments.
 - (o) Provide for the indemnification of the Association's officers and the Board and maintain directors' and officers' liability insurance.
 - (p) Assign the Association's right to future income, including the right to receive Common Expense assessments, but only upon Approval of the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated.
 - (q) Exercise any other powers conferred by the Act or the Documents.
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- (r) Exercise any other power that may be exercised in the state of Colorado by a non-profit corporation.
- (s) Exercise any other power necessary and proper for the governance and operation of the Association.
- (t) By resolution, establish permanent and standing committees of Members to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees established by the Board must provide information from their committees to the Board for review and then the Board will include the information in the Board Meeting Minutes. Actions taken by any committee established by the Board may be appealed to the Board by any Owner within forty-five (45) days of publication of a notice of the committee action. If an appeal is made, the committee's action must be ratified, modified, or rejected by the Board at its next regular meeting.

7. Professional Management and Contract Termination Provisions. The Association may utilize professional management in performing its duties hereunder.

8. Board Limitations. The Board may not act on behalf of the Association to amend this Amended and Restated Declaration, to terminate the Community, or to elect members of the Board or determine their qualifications, powers, and duties or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term. All Board members must be in good standing with the Association.

9. Indemnification. To the full extent permitted by law, each officer and member of the Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party or in which they may become involved by reason of their being or having been an officer or member of the Board of the Association, or any settlement thereof, whether or not they are an officer or a member of the Board of the Association at the time such expenses are incurred, except in such cases where such officer or member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE IV. EASEMENTS

1. Encroachments. A valid easement shall exist for the following encroachments and for the maintenance of the same: (a) in the event that any portion of a Residence encroaches upon any other Lot or upon any portion of the Common Elements; or (b) in the event any encroachment shall occur in the future as a result of settling of a Residence or repair or restoration of a Residence after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Residences are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances, either on the Common Elements or on the Lots,

for purposes of marketability of title or other purposes.

2. Blanket Easement. There is hereby created a blanket easement for the benefit of the Association across, over, and under all Lots for improving, replacing, repairing, and maintaining the Landscaping, and performing any further maintenance, replacements, repairs or services to be provided by the Association under this Amended and Restated Declaration.

3. Utility Easements. The Association hereby reserves, for itself and for any governmental entities or utility companies providing utility services to the Real Estate, a general easement upon, across, over, in, and under the Real Estate for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, and electrical, cable and other communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under and over the Real Estate, subject to the restrictions contained in this Section. No water, sewer, gas, telephone, electrical, communications or other utility or service lines, systems or facilities may be installed or relocated on the surface of the Real Estate, or by the Board. These items may be temporarily installed above ground during construction, if approved by the Board, subject to the requirements, if any, of Weld County, the City of Greeley, or any other authority having jurisdiction over the Real Estate. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any structure or other Improvement, other than under a Residence or in the attic area of a Residence as approved by the Board. Any damage to any such structure or other Improvement resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or the Owner's Related User.

4. Drainage Easements. The Association reserves for itself and its successors and assigns an easement to enter on any portion of the Real Estate for the purpose of modifying the grade of any drainage channels on the Real Estate to improve the drainage of water. Every Lot shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Real Estate; provided, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Real Estate without the consent of the Board and the Owner of the affected property.

5. General Provision. Any entity using these general easements provided under Sections 3 and 4 of this Article IV shall use its best efforts to install and maintain the easements for utilities or drainage without disturbing the uses of the Owners and the Association; shall prosecute its installation and maintenance activities as promptly as reasonably possible; and in the case of utility work, shall restore the surface to its original condition as soon as possible after completion of its work, and shall comply with all requirements of the Board. Should any entity furnishing a service covered by these general easements request a specific easement by separate recordable document, the Board shall have, and are hereby given the right and authority, to grant such easement upon, across, over, or under any part or all of the Real Estate without conflicting with the terms of this Amended and Restated Declaration. This general easement shall in no way

affect, void, extinguish, or modify any other recorded easement affecting the Real Estate.

6. Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Amended and Restated Declaration, the Real Estate, and all portions thereof, shall be subject to the easements as shown on any recorded Plat of the Real Estate, or any portion thereof. Further, the Real Estate, or portions thereof, is now or may hereafter be subject to the easements, licenses and other recorded documents, or any of them, set forth on *Exhibit B* attached hereto and incorporated herein by this reference.

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

8. Easements Deemed Appurtenant. Any and all conveyances made to any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. The easements and rights created herein for an Owner shall be deemed appurtenant to the Lot owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

ARTICLE V. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION

No labor performed or materials furnished and incorporated in a Residence with the consent of or at the request of the Owner, his or her agents, contractors, or subcontractors, shall be the basis for filing a lien against the Residence of any other Owner not expressly consenting to or requesting the same or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners, from and against all liability arising from the claim of any lien against the Residence of any other Owner or against the Common Elements for construction performed or for labor, material, services, or other products incorporated in the Owner's Residence at such Owner's request. Notwithstanding the foregoing, any Mortgagee of a Lot who shall become the Owner of such Lot pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other Owner against liability for claims arising prior to the date such Mortgagee becomes an Owner.

ARTICLE VI. RESERVATION FOR ACCESS, MAINTENANCE, REPAIR, AND EMERGENCIES

1. Access to Lots. The Association shall have the irrevocable right, to be exercised by the Association's Board, its employees, contractors and managing agent, to have access to each Lot from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the Landscaping, or other Improvements to be maintained by the Association, or at any hour for making emergency repairs, maintenance, or inspection necessary to prevent damage to a Building.

2. Owner's Negligence. Notwithstanding anything to the contrary contained in this Amended and Restated Declaration , in the event that the need for maintenance or repair of the Common Elements, any Improvements located thereon, or any Landscaping is caused by the willful or negligent act, omission, or misconduct of any Owner or by the willful or negligent act, omission, or misconduct of any Owner's Related User, the costs of such repair and maintenance shall be the personal obligation of such Owner, and any costs, expenses, and Fees incurred by the Association for such maintenance, repair, or reconstruction shall be added to and become a part of the assessment to which such Owner's Lot is subject and shall be a lien against such Owner's Lot as provided in this Amended and Restated Declaration. A determination of the willful or negligent act, omission, or misconduct of any Owner or any Owner's Related User, and the amount of the Owner's liability therefor shall be determined by the Board after notice to the Owner and the right to be heard before the Board in connection therewith.

ARTICLE VII. MAINTENANCE AND SERVICE RESPONSIBILITY

1. Owner. Owners are responsible for the maintenance, repair and replacement of the property and improvements located within their Lot boundaries, inclusive of driveways and sidewalks, including any property deeded to the City but by ordinance remains the responsibility of the Owner. The Association and its agents shall have authority, after giving thirty (30) days written notice, to enter, replace, maintain and clean up Lots which do not conform to this Amended and Restated Declaration or the Bylaws, Rules and Regulations and to charge the Owners of said Lot all reasonable costs incurred as an Assessment.

2. Association. The Association shall have the duty of maintaining and repairing the Common Elements, including the landscaping, irrigation system and fences (Owners are responsible for maintaining and repairing their driveways and sidewalks). The Association shall maintain the Common Elements in a safe, attractive and desirable condition for the use and enjoyment of the Owners. The Association shall also be responsible for snow removal from the sidewalks, walkways and driveways, including those located on Lots. The cost of all maintenance and repair performed by the Association shall be a Common Expense of all of the Owners.

ARTICLE VIII. INSURANCE

1. To Be Obtained by the Association. The Association shall obtain and maintain at all times, to the extent obtainable at reasonable cost, policies involving standard premium rates established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado covering the risks set forth below. The Association shall not obtain any policy where: (1) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against a Mortgagee or Mortgagee's designee; or (2) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees or Owners from

collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows:

(a) Liability Insurance. The Association shall maintain public liability and property damage insurance in such limits as the Board may from time to time determine but not in an amount less than One Million Dollars (\$1,000,000) per injury, per person, per occurrence, and umbrella liability limits of One Million Dollars (\$1,000,000) per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Common Elements and Landscaping. Said policy shall also contain a "severability of interest" endorsement. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and death of persons in connection with the operation, maintenance, or use of the Common Elements and Landscaping and legal liability arising out of lawsuits related to employment contracts of the Association.

(b) Workers' Compensation Insurance. In the event the Association has any employees, it shall maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(c) Officers' and Directors' Insurance. To the extent such insurance can be obtained at reasonable cost, the Association shall maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the managing agent has the responsibility of handling or administering funds of the Association, the managing agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the managing agent at any given time during the term of each bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate Common Expense assessments on all Lots plus reserve funds. Such bonds shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of employees or similar terms or expressions. The premiums on all bonds required hereunder, except those maintained by the managing agent, shall be paid by the Association as a Common Expense.

(d) Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as shall be deemed appropriate.

2. Attorney-in-Fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative who shall have the exclusive authority to negotiate

losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. All of the Owners hereby irrevocably constitute the Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose.

3. Owners' Insurance. Each Owner shall be responsible for obtaining general liability and property insurance for their Lot and Residence without participation of the Association. Insurance coverage on the furnishings and other personal property belonging to Owners shall also be each Owner's responsibility. Any insurance policy obtained by Owner shall, to the extent possible and if at a reasonable cost, contain a waiver of the right of subrogation by the insurer as to any claims against the Association, its officers, directors, agents and employees.

ARTICLE IX. DESTRUCTION OR DAMAGE

1. Association as Attorney-in-Fact. This Amended and Restated Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact in the event of the destruction or damage, including the repair, replacement, and improvement of any Building which has been so destroyed or damaged. Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead, for the purposes herein provided. As attorney-in-fact, the Association, by its president and secretary or other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days of either such event. At such meeting, a new attorney-in-fact shall be appointed to deal with the destruction or damage of any Building. Said appointment must be approved by the Owners representing more than fifty percent (50%) of the votes in the Association. Repair and reconstruction of the Improvements as used in the succeeding paragraphs means restoring the Improvements to substantially the same condition in which they existed prior to the damage and all Improvements being reconstructed or repaired in conformance with the Community's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration, reconstruction, or replacement unless the Owners of the Residences included within the Building and First Mortgagees agree not to rebuild.

2. Insurance Proceeds Sufficient for Restoration. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the Improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the Improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and restoration of the Improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

3. Insurance Proceeds Insufficient for Restoration. If the insurance proceeds are insufficient to repair and reconstruct the Improvements, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against the Owners of all Lots. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair, replacement, or restoration of the Improvements using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his or her Lot. Assessments for Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association interest at the rate of eighteen percent (18%) per annum on the amount of the assessment and all reasonable attorney's fees incurred in collecting the delinquent assessment.

ARTICLE X. ASSESSMENT FOR COMMON EXPENSES

1. Creation of Lien and Personal Obligation for Assessments. Each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments and other charges, fines, fees, interest, late charges and other amounts, all as provided in this Amended and Restated Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments and other charges, fees and fines, together with interest, late charges, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Amended and Restated Declaration), and without setoff or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each assessment, charge, fee and all other amounts under this Amended and Restated Declaration, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who was the owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Amended and Restated Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Amended and Restated Declaration and the Documents, or by law.

3. Apportionment of Annual Assessments. Generally, each Owner shall be responsible for that Owner's share of the Common Expenses which shall, except as provided below, be divided equally among the Residential Lots included in the Community under this Amended and Restated Declaration from time to time. Accordingly, at any given time, a Owner's share of Common Expenses shall be one-twentieth (1/20) or five percent (5%). The foregoing apportionment is subject to the following:

- (a) Any Common Expenses which benefit fewer than all of the Owners may be assessed exclusively against the Lots benefited. By way of example, and not in limitation of the foregoing, a Residence and/or Lot requiring greater or special maintenance needs and expenses may be assessed accordingly by the Association.
- (b) The costs of insurance may be assessed in proportion to risk.

4. Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures and reserves for the Association's next fiscal year as proposed by the Board. A summary of the proposed budget approved by the Board shall be mailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Owners (or, in the alternative, together with a ballot and information sufficient to satisfy the provisions of Section 109 of the Colorado Revised Nonprofit Corporation Act). Unless sixty-seven percent (67%) of the total votes in the Association reject the proposed budget, the budget is ratified. There are no quorum requirements for this meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratify a subsequent budget proposed by the Board as provided above.

5. Special Assessments. In addition to the annual assessments authorized in this Article, the Board may levy, in any fiscal year, with the Approval of the votes of two-thirds (2/3rds) of the Owners voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvement, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests therefor. A meeting of the Owners called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 7 of this Article X.

6. Notice and Quorum for Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article X shall be sent to all Owners not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast fifty percent (50%) of all the membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding

meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

7. Lien for Assessments.

(a) The Association shall have a lien on a Lot for any assessment levied against that Lot or for fines imposed against its Owner. Fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Amended and Restated Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) Recording of this Amended and Restated Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board or managing agent of the Association may prepare, and record with the Clerk and Recorder, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of each unpaid assessment becomes due.

8. Priority of Association Lien.

(a) A lien under this Article is prior to all other liens and encumbrances on a Lot except:

- (i) Liens and encumbrances recorded before the recordation of the Amended and Restated Declaration;
- (ii) A First Mortgage on the Lot, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and
- (iii) Liens for real estate taxes and other governmental assessments or charges against the Lot.

(b) A lien under this Section is also prior to the First Mortgage described in the preceding Subsection 9(a)(ii) to the extent of an amount equal to the annual assessment based on a periodic budget adopted by the Association as provided above which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this Section of an action or a non-judicial foreclosure either to enforce or to extinguish the lien.

(c) This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of C.R.S. § 38-41-201, *et. seq.*, as amended, or to the provisions of C.R.S. §15-11-201, as amended.

9. Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the arbiter may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The arbiter may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments.

10. Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a First Mortgagee or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Association, the Board and every Owner. If no statement is furnished to the Owner or First Mortgagee or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

11. Effect of Non-Payment of Assessments; Remedies of Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board, and the Board may in addition assess thereon a late charge in an amount set by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include a reasonable attorneys' fee to be fixed by the arbiter, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of the assessments by abandonment of the Lot against which the assessments are made. This Article does not prohibit actions or suits to recover sums for which this Amended and Restated Declaration creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.

12. Surplus Funds. Subject to the limitations of the Act, any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves may, at the election of the Board, (i) be retained by the Association as reserves, (ii) paid to the Owners in proportion to their Common Expense Liability, or (iii) credited to the Owners to reduce their future assessments.

13. Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that Common Expense exclusively against such Owner and his or her Lot.

14. Increases in Annual Assessments. The Association may never increase an annual Assessment by more than twenty percent more than the Association's prior annual assessment.

ARTICLE XI. COMMON ELEMENTS

1. Rules and Regulations. The Board shall have the right to adopt reasonable Rules and Regulations governing the use of the Common Elements, provided such Rules and Regulations apply to all Owners in a nondiscriminatory manner.
2. Owners' Easements of Enjoyment. Each Owner shall have a right and easement of enjoyment in and to the Common Elements, appurtenant to his or her Lot, subject to the following provisions:
 - (a) The right of the Association to promulgate and publish reasonable Rules and Regulations as provided in this Amended and Restated Declaration.
 - (b) The right of the Association, acting through the Board, to dedicate or transfer any part of the Common Elements to any public, quasi-public, or cooperative agency, authority, utility, or other entity.
 - (c) The right of the Association to close or limit use of the Common Elements while maintaining, repairing, or making replacements in the Common Elements.
3. Delegation of Use. A Owner may delegate his or her right of enjoyment to the Common Elements to the Owner's Related Users subject to the terms and provisions of the Documents.

ARTICLE XII. USE RESTRICTIONS

1. Residential Use. Residences shall be used for Single Family Residential Use and such other purposes as may be expressly permitted by this Amended and Restated Declaration.
 2. Re-subdivision. No Lot may be further subdivided without the Approval of the Board. This provision shall not be construed to prohibit or prevent the dedication or conveyance of any portion of a Lot as an easement for public utilities.
 3. Restriction on Leasing. No Owner shall lease his or her Residence to a third party, a third party is anyone that is not an Owner as defined in the Amended and Restated Declaration. All Residences shall be Owner occupied. This restriction on leasing shall apply to a Lot that is being leased prior to the date this Amended and Restated Declaration is recorded with the Clerk and Recorder on the date the Owner of said Lot transfers ownership to a third party.
 4. Condition for Architectural Control. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any Residence, Lots or Common Elements, or the improvements located thereon from their natural or improved state existing on the date the Lots were first subject to the Amended and Restated Declaration shall be made or done without compliance with the procedures set forth in Article XIII of this Amended and Restated Declaration regarding architectural control.
 5. Household Pets. No animals other than dogs, cats, or other household pets, as the same may be defined and determined by the Association, may be kept on a Lot. Only two pets may be kept on a Lot at any time. Dogs, cats, and other household pets shall not be boarded, kept, bred, or maintained for any commercial purposes. Household pets shall be subject to all Rules and Regulations adopted by the Association and all governmental ordinances or laws applicable to
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the Community. All pets shall be on a leash at all times. Each Owner of a pet shall be responsible for the prompt clean up and removal of such pet's excrement from his or her Lot and the Common Elements.

6. Dog Runs, Clotheslines and Storage Areas. Dog runs, clotheslines and storage areas are expressly prohibited on all Lots and Common Elements. Woodpiles must be screened from view and within the Lots in such a way as to not be objectionable for any neighboring Lots.

7. Use of Common Elements. All use of the Common Elements shall be subject to and governed by the Rules and Regulations adopted by the Association. No damage or waste shall be committed to the Common Elements by Owners and their Related Users.

8. General Prohibition. No use shall be made of an Owner's Lot which will in any manner violate the statutes or rules and regulations of any governmental authority having jurisdiction over the use of the Lot.

9. Nuisance. Nothing shall be done or permitted on any Lot which is or may become a nuisance. No obnoxious or offensive activities or commercial businesses or trades shall be conducted on any Lot, except home occupation as defined and permitted by the applicable zoning resolution of the governmental entity having jurisdiction over the Community. Cultivation of or sale of marijuana is expressly prohibited and shall not be permitted on any Lot.

10. No Unsightliness. All unsightly facilities, equipment, objects, and conditions shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment except when in actual use.

11. Storage of Vehicles. Owners may not store, park or permit the storage of any boats, campers, recreational vehicles, snowmobiles, all-terrain vehicles, trailers, machines, tractors, semi-tractors, tractor trailers, trucks (except standard pickup trucks, and except for emergency service vehicles allowed pursuant to C.R.S. §38-33.3-106.5(1)(d)), and inoperative or unlicensed automobiles on any street, Lot, or Common Elements, except within fully enclosed garages. For purposes of this provision, any disassembled or partially disassembled car or other vehicle or any car or other vehicle which has not been moved under its own power for more than one (1) week shall be considered an inoperative automobile subject to towing and the other terms of this Section.

12. Signs. No sign of any character shall be displayed or placed upon any Lot, with the following exceptions:

- (a) One (1) sign per Lot of not more than six (6) square feet in total area advertising a Lot for sale shall be permitted on any Lot.
 - (b) In no event shall "For Rent" signs be placed in the windows or in the yards of any residence unless approved by the Board.
 - (c) Political signs in accordance with the terms and conditions of C.R.S. §38-33.3-106.5 (1) (c).
 - (d) The Association shall have the right to place a permanent sign at the entrance
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to the Community identifying the Community as well as directional signage.

(e) Additional signs may be permitted if approved by the Board.

13. Antennae. The use of certain types of receiving equipment is subject to the rules and regulations issued by the Federal Communications Commission, which preempts the ability of the Board to control the placement of such equipment. As of the date of this Amended and Restated Declaration, the types of receiving equipment which do not require architectural review and Approval include: (i) a “dish” antenna which is thirty-nine (39) inches or less in diameter and is designed to receive direct broadcast satellite service including direct to home satellite service; or (ii) an antenna which is thirty-nine (39) inches or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable). All transmission or receiving devices, including those governed by the Federal Communications Commission, shall be installed in a manner in which the device is not higher than the ridge line of the roof of the Residence on the Lot on which the receiving or transmitting device is being installed, the location of which, to the extent permitted by law, shall be approved by the Architectural Control Committee. No one Lot shall have more than one Antennae per unit and it shall be located on the back of the Residence.

14. Garage and Estate Sales. No Owner shall be permitted to have, or allow a third party to have, a garage sale or estate sale on any Lot on Common Element.

15. Insurance. Nothing shall be done or kept on any Lot which will increase any applicable rate of insurance, without written consent of the Board. No Owner shall permit anything to be done or kept in or on a Lot or on the Common Elements which will result in the cancellation of insurance or an increase in the premium for such insurance.

ARTICLE XIII. ARCHITECTURAL CONTROL

1. Review. No construction, alteration, addition, modification, exterior decoration, exterior redecoration or reconstruction of any building, fence, wall, structure or other Improvement within the Community shall be commenced or maintained until the plans and specifications thereof shall have been approved by the Board. The Board shall approve plans and specifications submitted to it only if the Board determines that the construction, alteration or addition contemplated thereby and in the location indicated will comply with this Amended and Restated Declaration; will serve to preserve and enhance the value of Lots within the Community; and will maintain a harmonious relationship among the Buildings and the overall development of the Community. The Board shall consider the quality of workmanship, type of materials and harmony of exterior design with other Buildings located within the Community. If the Board fails to approve or disapprove the plans and specifications submitted to it by an Owner of a Lot within thirty (30) days after a complete submission of all required documents has been made to the Board, the plans and specifications shall be resubmitted to the Board by certified mail, return receipt requested, and, in the event that the Board fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after such resubmission to the Board by certified mail, the same shall be deemed to have been approved, as submitted, and no further action shall be required; provided, however, that no Building, structure, Improvement or

alteration shall be erected or allowed to remain on any Lot which violates any of the covenants or restrictions contained in this Amended and Restated Declaration. The issuance of a building permit for the construction of Improvements inconsistent with this Amended and Restated Declaration shall not prevent the Association from enforcing the provisions of this Amended and Restated Declaration. The Approval by the Board of plans and specifications for any work to be done on one Lot shall not be deemed to constitute a waiver of any right to withhold Approval or Consent to similar plans and specifications subsequently or additionally submitted for approval by the same Owner or by any other Owner. The Board may issue rules setting forth procedures for the submission of plans and specifications for Approval and may also issue guidelines setting forth the criteria that the Board will use in considering plans submitted to it for Approval. The rules and guidelines may be amended from time to time by the Board.

2. Landscaping. All shrubs, plants, trees and other Landscaping shall be approved by the Board.

3. Non-liability. No member of the Board shall be liable to the Association or to any Owner or prospective Owner for any loss, damage or injury arising out of or in connection with the performance of the duties of the Board under this Article XIII unless such action constitutes willful misconduct or bad faith on the part of the Board. No Approval granted by the Board shall be considered approval of the structural safety or integrity of the Improvements to be constructed or conformance of such Improvements with building codes, zoning resolutions, subdivision regulations or other governmental rules and regulations applicable to the Community.

4. Costs. The Owner seeking Board approval shall be responsible for all costs associated with the construction, alteration, addition, modification, exterior decoration, exterior redecoration or reconstruction of any building, fence, wall, structure or other Improvement within the Community.

ARTICLE XIV. GENERAL PROVISIONS

1. Enforcement. Enforcement of this Amended and Restated Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such civil action shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such civil action may be prosecuted by an Owner, by the Board, or by the Association. In the event it becomes necessary to commence an arbitration to enforce or defend this Amended and Restated Declaration, the arbiter shall award to the prevailing party in such civil action, in addition to such damages as the arbiter may deem just and proper, an amount equal to the costs, reasonable attorneys' fees, and costs of collection incurred by the prevailing party in connection with such action. The failure to enforce or to cause the abatement of any violation of this Amended and Restated Declaration shall not preclude or prevent the enforcement thereof or of a further or

continued violation, whether such violation shall be of the same or of a different provision of this Amended and Restated Declaration. For any failure to comply with the provisions of the Documents, the Association, any Owner, or any class of Owners adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorneys' fees and costs incurred as a result of such failure to comply, without the necessity of commencing a civil action. Notwithstanding any other provision of this Amended and Restated Declaration, in connection with any claim in which an Owner is alleged to have violated a provision of the Documents and in which the arbiter finds that the Owner prevailed because the Owner did not commit the alleged violation:

- (a) The arbiter shall award the Owner reasonable attorneys' fees and costs incurred in asserting or defending the claim; and
- (b) The arbiter shall not award costs or attorneys' fees to the Association. In addition, the Association shall not allocate to the Owner's account any of the Association's costs or attorneys' fees incurred in asserting or defending the claim.

2. Amendment of Amended and Restated Declaration.

(a) Amendment. This Amended and Restated Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Real Estate, upon the affirmative vote or written consent of Owners holding sixty-seven percent (67%) or more of the votes in the Association, and upon compliance with all other provisions of this Amended and Restated Declaration and the Act, as appropriate. Amendments made pursuant to this Article will inure to the benefit of and be binding upon all Owners, their families, tenants, guests and invitees, and their respective heirs, successors, and assigns. A certificate of the Secretary of the Association documenting votes held and voting rights exercised on the basis of such ownership records will be evidence of such ownership and voting representation for purposes of such amendment.

(b) Effective on Recording. Any modification, amendment or revocation will be immediately effective upon recording in Weld County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the necessary number of Owners, or alternatively, upon the recording in Weld County, Colorado, of a copy of the amendment, modification or revocation together with a duly authenticated certificate of the Secretary of the Association stating that the required number of consents of Owners were obtained, which will be placed on file in the office of the Association.

3. Duration. This Amended and Restated Declaration shall run with the land, shall be binding upon all Persons owning Lots and any Persons hereafter acquiring Lots, and shall be in effect in perpetuity unless amended or terminated as provided herein or in accordance with applicable law.

4. Rule against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Amended and Restated Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common

law rules imposing like or similar time limits, such provision shall continue only for the period of the life of the youngest person serving in the United States House of Representatives at the time this document is recorded, his or her now living descendants, and the survivor of them, plus twenty-one (21) years..

5. Termination. This Amended and Restated Declaration, and the common interests of the Owners in Association-Owned Property, may be terminated only if all Owners and First Lienors or Mortgagees agree to such termination by an executed, acknowledged instrument duly recorded in the real estate records of Weld County, Colorado. This Amended and Restated Declaration shall also terminate in the event of a taking of all of the property constituting the Ventana Villas, as delineated in the Plat incorporated by this Amended and Restated Declaration, by condemnation, eminent domain, or termination as otherwise (except for voting) provided by Section 218 of the Act.

6. Disbursement of Proceeds. Upon the termination of this Amended and Restated Declaration, all property owned by the Association shall be disposed of, with the proceeds generated being disbursed as provided by Section 218 of the Act.

7. Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference and in no way define, limit, or prescribe the scope of the Documents or the intent of any provision thereof.

8. Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

9. Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10. Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and if a provision is declared invalid by judgment or court order, all of the other provisions of the Documents shall continue in full force and effect.

11. Conflict. In the event of any conflict between this Amended and Restated Declaration and any other Documents, this Amended and Restated Declaration shall control.

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IN WITNESS WHEREOF, Ventana Villas Homeowners Association Inc. has caused this Limited Amendment to the Amended and Restated Amended and Restated Declaration of Covenants, Conditions and Restrictions to be executed the day and year first above written.

VENTANA VILLAS HOMEOWNERS
ASSOCIATION, INC.

By: _____
Linda Sisson, President Ventana Villas
Homeowners Association, Inc.

STATE OF COLORADO)
)ss
COUNTY OF WELD)

The above and foregoing instrument was acknowledged before me this ___ day of _____, 2020, by Linda Sisson, President of Ventana Villas Homeowners Association, Inc.

Witness my hand and seal.

Notary Public

EXHIBIT A – Legal Description

A part of Tract “C” corrected map of Country Club Estates First Filing, a subdivision in the City of Greeley being part of the East One Half of the West One Half (E1/2 W1/2) of Section 11, Township 5 North, Range 66 West of the 6th Principal Meridian, Weld County, Colorado, more particularly described as follows:

Beginning at the Southeast Corner of said Tract “C”; thence North 69° 44’ 03” West along the Southerly boundary of said tract a distance of 674.48 feet; thence North 04° 56’ 23” East along the Westerly boundary of said tract a distance of 156.79 feet; thence North 84° 36’ 23” East a distance of 616.22 feet to a point on the Easterly boundary of said tract; thence South 00° 44’ 03” East along said Easterly boundary of Tract “C” a distance of 447.79 feet to the point of beginning; containing 4.328 acres more or less.
