

**SECOND AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
SUNSET RIDGE SUBDIVISION**

THIS SECOND AMENDMENT to the Declaration of Covenants, Conditions, Restrictions and Easements for Sunset Ridge Subdivision (the "Second Amendment") is made and entered into this 28<sup>th</sup> day of November, 2018, by RANGE VIEW PARTNERS, LP, a Colorado Limited Partnership, hereinafter referred to as the "Declarant."

WITNESSETH

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Sunset Ridge Subdivision (the "Declaration") was filed with the Clerk and Recorder of Weld County, State of Colorado, under Reception No. 3848102 on the 23<sup>rd</sup> day of May, 2012; and

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Sunset Ridge Subdivision (the "First Amendment") was filed with the Clerk and Recorder of Weld County, State of Colorado, under Reception No. 4024771 on the 19<sup>th</sup> day of June, 2014 (with the Declaration and the First Amendment hereinafter collectively referred to as the "Declaration"); and

WHEREAS, Range View Partners, LP is the successor to all of the Declarant rights under the Declaration, including all of the Development Rights as defined therein; and

WHEREAS, pursuant to Section 4.3 of the Declaration, Declarant reserves the right to amend the Declaration and any Plat in connection with the exercise of any Development Rights; and

WHEREAS, the initial plat for Sunset Ridge Subdivision – First Filing (the "Plat") was filed with the Clerk and Recorder of Weld County, State of Colorado, under Reception No. 3631501 on the 19<sup>th</sup> day of June, 2009; and

WHEREAS, Declarant has or shall cause the preparation and recording with the Clerk and Recorder of Weld County, State of Colorado, of the Sunset Ridge Subdivision – Second Filing, a Replat of Lots 1 through 8, Block 11 and Lots 1 through 4, Block 10 of Sunset Ridge Subdivision – First Filing, situate in the Northwest Quarter of Section 2, Township 6 North, Range 67 West of the 6<sup>th</sup> P.M., Town of Severance, County of Weld, State of Colorado (the "Second Filing"); and



WHEREAS, in connection with the preparation and recording of the Second Filing, the Declarant, in exercising its Development Rights under the Declaration, hereby amends and supplements the Declaration as set forth below.

NOW, THEREFORE, the Declaration is amended and supplemented as follows:

1. **Defined Terms.** Unless otherwise defined herein, the Capitalized terms used in this Second Amendment shall have the same meaning as ascribed in the Declaration. The following definitions are hereby added to Section 1.1 of the Declaration:

1.1.27 "Party Wall" shall mean and refer to a common wall dividing two Townhomes.

1.1.28 "Townhome" shall mean and refer to a single family residential dwelling unit constructed on a Lot which is attached to one or more other dwelling units on the adjacent Lots by one or more Party Walls, the adjacent dwelling units being included within one or more Townhome Buildings.

1.1.29 "Townhome Buildings" shall mean and refer to all buildings constructed within the Property which include Townhomes.

1.1.30 "Townhome Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association specifically related to the Association's maintenance and repair responsibilities for the Townhomes as set forth below.

1.1.31 "Townhome Common Expense Assessments" are assessments made by the Association against Townhome Lots to cover Townhome Common Expenses.

1.1.32 "Townhome Common Expense Liability" shall mean and refer to the liability for Townhome Common Expenses allocated to each Townhome pursuant to the Declaration, as amended.

1.1.33 "Townhome Landscaping" shall mean and refer to all trees, shrubs, grasses, and other plants and plant materials, decorative rock and other landscape materials on the Townhome Lots or immediately adjacent thereto which benefit the Townhome Lots, and as (i) initially installed by the Declarant, an Affiliate of the Declarant, or a builder with the express written consent of the Declarant, or (ii) as later approved by the Architectural Control Committee and for which the Association has undertaken maintenance responsibility.

1.1.34 "Townhome Lot" shall mean and refer to a Lot on which a Townhome is constructed within the Property.

1.1.35 “Townhome Owner” shall mean and refer to any Person who owns a Lot on which a Townhome is constructed, but does not include a Person having an interest in a Townhome solely as security for an obligation.

1.1.36 “Excluded Claim(s)” means to the full extent of state statutes, any claim in a civil action, lawsuit or arbitration (other than the arbitration allowed for in this Declaration) related to construction of the Townhomes or the Association Properties, drainage within the Development or any improvements constructed or designed by Declarant on the Association Properties or the following persons: a contractor, subcontractor, developer, builder, architect, engineer or inspector, or any of the affiliates of their person or persons responsible for any part of the construction or design of the Association Properties, including officers, directors, shareholders, members, managers, employers or servants of these persons.

1.1.37 “Excluded Dispute” means a dispute about an Excluded Claim.

2. **Townhomes.** A new Article 7 is hereby added to the Declaration specific to the Townhomes as follows:

## ARTICLE 7. TOWNHOMES

### Section 7.1 Townhome Maintenance Responsibilities.

7.1.1 Association. Except as provided in Section 7.1.2 below, the Association shall have the duty of maintaining and repairing: (i) the exterior of the Townhome Buildings, including painting, and roof repair and replacement, (ii) the Townhome Landscaping, (iii) the sewer lines from the connection of the main line in the street up to the point where the line connects to the foundation of the Townhome, (iv) fences on Townhome Lots initially installed by the Declarant, an Affiliate of the Declarant, or a builder with the express written consent of the Declarant, or as later approved by the Architectural Control Committee and for which the Association has undertaken maintenance responsibility, (v) snow removal from the sidewalks, walkways, and driveways on the Townhome Lots or immediately adjacent thereto, and (vi) trash removal. The Association shall have the maintenance easement rights specified in Section 4.9 of the Declaration to perform its maintenance and repair obligations hereunder.

### 7.1.2 Townhome Owner.

(a) For maintenance and repair purposes, a Townhome Owner shall be responsible for (i) the windows, (ii) storm windows, (iii) window wells, (iv) skylights, (v) doors, (vi) storm doors, (vii) garage doors (except for painting of the exterior of the garage doors, which shall be a maintenance responsibility of the Association); (viii) the interior of the Townhome; (ix) repair or replacement of all concrete surfacing and flatwork, including patios, driveways, and walkways, located on the Townhome Lot or immediately adjacent thereto and directly benefitting the Townhome Lot, and (x) all





other maintenance and repair of the Townhome and the Townhome Lot not expressly assumed by the Association in Section 7.1.1 above.

(b) A Townhome Owner, however, shall not be deemed to own the pipes, wires, conduits, or systems, if any, running through his or her Townhome which serve the adjacent Townhomes, except as a tenant in common with the Townhome Owner of the adjacent Townhome ("Common Utilities"). Such Common Utilities shall not be disturbed or relocated by a Townhome Owner without the prior written consent of the Association's Board and the Townhome Owner of the adjacent Townhome. Common Utilities shall be maintained by the Townhome Owners of the Townhomes served by such Common Utilities as such Townhome Owners shall agree between themselves, and absent such agreement, the costs of such maintenance shall be borne equally by the Townhome Owners utilizing the Common Utilities.

(c) A Townhome Owner shall maintain and keep in repair the interior of his or her own Townhome, including the fixtures, utility lines, systems and facilities (except the Common Utilities located therein), to the extent current repair shall be necessary in order to avoid damaging another Townhome. All fixtures, equipment, and utilities installed within the Townhome and serving such Townhome, commencing at a point where the fixtures, equipment, and utilities enter the Townhome, shall be maintained and kept in repair by the Townhome Owner thereof. A Townhome Owner shall do no act nor any work that will impair the structural soundness of the Townhome Building or impair the proper functioning of the Common Utilities.

(d) A Townhome Owner shall be responsible for the maintenance, repair, replacement and improvement of all fixtures, such as air conditioning units, located on the exterior of such Townhome Owner's Townhome which serve such Townhome Owner's Townhome.

Section 7.2 Townhome Common Expense Liability. The cost of all maintenance and repair performed by the Association specific to the Townhomes shall be a Townhome Common Expense of all of the Townhome Owners. The Townhome Common Expense Liability shall not be a Common Expense of Owners other than Townhome Owners. The Association shall create budgets for the Townhome Common Expense Liability separate and apart from the budgets for the Common Expenses, and the Association shall keep true and accurate records of liabilities and expenses incurred for the maintenance and repair performed by the Association specific to the Townhomes which shall be separate and apart from the other Common Expenses. The Association shall maintain two separate bank accounts, (i) one for the deposit of assessments and the payment of disbursements related to Common Expenses, and (ii) one for the deposit of Townhome Common Expense Assessments and disbursements related to Townhome Common Expenses. In addition to the Townhome Common Expense Liability, Townhome Owners shall likewise pay Common Expenses. A non-refundable working capital fee equal to one month of dues will be charged to the Buyer of a Townhome at closing.



Section 7.3 Apportionment of Townhome Common Expenses. Generally, each Townhome Owner shall be responsible for that Townhome Owner's share of the Townhome Common Expenses which shall, except as provided below, be divided equally among the Townhomes included in the Property under this Declaration from time to time. Accordingly, at any given time, a Townhome Owner's share of Townhome Common Expenses shall be determined as a fraction, the numerator of which is the number of Townhomes owned by the Townhome Owner, and the denominator of which is the number of Townhomes within the Property. The foregoing apportionment is subject to the following:

(a) Any Townhome Common Expenses (including, but not limited to, costs of maintenance, repair and replacement relating to Townhome Buildings and Townhome Landscaping on fewer than all Townhome Lots) which benefit fewer than all of the Townhome Owners shall be assessed exclusively against the Townhome Lots benefited. By way of example, and not in limitation of the foregoing, a Townhome and/or Townhome Lot requiring greater or special maintenance needs and expenses may be assessed accordingly by the Association.

(b) The costs of insurance, if maintained by the Association, may be assessed in proportion to risk.

(c) Townhome Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance or repair of any Townhome Building or any Townhome Landscaping is caused by the willful or negligent act, omission, or misconduct of any Townhome Owner, the costs of such repair and maintenance shall be the personal obligation of such Townhome 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 Townhome Owner's Townhome Lot is subject and shall be a lien against such Townhome Owner's Townhome Lot as provided in this Declaration.

(d) All assessments relating to Townhomes shall be assessed only upon Townhome Lots following issuance of a certificate of occupancy for such Townhomes, and vacant Lots shall not be assessed any portion of the maintenance, repair or replacement of the exterior of Townhome Buildings, Townhome Landscaping, or any other expenses specifically attributable to completed Townhomes. Vacant Lots shall be assessed only for mowing, snow removal, insurance premiums and the like which benefit vacant Lots as provided in the Declaration.

Section 7.4 Working Capital Fund. The Association or Declarant shall require the first Townhome Owner, other than Declarant, that purchases a Townhome Lot from Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly Townhome Common Expense Assessment against the Townhome Lot in effect on the date of delivery of the deed conveying the Townhome Lot in question. Thereafter, upon each subsequent conveyance of any Townhome Lot by





any Townhome Owner to the next third-party purchaser thereof, the purchaser shall make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly Townhome Common Expense Assessment against the Townhome Lot in effect on the date of the delivery of the deed conveying such Townhome Lot. The contributions paid pursuant to this Section shall be used for the purpose of creating working capital and reserves for the Association to help cover Townhome Common Expenses and for such other or additional purposes as may be consistent with the Association's budget specific to the Townhome Lots as in effect from time to time. The working capital fund contribution shall be in addition to the Townhome Common Expense Assessments, and shall not relieve the Townhome Owners from the obligation to pay the Townhome Common Expense Assessments as they come due. For purposes of this Section, no contribution to the Association will be required as a result of any conveyance: (i) that arises from the foreclosure of a First Mortgage or a conveyance to the First Mortgagee or its designee in lieu of any such foreclosure; (ii) by a Townhome Owner to such Townhome Owner's spouse or any parent, brother, sister, or child of such Townhome Owner, or trusts for the benefit of the Townhome Owner or such Townhome Owner's spouse, or any brother, sister or child of such Townhome Owner, or any combination of the foregoing.

Section 7.5 Votes in the Association. Each Townhome Owner shall have one (1) vote in the Association for each Townhome Lot owned.

Section 7.6 Party Walls. Each Townhome within the Townhome Buildings is adjacent to one or more other Townhomes. Along and over the common boundaries between the Townhomes lie Party Walls that, in conjunction with the footings underlying and the portion of the roof thereover, form a structural part of, and physically join, the improvements on the adjoining Townhome(s).

7.6.1 General Rules of Law. To the extent not inconsistent with the provisions of this Declaration, the general rules of law in Colorado regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Walls.

7.6.2 Maintenance. Each Townhome Owner shall be responsible for the reasonable maintenance and care of that portion of the Party Wall located on such Townhome Owner's Lot. Neither Townhome Owner of a Party Wall shall undertake any work on such Townhome Owner's Townhome which would jeopardize the soundness or safety of the Party Wall, reduce the value thereof, or impair the easement herein established without the consent of the other Townhome Owner.

7.6.3 Restoration of Damaged Party Wall. If the Party Wall is destroyed or damaged by fire or other casualty, either Townhome Owner may restore it, and the other Townhome Owner shall contribute such Townhome Owner's proportionate share of the cost of the restoration thereof. Restoration of the damaged Party Wall shall be to substantially the same condition as it existed prior to the damage. Nothing herein



contained shall prejudice the right of either Townhome Owner to require a larger contribution from the other Townhome Owner based upon the negligence or willful acts or omissions of such Townhome Owner.

7.6.4 Easements. The Townhome Owners of adjacent Townhome Lots shall each be deemed to own the necessary easements for the perpetual lateral and subjacent support, maintenance, repair and inspection of the respective Party Wall with equal rights of joint use. The Association shall have the same necessary easements with respect to all Party Walls.

7.6.5 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 Townhome encroaches upon any other Townhome Lot or upon any portion of the common areas; or (b) in the event any encroachment shall occur in the future as a result of settling of a Townhome Building or repair or restoration of a Townhome Building after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Townhome Buildings 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 areas or on the Townhome Lots, for purposes of marketability of title or other purposes.

7.6.6 Structural Changes. No Townhome Owner of a Townhome Lot shall have the right to destroy, remove, or make any structural changes in a Party Wall that would jeopardize the structural integrity of either of the Townhome Lots sharing a Party Wall without the prior written consent of the Association, the adjacent Townhome Owner, and any first Mortgagee with respect to such adjacent Townhome Lot; nor shall any Townhome Owner subject a Party Wall to the insertion or placement of any materials in such a way as to adversely affect the Party Wall's structural integrity. No Townhome Owner shall subject a Party Wall to any use that in any manner whatsoever may interfere with the equal use and enjoyment of the Party Wall by an adjoining Townhome Owner.

7.7 Insurance Specific to Townhomes.

7.7.1 Association's Property Insurance.

(a) The Association must obtain and maintain at all times, as a Townhome Common Expense, property insurance as required in this Declaration specifically with respect to the Townhomes.

(b) The Association must use reasonable efforts to secure a blanket hazard insurance policy providing "special form" coverage in an amount equal to full replacement cost, before application of deductibles. If "special form" coverage is not





reasonably available at reasonable cost, the Association must obtain, at a minimum, broad form covered causes of loss, in like amounts.

(c) The Association's insurance must cover the Association's repair obligations under this Declaration with respect to the Townhomes.

(d) As to the Townhomes, the Association's insurance policy is a policy that is to rebuild the building structures from the studs behind the drywall. The Association's insurance policy excludes the finished surfaces of perimeter and partition walls, floors, and ceilings within the Townhomes (i.e., paint, wallpaper, paneling, other wall coverings and window coverings, tile, carpet and any floor covering), windows, doors (interior and exterior), garage doors, garage door openers, heating and cooling systems, plumbing, electrical, concrete, and fireplaces. The Association's policy also excludes appliances and improvements and betterments made by Townhome Owners. The Association has the right to increase the level of coverage under its policy from the standard outlined in this Section by written Board resolution. If the level of coverage is changed, the Association is to make such information available to all Townhome Owners by posting the information on the Association's website, if any, or by other written correspondence to the Townhome Owners.

(e) All property insurance purchased by the Association runs to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Townhome Owners and their respective Mortgage Holders, and all other Persons entitled to occupy any Townhome as their interests may appear.

(f) All insurance coverage for the Association is to be written in the name of the Association as first named insured and each of the Townhome Owners as additional insureds. The Association is to periodically review the insurance to determine if the policy in force is adequate to meet its needs.

(g) All insurance policies are to be written with a company licensed to do business in Colorado. The company is to provide insurance certificates to each Townhome Owner and Mortgage Holder upon request. The Association's Board of Directors has the exclusive authority to adjust losses under the Association's policies. However, no Mortgage Holder having an interest in any losses may be prohibited from participating in the settlement negotiations, if any.

(h) The Association's insurance is not required to include liability insurance for individual Owners for liability arising within the Townhome.

(i) Unless otherwise specified in written guidelines or a written Board resolution, any required deductible on the Association's policy is a maintenance expense to be paid by the person(s) who would be responsible for the repair or maintenance of the loss in the absence of insurance. If the loss affects more than one Townhome, the Board may equitably apportion the cost of the deductible among the parties suffering loss in proportion to the total cost of repair. However, if the insurance policy provides that the



deductible applies to each Townhome separately or to each occurrence, each Townhome Owner is responsible for paying the deductible pertaining to their Townhome, if any. If any Townhome Owner(s) fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Townhome Owner.

#### 7.7.2 Townhome Owners' Insurance.

(a) Every Townhome Owner is obligated to obtain and maintain at all times insurance covering those portions of the Townhome to the extent not insured by the Association's policies, including, but not limited to, finished surfaces (of walls, floors and ceilings), flooring, cabinetry, fixtures, and appliances, betterments and improvements, windows, doors (interior and exterior), garage doors, garage door openers, heating and cooling systems, plumbing, electrical, concrete, and fireplaces.

(b) Each Townhome Owner is also responsible for insuring all improvements to the Townhome added by the Townhome Owner or the Townhome Owner's predecessors-in-title.

(c) Each Townhome Owner is also responsible for obtaining insurance covering their personal property and coverage for liability arising within the Townhome.

(d) The Association has no liability for failure to maintain required insurance.

(e) Upon request, the Townhome Owner must furnish a copy of such insurance policies to the Association.

7.7.3 Townhome Owner's Right to Review Association Insurance Policies. The Association must make a copy of its insurance policies available for review by Townhome Owners to assess their personal insurance needs. Each Townhome Owner has the right to obtain additional coverage at their own expense.

7.7.4 Source and Allocation of Proceeds. If the insurance proceeds are not sufficient to defray the costs of reconstruction and repair (due to failure of the Association to maintain coverage as provided in this Declaration, or due to the insurance policy's deductible) the additional cost is a Townhome Common Expense. If, for any other reason, the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair, as determined by the Association, the additional costs are assessed against the Townhome Owners of the Townhome(s) damaged in proportion to the damage to the Townhomes. These Assessments are not considered a special Assessment as provided in this Declaration. If there are surplus funds after repair and reconstruction is completed, those funds are common funds of the Association to be used as directed by the Association.

7.7.5 Repair and Reconstruction Requirements. In the event of damage to or destruction of all or most of a Townhome Building as a result of fire or other

casualty, the Association must arrange for and supervise the prompt repair and restoration of the structure unless all Townhome Owners within the damaged Townhome Building and all Mortgage Holders secured by the Townhome Building, vote not to proceed with the reconstruction and repair of the structure. In the event of substantial damage or destruction, each First Lien Holder is entitled to written notice of the damage, and nothing in these documents are construed to afford a priority to any Townhome Owner with respect to the distribution of proceeds to any such Townhome.

7.7.6 Claims and Adjustments by the Association. Any loss covered by an Association insurance policy is to be adjusted by the Association. The insurance proceeds for a loss are payable to the Association and not to any First Lien Holder. The Association must hold any insurance proceeds for the repair or restoration of the damaged property. The Association is not entitled to use insurance proceeds for other purposes unless there is a surplus after the damaged property has been completely repaired or restored.

7.7.7 Construction Fund. The net insurance proceeds collected on account of a casualty and the funds collected by the Association from Assessments against Townhome Owners on account of the casualty constitutes a construction fund. The Association is to disburse the funds to pay the cost of reconstruction and repair in appropriate progress payments to the contractor(s), supplier(s), and personnel performing the work or supplying materials or services.

7.7.8 Condemnation and Property Insurance Allocations and Distributions. In the event condemnation proceeds or property insurance proceeds are distributed to the Townhome Owners, the distribution must be as the parties with interests and rights are determined or allocated by record and pursuant to the Colorado Common Interest Ownership Act.

## 7.8 Alternative Dispute Resolution Specific to the Townhomes.

7.8.1 Purpose. One of the purposes of the Declaration is to establish a harmonious community. Because the prompt, efficient and fair resolution of any construction or design dispute is desirable, any construction or design controversy arising out of or relating to the Townhomes must be resolved as set forth in this Section 7.7.

7.8.2 Direct Communication. The parties to the disagreement over an Excluded Claim must set forth their respective positions in the dispute in correspondence. Each party must respond within 14 days after receipt of a letter from the other until agreement is reached. If an agreement is not reached, the next section of this Declaration applies.

7.8.3 Mediation. If an Excluded Claim cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. The parties must participate in the mediation in good faith until the dispute is resolved for a period not to exceed 30 days with the consent of



all parties. The cost of the mediation must be divided equally among the parties. If a mediation does not resolve the Excluded Dispute, the next section of this Declaration applies.

#### 7.8.4 Binding Arbitration.

(a) If the Excluded Claim cannot be resolved through mediation, such dispute must be decided by mandatory and binding arbitration in accordance with the rules of the American Arbitration Association (“AAA”) currently in effect. All Excluded Disputes must be decided by mandatory and binding arbitration in accordance with the rules of the AAA currently in effect.

(b) The following procedures apply to arbitration:

(i) Demand for arbitration must be filed in writing with the other party and with the AAA.

(ii) A demand for arbitration must be made within thirty (30) days after the dispute in question has arisen and failed to be resolved by mediation.

(iii) In no event may the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

(iv) No arbitration arising out of or relating to this Declaration may include, by consolidation, joinder or any other manner, an additional person or entity not subject to the Declaration, except that the Declarant, at its sole election and in its sole discretion, may by consolidation, joinder or any other manner, include contractors, subcontractors or other parties involved in the construction and/or planning of the Townhomes.

(v) The arbitrator to hear the Excluded Claim may be jointly selected by the parties. If the parties cannot agree within 21 days, the parties shall select the arbitrator they desire. Then, those arbitrators shall, amongst them, select the arbitrator to hear the Excluded Claim.

(c) The provision of this Section 7.8 to arbitrate, or the Declarant’s election to arbitrate, or the Declarant’s determination to include any additional person or entity not subject to this Declaration in an arbitration are specifically enforceable in accordance with applicable law with any court having jurisdiction.

(d) The award rendered by the arbitrator or arbitrators is final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.



(e) All filing fees and AAA costs associated with the arbitration itself must be paid for by the party who files the notice of arbitration.

7.8.5 Actions by the Association or any Townhome Owner.

(a) The Association may not commence or maintain an arbitration on any Excluded Dispute unless the commencement and maintenance has first been recommended by the Board and, is also approved by Owners holding at least 67% of the votes of the Owners.

(b) The Association must also comply with all requirements of state statutes on Excluded Claims and ordinances passed by local governmental jurisdictions, if any.

(c) The Association must also comply with all requirements of applicable state statutes.

(d) The Association or any Owner may proceed with communication, mediation, and arbitration, as allowed for under this Section, without a vote of Owners holding at least 67% of the votes of the Owners as long as they are in compliance with the provisions of the Colorado Common Interest Ownership Act.

(e) On an Excluded Dispute, the Association, if the Association complies with the terms of this Article, has the power to commence and maintain an arbitration as may be deemed appropriate by the Board and as may be permitted pursuant to the Colorado Common Interest Ownership Act.

(f) In making its recommendation to the Owners to bring an arbitration on an Excluded Claim, the Board is to exercise its reasonable judgment. The Board must consider, without limitation, the likelihood of success, the impact such action may have upon the market values of Townhomes or other portions of the Property, the cost of pursuing the arbitration including attorneys' fees and expert fees, the resources of the Association and whether a special assessment or depletion of reserves may be required in connection with pursuit of those claims or as a result after those claims have been pursued.

(g) The Board must prepare a written analysis of the risks and benefits to the Townhome Owners of commencing and maintaining an arbitration on an Excluded Dispute.

(h) The Board must deliver a copy of that written analysis to each of the Owners at least 7 days prior to the date scheduled for the meeting of Owners or vote at which the Owners must vote whether or not to proceed.

(i) The Association may not bring an arbitration on an Excluded Dispute, even with amendment of this Declaration, without compliance with the terms of





this Section 7.8 (un-amended) and without compliance with the terms of the Colorado Common Interest Ownership Act.

(j) The Association may not bring a lawsuit on an Excluded Claim, as these claims are subject to the provisions of this Declaration.

(k) Owners may not bring a lawsuit on an Excluded Claim, as these claims are subject the arbitration agreement as initial Owners have entered into with the Declarant and are also subject to the provisions of this Declaration.

7.8.6 Sole Remedy-Waiver of Judicial Rights. Subject to the Declarant's election rights set forth in this Declaration, and the remedies available for Excluded Disputes, the Declarant, the Association, and each Townhome Owner expressly consent to the substance and procedures established in this Section 7.8 as their sole and exclusive remedy. Each of these parties also expressly waive any right they may have to seek resolution of any Excluded Dispute contemplated by this Section in any court, except as expressly allocated to the Association. Each of these parties also waive any right to trial by a jury. If a dispute involves the Declarant, a Townhome Owner or the Association, no person may file a memorandum of *lis pendens* or similar instrument that would encumber or create a lien upon the land owned by the Declarant, a Townhome Owner or the Association.

7.8.7 Binding Nature; Applicable Law. The consideration of the parties to be bound by the provisions of this Section 7.8 of this Declaration is not only the waiver of access to determination by a court (as applicable) and by a jury, but also the waiver of any rights to appeal the arbitration finding other than for the reasons available under Colorado law. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

7.8.8 Location. All alternative dispute resolution proceedings under this Section 7.7 must be held in Fort Collins, Colorado, unless otherwise mutually agreed by the parties.

7.8.9 Payment of Expenses under This Article. Beyond filing fees and AAA costs associated with the arbitration (those costs being the obligation of the party who files the notice of arbitration), each party is responsible for their own costs, expenses, experts and attorney fees in the mediation and arbitration.

7.8.10 Amendment of this Section. The provisions of this Section 7.8 may be amended with a majority vote of the Townhome Owners and with the consent of the Declarant.

3. 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.



4. **Full Force and Effect.** Except as amended hereby, the Declaration remains in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Second Amendment to the Declaration to be executed as of the day and year first above written.

RANGE VIEW PARTNERS, LP,  
a Colorado Limited Partnership:

By: KZ Squared, LLC,  
a Colorado limited liability company,  
as General Partner:

By: \_\_\_\_\_

Michael Zapf, Manager

By: \_\_\_\_\_

Charles Zapf, Manager

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF WELD         )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 28<sup>th</sup> day of November, 2018, by Michael Zapf and by Charles Zapf, as Managers of KZ Squared, LLC, the general partner of Range View Partners, LP.

WITNESS my hand and official seal.

My commission expires: 10/13/2020.

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







LENDER'S RATIFICATION

The undersigned, having a security interest in all or any part of the Second Filing referenced above, hereby approves, ratifies, confirms and consents to the foregoing SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SUNSET RIDGE SUBDIVISION.

IN WITNESS WHEREOF, the undersigned has caused its name to be hereunto subscribed by its [Title]: Loan Assistant on the 3 day of ~~November~~, 2018.

December

ADVANTAGE BANK:

By:

Adam Bliven

Name:

Adam Bliven

Title:

Sr. Vice President

STATE OF COLORADO )

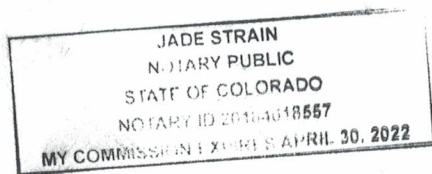
) ss.

COUNTY OF Lincoln )

The foregoing instrument was acknowledged before me this 3 day of ~~November~~, December, 2018, by Jade Strain, as [Title]: Loan Assistant of Advantage Bank.

Witness my hand and official seal.

My commission expires: April 30 2022



Jade Strain  
Notary Public

