

***AMENDED AND RESTATED DECLARATION OF CONDITIONS,
COVENANTS, RESTRICTIONS AND EASEMENTS FOR
ST. ANDREWS SUBDIVISION FILING NO. 1, FILING NO. 2
AND FILING NO. 3***

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**Amended and Restated Declaration
of
Conditions, Covenants, Restrictions and Easements for
St. Andrews Subdivision Filing No. 1, Filing No. 2 and Filing No. 3**

THIS AMENDED AND RESTATED DECLARATION, made and entered as of the date shown below, by **ST. ANDREWS HOMEOWNERS ASSOCIATION, INC.**, a Colorado non-profit corporation (hereinafter called the "Association") for itself, its successors and assigns.

WITNESSETH:

WHEREAS, St. Andrews Development, Ltd., a Colorado Corporation (Declarant") recorded the Declaration of Conditions, Covenants, Restrictions and Easements for St. Andrews Subdivision Filing No.1 and Filing No. 2 in the real property records of El Paso County, Colorado, on June 4, 1993 at Book 6187, beginning at Page 1133, and thereafter re-recorded on June 23, 1993, at Book 6200, beginning at Page 74 (the "Original Declaration"); and

WHEREAS, Declarant replated a portion of St. Andrews Filing No. 2 into St. Andrews Filing No. 3, which was recorded in the real property records of El Paso County, Colorado, on March 3, 1994 at Reception No. 94029058; and

WHEREAS, the Lots in St. Andrews Filing No. 3 remain subject to the Original Declaration; and

WHEREAS, the provisions of Section 909 of that Original Declaration provide that such document may be wholly amended or modified by an instrument signed and acknowledged by the Owners of at least sixty-seven percent (67%) of the Lots in the Association; and

WHEREAS, the Association desires to amend and restate the provisions of the Original Declaration and at least sixty-seven percent (67%) of the Owners have signed and acknowledged an instrument consenting to amend and restate the Original Declaration; and

NOW, THEREFORE, the Association hereby declares that all of the Subdivision, as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors, and assigns. The Association further declares

that the Subdivision has been and shall continue to be exempt to the provisions of the Colorado Common Interest Ownership Act (C.R.S. §38-33.3-101 et seq.) and any amendments, repeals or modifications of that Act (hereinafter called "CCIOA"). **THE ORIGINAL DECLARATION IS REPLACED BY THE COVENANTS, SERVICITUDES, EASEMENTS AND RESTRICTIONS SET FORTH IN THIS AMENDED AND RESTATED DECLARATION.**

St. Andrews Development, Ltd., a Colorado Corporation was the owner of the property described as follows:

The real property located in Colorado Springs, Colorado and legally described on Exhibit "A" attached hereto and incorporated herein (the "Property"). The Property has been subdivided and is now known as Lots 1- 134, and Tracts A-C and E, inclusive, in St. Andrews Subdivision Filing No.1, according to the plat thereof recorded in El Paso County, Colorado and Lots 1-27, inclusive, and Tracts D, G and K in St. Andrews Subdivision Filing No.1, according to the plat thereof recorded in El Paso County, Colorado. This Property is called the "Subdivision" and individual lots designated by the recorded plats are called "Lot" or "Lots".

St. Andrews Development, Ltd., a Colorado corporation, was the "Declarant" pursuant to the Declaration of Conditions, Covenants, Restrictions and Easements for St. Andrews Subdivision Filing No. 1 and Filing No. 2, recorded on June 4, 1993, at Book 6187, beginning at Page 1133, and thereafter re-recorded on June 23, 1993, at Book 6200, beginning at Page 74 all in the real property records of El Paso County, Colorado (hereinafter collectively referred to as the "Original Declaration"). Declarant recorded the Original Declaration, thereby subjecting the Subdivision to the protective covenants, conditions, restrictions, reservations, liens and charges found within the Original Declaration to protect the Subdivision's quality residential living environment and also to protect its desirability, attractiveness and value.

Consequently, the Subdivision was subjected to the Original Declaration and now to the following easements, covenants, restrictions and conditions (collectively referred to as "Covenants"), all of which shall run with the Subdivision and shall be binding upon all parties having or acquiring any rights, title or interest in it or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 101. Definitions. The following words and expressions as used in these Covenants have the meanings indicated below unless the context clearly requires another meaning:

- (a) **Accessory Building.** Detached garages, patios, swimming pools,

covers, enclosures, dressing rooms or other similar structures, recreation facilities, separate guest houses without kitchens, separate servants' quarters without kitchens and other buildings customarily used in connection with the single-family residence.

(b) **Agencies**: "Agencies" shall mean and collectively refer to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal Housing Administration of the Department of Housing and Urban Development (FHA), the Veterans Administration (VA), the Colorado Housing Finance Authority (CHFA) or any other public, quasi-public or private agency, or entity which performs (or may in the future perform) functions similar to those currently performed by the entities specifically listed herein.

(c) **Association**. The St. Andrews Homeowners Association, a Colorado nonprofit corporation formed in accordance with its Articles of Incorporation and Bylaws.

(d) **Building Site**. A Lot as established by the recorded Plat or the combination of two or more Lots or portions thereof as approved by the Declarant.

(e) **Common Area or Common Areas**. Common Area or Common Areas shall include (i) Tracts A-C and E in St. Andrews Subdivision Filing No.1, Tracts D and K in St. Andrews Subdivision Filing No. 2 and all other real property owned by the Association, including any Improvements thereon, as well as any easements owned by the Association for the common use and enjoyment of the Members of the Association or real property or easements maintained by the Association for the benefit, use and enjoyment of the Members of the Association and (ii) the fencing, trees and right-of-way landscaping which constitute the City of Colorado Springs approved landscape buffer along Templeton Gap Road and the retaining wall along Muirfield Drive, south of the park.

(f) **Architectural Review Committee (ARC)**. A committee established to maintain architectural control, as provided in Article V.

(g) **Covenants**. This Declaration and the provisions contained in it.

(h) **Declarant**. St. Andrews Development, Ltd., a Colorado Corporation, or its assigns.

(i) **Design Standards**. The guidelines for uses and architectural approvals which the Board of Directors or the Architectural Review Committee may, from time to time, adopt pursuant to Section 304 of these Covenants.

(j) **Development Plan**. The Development Plan approved by the City of Colorado Springs applicable to the Subdivision on March 15, 1993.

(k) **Due Notice**. Due Notice means written notice delivered in accordance with the requirements of these Covenants at least 30 days prior to the action required by

the notice.

(l) **Enumerations Inclusive.** A designation which describes parcels or other things as from one number, letter or other designation to another includes both such numbers, letters or other designations and all in between.

(m) **Gender and Number.** Whenever the context permits, Owner or Owners shall be deemed to refer equally to persons of both sexes and to corporations. Singular to include plural and plural to include singular.

(n) **Golf Course.** The eighteen-hole golf course is presently known as Colorado Springs Country Club (CSCC), portions of which are adjacent to some of the Lots within the Subdivision.

(o) **Improvement.** Any Structure, object or activity on a Lot which alters the previous exterior appearance of the Lot or any Structures located on it. Grading activity, removal of natural vegetation, construction of any Structures or additions to remodeling, repainting and material changes to any previously approved building, Structure or landscaping plans all fall within the definition of an "Improvement".

(p) **Lot.** Each area designated as a lot in any recorded Plat applicable to the Subdivision.

(q) **Lot Lines.** Front side and rear Lot Lines shall be the same as defined in the zoning regulations of the City of Colorado Springs in effect from time to time. In the absence of such a definition, a front Lot Line is each boundary line (whether one or more) between the Lot and any public street. A side Lot Line is any boundary line which meets and forms an angle with a public street except that for a corner Lot with two front Lot Lines, the side Lot Line is the boundary which forms an angle with the street which affords the principal access to the Lot.

(r) **Owner.** Person having the simple legal title to a Lot. If more than one person has such title, all such persons are referred to collectively as "Owner" and shall exercise their rights as an Owner through such one of them as they may designate from time to time.

(s) **Plat or Plats.** The final approved Plats applicable to St. Andrews Subdivision Filing No. 1, Filing No. 2, and Filing No. 3 as such Plat and as such Plats are recorded in the real property records of El Paso County, Colorado.

(t) **Structure.** Anything or device, other than trees and landscaping, the placement of which upon any Building Site might affect its architectural appearance, including by way of illustration and not limitation, any dwelling, building, garage, porch, shed, greenhouse, lawn ornamentation, driveway, walk patio, swimming pool, tennis court, fence, wall, tent, covering or outdoor lighting or play equipment. Structure shall also mean an excavation or fill the volume of which exceeds five cubic yards or any excavation,

fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

(u) **The Subdivision**. The area subdivided as St. Andrews Subdivision Filing No. 1, Filing No. 2, and Filing No. 3 according to the Plats recorded in the office of the Clerk and Recorder of the County of El Paso and State of Colorado and as described on Exhibit "A" hereto, together with all appurtenances thereto and all improvements now or hereafter thereon.

ARTICLE II

PROVISIONS TO MAINTAIN THE QUALITY OF LIFE

The quality of life in the Subdivision is affected not only by the natural surroundings and preservation of existing vegetation, but also by the various uses of the land. This Article contains provisions intended to protect the unique natural beauty and vegetation of the Subdivision and to regulate uses of the land in a harmonious and compatible manner.

Section 201. Property Uses. All Lots and Building Sites in the Subdivision shall be used exclusively for private residential purposes. No dwelling erected or maintained within the Subdivision shall be used or occupied for any purpose other than for a single-family dwelling. No business, commercial use or other activity conducted for gain, shall be carried on or within any Lot or Building Site except for home occupation businesses or activities that are allowed pursuant to the zoning ordinances of Colorado Springs, Colorado.

Section 202. Structures. No Structure shall be erected within the Subdivision except single-family dwellings and those Accessory Buildings and accessory Structures which have been approved by the Association or are allowed by statute. No Structure other than a dwelling, no Accessory Building, trailer, tent or other similar or dissimilar temporary quarters may be used for living purposes. No other Structure may be placed on any Building Site before completion of the dwelling upon such Building Site except with the permission of the Declarant. All Accessory Buildings and Structures must be compatible and in harmony with the dwelling located upon the Lot.

Section 203. Construction Type. All construction shall be new. No building previously used at another location nor any building or Structure originally constructed as a mobile dwelling or Structure may be moved onto a Lot, except as expressly hereinafter provided for temporary buildings.

Section 204. Storage. No building materials shall be stored on any Lot except temporarily during continuous construction or building or its alteration or improvement, unless enclosed within an approved Structure so as not to be visible from any neighboring property or adjacent streets.

Section 205. Substantial Completion. A Structure shall not be occupied during original construction until substantially completed. All construction work shall be prosecuted diligently and continuously from the time of commencement until fully completed.

Section 206. Commencement of Construction. Commencement of construction of a single-family dwelling upon a Lot shall be commenced within twelve (12) months of the Owner acquiring such Lot, unless such timeframe shall be extended with the written permission of the Association, which permission may be granted or withheld in the sole and absolute discretion of the Association.

Section 207. Construction Completion. The exterior of all buildings or other Structures must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. If not so completed, or if construction shall cease for a period of sixty (60) days without permission of the Association, the Association will give the Owner thereof Due Notice of such fact, and if construction on such Structure is not diligently commenced within thirty days after such notice, the unfinished Structure (or unfinished portion thereof) shall be deemed a nuisance and shall be removed forthwith by and at the cost of the Owner. If not so removed by Owner, the unfinished structure (or unfinished portion thereof) may forthwith be removed by the Association at the cost of the Owner.

Section 208. Construction Debris. When construction is commenced upon a Lot, a trash container area will be provided, properly used and maintained. During the progress of construction, the owner of a Lot shall be responsible for insuring that the Lot is kept free of debris and trash, all of which shall be deposited in the trash container area. No construction materials, debris or trash, shall be allowed on the property of others and any materials, trash or debris blown off the Lot shall be promptly cleaned up.

Section 209. Drilling Structures. No derrick or other Structure designed for use in or used for boring or drilling for water, oil or natural gas shall be permitted upon or above the surface of any Lot, nor shall any water, oil, natural gas, petroleum, asphalt or other hydrocarbon substances be produced from any well located upon, in or under any Lot; provided, however, that such provision shall not be applicable to the three (3) existing well sites presently located within the Subdivision.

Section 210. Easements. There are hereby reserved to the Association, its successors and assigns, perpetual, alienable, divisible and releasable easements and the right from time to time to grant easements to others over, under, in and across each of the seven foot (7') strips along and adjoining each rear Lot Line of each Lot, and each of the five foot (5') strips along and adjoining each side Lot Line of each Lot for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for water lines, for utility lines, for drainage and drainage Improvements and for other similar or dissimilar facilities and purposes, and for anyone or more of such purposes. Easements in addition to those above described may have

been or may hereafter be granted by duly recorded conveyance. Every Owner acquiring a Lot in the Subdivision acknowledges and agrees that any easement, use restriction, access restriction or other easement or restriction evidenced by or noted upon any recorded Plats of the Subdivision, the approved Development Plan applicable to the Subdivision or in any other document applicable to the Subdivision or the Lots is accepted by Owner and shall be binding and enforceable against the Lot or Lots owned by such Owner.

Section 211. Underground Utilities. All utilities installed on the Property, including, electrical, telephone and cable television service, except lighting standards and customary service devices for access, control or use of utilities shall be installed underground. The Association may grant approval for temporary above ground utility lines as needed during construction. This Section shall have no applicability to overhead utilities or above-ground utilities that are or were in place prior to the date of execution of this Declaration.

Section 212. Access Restriction. Some Lots may share common driveways with an adjoining Lot. Any such driveways will be shown on the recorded plat of the Lots involved. The Lots directly served by the common driveway, will have easements for use of the designated driveway. If one Lot installs the driveway before the other Lot is ready, the Owner of the second Lot shall pay to the Owner of the first Lot its fair share of the cost of the driveway (as determined by the Declarant), together with interest at the rate of twelve percent per annum, or such other rate as may be established by the Declarant. This payment will be in cash at the time a building permit for the second Lot is issued. The Declarant may approve alternative access to Lots with common driveways if it determines such alternative access is appropriate. Any such determination will be in writing and must be properly recorded in the real property records of El Paso County, Colorado by the Lot Owner prior to commencing construction activity on the Lot involved. Each Owner acknowledges and agrees that the Lots shall have no direct access onto or off of Templeton Gap Road, Colorado Springs, Colorado.

Section 213. Garage and Driveway. The Structures on each Lot or Building Site shall include an attached two-car or three-car fully enclosed garage or such equivalent garage arrangements as may be approved by the Association. The HOA encourages homeowners to utilize their garages for the parking of vehicles. Vehicles not parked in the garage should be parked in the driveway. The site improvements on each Lot or Building Site shall include adequate driveway or other similar off-street space for temporary parking of two (2) private passenger motor vehicles, which temporary parking shall only be utilized by the guests or invitees of the residents of any Structure on such Lot. All driveways shall be improved with brick paver, or concrete paving unless otherwise approved by the Association.

Section 214. Setbacks. Except with the Association's approval no building, porch, eave, overhang, projection or other part of a building shall be located within twenty-five (25) feet of a front Lot line, or within five (5) feet of a side Lot line, or, where the side Lot adjoins a public street no building, porch, eave, overhang, projection or other part of a

building shall be located within twenty-five (25) feet of a front Lot line, or within fifteen (15) feet of such side Lot line adjoining a public street. The written approval of the Association to vary from the requirements of the immediately preceding sentence may be given for:

- (a) fireplace projections integral to the building,
- (b) eaves and overhangs, or
- (c) construction which extends less than ten (10) feet into the setback areas adjoining public streets or less than five (5) feet into any other setback area and which the Association determines to be consistent with or required by the Lot terrain or Lot shape and consistent with superior design. Any setback restrictions contained upon any recorded Plats of the Subdivision or upon the Development Plan applicable to the Subdivision which are more restrictive than the setback requirements of this Section shall be enforceable against the Lots in question and the Owner of a Lot so affected.

Section 215. Compliance with Building Codes. It is the Owner's sole responsibility to verify that building plans and all construction conform to the building codes, zoning codes and subdivision regulations of the City of Colorado Springs and/or County of El Paso, whichever is applicable, which regulations may vary from the provisions of these Covenants; provided however, if these Covenants are more restrictive than such governmental codes and regulations, then the more restrictive provisions of these Covenants shall control. The Association, its Board of Directors, the ARC and its members shall have no liability whatsoever for an Owner's building plans or construction failure to follow the building codes, zoning codes and subdivision regulations of the City of Colorado Springs and/or County of El Paso regardless of whether the Association, its Board of Directors, the ARC and/or its members approve such building plans or construction.

Section 216. Minimum Floor Area. No dwelling or Structure shall be erected upon a Lot located in St Andrews Subdivision Filing No.1 which has an Architectural Floor Area of less than 2,000 square feet. No dwelling or Structure shall be erected upon a Lot located in St Andrews Subdivision Filing No.2 which has an Architectural Floor Area of less than 3,200 square feet. No dwelling or Structure shall be erected upon a Lot located in St Andrews Subdivision Filing No.3 which has an Architectural Floor Area of less than 3,200 square feet. Architectural Floor Area is the sum of the following percentages of gross square-foot areas:

Gross square feet on main living level	100%
Gross square feet on finished upper stories above main living level or garden level	75%
Gross square feet on finished garden level with direct walkout access to outside	50%

Gross square feet on finished basement level	25%
Gross square feet of balconies, raised decks, covered patios	25%
Gross square feet of attached garage area in excess of 400 square feet	50%

Gross square feet covers the exterior perimeter of the area being measured.

Section 217. General Architectural Standards. Architectural standards are established to the end that the Subdivision may benefit from the natural advantages of its particular location. While the standards for architectural style are flexible, compatibility with the informal natural environment is required. Contemporary, Southwestern and Western styles typical of the Pikes Peak region are desirable. All buildings must be designed to fit the natural contours of the Lot without excessive grading. The Association shall have the right and authority to establish and amend specific architectural standards from time to time.

Section 218. Fences. The intent of these Covenants is to encourage open spaces within the Subdivision. The only approved material for fences within the Subdivision is metal. This includes all perimeter fencing. Wood fences are only allowed for dog runs or trash enclosures if they are out of sight from the street and neighboring Lots and must have the prior written approval by the Board and ARC. The height and location of all fences within the Subdivision must be approved by the Association. The total fencing of front yards or any section of the front yard is not permitted. Notwithstanding anything to the contrary contained in these Covenants, the Owners of the Restricted Lots (as defined in Section 221 hereof) acknowledge and agree that the rear of such Lots are encumbered by the Access Agreements (as defined in Section 221 hereof) which restrict the Owners of such Lots from placing any improvements, landscaping or fencing within or upon such Lots in violation of the terms of such Access Agreements, or which would materially hinder the access to such Lots from the adjacent property to the rear of such Lots. Therefore, all Owners of any of the Restricted Lots acknowledge and agree that any fencing installed upon such Lots must be easily removable in twelve (12) foot sections to allow access to the Lots per the Access Agreements encumbering such Lots.

Section 219. Height Restriction. The height of any dwellings or other Structures or Accessory Buildings constructed or to be constructed upon any Lot in the Subdivision is hereby restricted and shall not exceed thirty (30) feet in height above finished grade; provided, however, that the height of any dwellings or other Structures or Accessory Buildings constructed or to be constructed on Lots 14 and 15 in St. Andrews Subdivision Filing No.2, according to the Plat thereof, shall not exceed twenty four (24) feet in height above finished grade. For purposes of these Covenants, such height shall be determined as follows:

By computing the height above finished grade as determined consistent with the height measurements utilized by Regional Building as of the date of recording these

Covenants.

Section 220. Golf Course Hazards. Owners hereby recognize the dangers of living near the Golf Course and Owners shall take the necessary steps to maintain adequate hazard Insurance to protect against golf play. By accepting a deed for a Lot, each Owner assumes the risks of living near the Golf Course and forever waives and relinquishes any and all claims, suits and causes of action such Owner may have against the Association, its Board of Directors, the Architectural Review Committee and its members arising from or related to the playing of golf on the Golf Course.

Section 221. Further Restrictions. Each Owner of a Lot within the Subdivision acknowledges and agrees that the following Lots are restricted and burdened by either or both of the Access Agreement executed by Declarant and Colorado Springs Utilities and/or the Agreement executed by and between the Declarant, Colorado Springs Utilities and the St Andrews HOA First Interstate Bank of Denver, N.A. as Trustee of The Frank M. Houck Trust (collectively, the "Access Agreements"): Lots 1-9, inclusive, Lots 93, Lot 96, and 114-134, inclusive, in St. Andrews Subdivision Filing No.1 and Lots 16-27, inclusive in St. Andrews Subdivision Filing No.2 (collectively, the "Restricted Lots"). Each Owner of any of the Restricted Lots acknowledges and agrees that such Owner shall not improve, landscape, fence or otherwise place any Structures or Improvements upon the Restricted Lots in violation of the terms of the Access Agreements pertaining to and affecting such Restricted Lot.

Section 222. Obligations Concerning Restricted Lots. Each Owner, builder, contractor or other person or entity hereafter constructing a dwelling or other Structure upon a Restricted Lot acknowledges and agrees that they will be responsible for and insure that any buffer trees required to be located upon such Restricted Lot pursuant to the Development Plan are installed and located upon the Restricted Lot prior to any final inspection of such dwelling or Structure, and that such trees and the other landscaping located upon the Restricted Lot in question are in compliance with the Development Plan upon the completion of construction of the dwelling or Structure.

ARTICLE III

DENSITY AND QUALITY STANDARDS

Section 301. Re-Subdivision. No more than one dwelling shall be erected or maintained within any Lot or the combination of two or more Lots or portions thereof unless approved by the Association or as required by statute.

Section 302. Owner Maintenance. To keep the Subdivision an attractive, quality environment, each Owner shall maintain the exterior of any Improvements, including buildings, other Structures, landscaping, walks, driveways and parking areas on their Lot in good condition and shall cause them to be repaired as the effects of damage or deterioration become apparent. Exterior building surfaces and trim shall be repainted periodically and before the surface becomes worn-off or weather beaten. Any dead or

diseased landscaping will promptly be replaced, all lawns will be properly mowed and maintained, and weeds and other noxious plants will be controlled. Periodic exterior maintenance also includes repair and maintenance of gutters, downspouts, roofs, paving, lawn, shrubs, trees, other landscaping material, fences, signage, individual mailboxes (not part of a community mailbox) and outdoor lighting.

Section 303. Rebuilding or Restoration. Any dwelling or building which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to an acceptable condition, such rebuilding or restoration to be completed with reasonable promptness and in any event within six months from the time the damage occurred. Owners of said Lot are still required to pay full assessments during such rebuilding or restoration period.

Section 304. Design Standards. The Association may, from time to time, adopt Design Standards further defining the architectural and development criteria for the Subdivision, the approval processes and other related matters. All Improvements in the Subdivision must also comply with these Design Standards.

ARTICLE IV

LIVING ENVIRONMENT STANDARDS

Section 401. Building and Grounds Conditions. Each Owner shall prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on his Lot which tends to decrease the beauty of the neighborhood or the Subdivision as a whole or in the specific area.

Section 402. Garage Doors. The Association encourages homeowners to keep their garage doors closed except when being used to permit ingress or egress for both aesthetic value and to reduce opportunity for criminal behavior.

Section 403. Maintenance Equipment. All maintenance equipment, including yard and garden equipment, shall be stored in an enclosed Structure or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets.

Section 404. Clotheslines. No outdoor permanent clotheslines will be permitted but retractable clothes lines are allowed

Section 405. Refuse. No ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers, therefore, shall be stored, accumulated or deposited outside or so as to be visible from any neighboring property or adjoining street, except during refuse collections.

Section 406. Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No offensive or hazardous activities may be carried on any Lot or in any living unit or Structure. No annoying lights, sounds or odors shall be permitted to emanate from any living units or Structure.

Section 407. Sound Devices. No exterior speakers, horns, whistles, bells or other sound devices which will create a nuisance within the Subdivision or will otherwise tend to interfere with any adjacent Owner's use and enjoyment of his Lot, except security devices used exclusively for security purposes, shall be located, used or placed on any Structure or within any Building Site.

Section 408. Landscaping. Within six months after substantial completion of a dwelling or within any extension of that period granted by the Association, all landscaping shown in any approved landscaping plans must be properly installed. Homeowners may utilize xeriscaping in their overall landscape design but are encouraged to use a variety of materials (i.e. various kinds and sizes of rock, bark, mulch and ground cover) in their landscape plans. All original landscape plans and any adjustments, modifications, alterations, upgrades or changes to the original landscape plans must be reviewed and approved in writing by the Association's Architectural Review Committee prior to any change or work being done. This includes the removal of any trees, shrubs, bushes or paved areas. Artificial turf may be installed in the backyard but not allowed in any section of the front yard. The City often provides the first homebuyer within a newly developed subdivision with a tree. Each Owner receiving such a tree from the City shall be required to follow the guidelines given by the City as to the kind of tree and its placement in the front yard.

Maintenance is required on all rear yards which are adjacent to the Golf Course where natural growth may exist between manicured landscaping and rear Lot lines. Each Owner agrees to preserve existing trees, scrub oak and other natural vegetation upon his Lot and no existing trees, surface boulders, or scrub oak shall be removed from any Lot unless required by construction activity and then only with the approval of the Association. The Owners of the Restricted Lots located in St. Andrews Subdivision Filing No.1 and the Owner of Lot 27 in St. Andrews Subdivision Filing No.2 will have fencing installed by Declarant adjacent to Templeton Gap Road located in the back yard of such Lots. Additionally, such Owners shall have buffer trees placed upon and located within the above identified Restricted Lots. The buffer trees shall be of the type identified by the landscape plan within the Development Plan and shall be located as specified and required pursuant to the landscape plan within the Development Plan. The Owners of such Restricted Lots acknowledge and agree that each such Owner is responsible to locate, maintain and replace, as needed, such buffer trees as specified by the Development Plan and the Owners of all of the Restricted Lots acknowledge and agree that any landscaping of the Restricted Lots shall be done and performed in a manner consistent with the Access Agreements. In the event that such Owner fails to locate, maintain and replace, as needed, the buffer trees upon the Restricted Lot or in the event that any Owner of a Restricted Lot fails to landscape in a manner consistent with the

Access Agreements, then the Association shall have the right to enter upon the Restricted Lot in question and to perform any maintenance or replacement of such buffer trees required by the Development Plan or to otherwise take the steps necessary to place the landscaping on the Restricted Lots in compliance with the Access Agreements. Association shall not be liable for any losses, costs or damages on account of performing such actions, except for any such loss, cost or damage caused by Association's gross negligence or willful misconduct. Any costs incurred by Association in taking any such action shall be paid to the Association by the Owner of the Restricted Lot in question within twenty (20) days of receipt of an invoice therefore. Association shall have the right to collect such costs from the Owner by any method allowable under these Covenants, including without limitation, Section 709 hereof.

Section 409. Weeds. All yards and open spaces and the entire area of every Lot on which no building has been constructed shall be kept free from plants or weeds infected with noxious Insects or plant diseases and from weeds which, in the reasonable opinion of the Association, are likely to cause the spread of infection or weeds to neighboring property and free from brush or other growth or trash which in the reasonable opinion of the Association, causes undue danger of fire.

Section 410. Mowing and Pruning. In order to effect insect, weed and fire control and to prevent and remove nuisances, the Owner of any Lot shall mow, cut, prune, clear and remove from the Lot diseased trees, unsightly brush, weeds and other unsightly growth and shall remove any trash which may collect or accumulate on the Lot. The Association has the right (but not the duty) to enter upon any Lot and perform this work after Due Notice to the Owner in which case the reasonable costs incurred by the Association in performing such work will be an additional assessment against the Lot involved.

Section 411. Transmitters. No electronic or radio transmitter of any kind which tends to interfere with or create a nuisance with respect to any other Lots or the Owners thereof, other than garage door openers or cordless telephones, shall be operated in or on any Structure or within any Building Site except as allowed by statute.

Section 412. Animals. Domesticated bird or fish and other small animals permanently confined indoors in the primary dwelling will be allowed. No other animals, except an aggregate of not more than three domesticated dogs or cats (which must be fenced or restrained at all times within the Lot) will be permitted within the Subdivision. No animal of any kind shall be permitted, which in the opinion of the Association makes an unreasonable amount of noise or odor or is a nuisance. No animals shall be kept, bred or maintained within the Subdivision for any commercial purposes.

Section 413. Parking. The Association encourages all homeowners to either park in their garages or driveways as well as not to park on the streets overnight. If parking on the street is absolutely necessary, then do so in a manner that leaves room for emergency vehicles to pass (i.e. having all vehicles park on the same side of the street).

Section 414. Trailers, Campers, etc. No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, motorcycle, ATV's, any towed trailer unit or truck, excepting only pickups solely for the private use of the residents of a dwelling shall be parked within any Lot or Building Site except in a completely enclosed Structure, or fully screened in a manner approved by the Declarant. The maximum period that these vehicles may be parked on the street to allow for setup before and cleanup after their use only is set by the City of Colorado Springs.

Section 415. Inoperative Vehicles. No stripped down, partially wrecked or inoperative motor vehicle, or any part thereof, shall be permitted to be parked on any street or on any Lot in such a manner as to be visible from any neighboring property or street.

Section 416. Vehicle Repairs. No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, boat, machine or device may be carried on except within a completely enclosed Structure which screens the sight and sound of the activity from the street and from adjoining property.

Section 417. Signs and Flags. All signs and flags in the Association are subject to and must comply with such rules and regulations adopted by the Board of Directors.

Section 418. Construction Activities. During construction, all construction debris will be stored in a manner which will prevent its being blown away or otherwise dislodged by storms or high winds and will be removed from the construction site at least once per week. If these requirements are not complied with during construction, the Association may notify the Owner or contractor involved, and, if the deficiencies have not been remedied within the next two days, the Association may then remove the trash and debris. The Owner and Contractor involved will have no claim for damages or otherwise on account of such removal, and all costs incurred by the Association will be an assessment against the Lot involved and will be paid by the Lot Owner within 30 days after receipt of a bill from the Association. If this assessment is not timely paid, it will become a lien against the Lot involved as provided in Section 506 below.

Section 419. Natural Ground Cover. The natural ground cover of a Lot shall not be disturbed and there will be no grading or other soil or earthwork performed on a Lot until plans for placing Improvements on the Lot have been properly approved by the Association as provided in these Covenants. After excavation and completion of the improvements on a Lot, the ground will be restored to as near its original contours and appearance as possible. Changes of more than one foot from existing grades require the approval of the Association and may require a new drainage plan approved by the City.

Section 420. Drainage. All changes from existing drainage channels or patterns on any Lot must not cause any harm or damage to other property, whether within or outside the Subdivision. Grading shall be maintained at all times so as to conduct irrigation and surface waters away from any Structures on the Lot and so as to protect foundations and footings from excess moisture. Special attention shall be paid to the re-

vegetation of approved grades and cuts to eliminate erosion. Owners are solely responsible for complying with the City drainage plan for their Lot.

Section 421. Hazardous Materials. No materials shall be transported to, from or within the Subdivision in such a way as to create a nuisance or hazard. Storage, use or disposal of hazardous or radioactive material within the Subdivision is prohibited. Any continued or intensive use of pesticides or herbicides is deemed to be a use of hazardous materials.

Section 422. Solar Devices. The utilization of passive or active solar energy devices is encouraged. However, all solar devices must either be architecturally and aesthetically integrated into the building they serve or be screened from the view of adjacent Lots and streets in a manner satisfactory to the Association and as allowed by statute.

ARTICLE V

ARCHITECTURAL REVIEW COMMITTEE

Section 501. Composition of the Architectural Review Committee. The Declarant has transferred all of its functions, rights and powers of granting or withholding approval, permission or consent and its other responsibilities, functions, rights and powers under these Covenants to the Association. The Board of Directors for the Association may create an Architectural Review Committee which will consist of no less than three individuals and no more than five individuals, each of whom shall be an Owner of a Lot within the Subdivision, and thus a member of the Association. Members of the Architectural Review Committee (ARC) are appointed by the Association's Board of Directors. The Board of Directors may act as the ARC if no members are appointed.

Section 502. Building Approval. No Improvement shall be permitted, except in accordance with plans, specifications and other information submitted to the Architectural Review Committee (ARC) and approved in writing by the ARC before the start of the construction, alteration or installation. Matters which require the approval of the ARC include but are not limited to: the exterior appearance, material, color, height and location of each Structure, drive, walk, fence, mailbox, grading of site, site lighting, and location, size and type of any landscaping material including grass, ground cover, ornamental rock, shrubs and trees.

(a) In granting or withholding approval, the ARC shall adhere to any standards specified in these Covenants and shall consider among other things: the requirement of the Design Standards, the adequacy of the materials for their intended use, the harmonization of the external appearance with the surroundings, the proper relation of the Structure to the environment and to surrounding uses, the degree of disturbance to the natural terrain and vegetation, and the degree, if any, to which the proposed Structure or covering will cause intrusions of sound, light or other effect on neighboring sites beyond those reasonably to be expected in a quality urban residential

area from considerate neighbors.

(b) All plans, samples, and other materials are to be submitted to the ARC and may be submitted physically or electronically. The minimum scale of such plans shall be 1/20th inch equals one foot. The plot plan in said minimum scale shall show the location of all buildings, drives, walks, fences, and any other Structures. Proposed new contours throughout the Lot and abutting street elevations on all sides shall also be shown. Structure plans shall show all exterior elevations and shall indicate and locate on each elevation the materials to be used and designate each exterior color to be used by means of actual color samples. Landscaping plans shall show the location of all landscaping elements, including grass, ground cover, shrubs, trees and other landscape materials for all the area of the Lot not covered by Structures. The size and type of all new plant materials shall be indicated, and all landscaping plans shall be in conformity with the community.

(c) In discharging its rights and obligations hereunder, the Association, its Board and the ARC makes no representations or warranties to the Owner or any other person or entity concerning the construction of the Structures on the Lot, and the Association, its Board and the ARC shall have no liability or responsibility for defective construction or other similar matters. Each Owner of a Lot acknowledges and agrees that the Association, its Board and the ARC, in discharging their rights and obligations hereunder, are not making any warranty or representation, expressed or implied, that any Structure to be constructed by an Owner upon a Lot is suitable for that Lot and each Owner further acknowledges and agrees that each Owner, and such Owner's contractors or representatives are ultimately and fully responsible for any construction techniques, measures and means utilized in the construction of a Structure upon a Lot.

Section 503. Charges. The Association may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to this Declaration. The Association shall be entitled to retain one copy of all approved plans as part of its files and records.

Section 504. Delivery of Items and Approval Process. Any item required or permitted to be delivered to the ARC shall be deemed properly delivered when actually received by the ARC either physically or electronically. All action required or permitted to be taken by the ARC shall be in writing, which includes electronically, and any such written statement shall protect any person relying on the statement. If the ARC does not execute and acknowledge such a statement within thirty days after delivery of all the required materials to the ARC, as applicable, the materials so delivered shall be deemed approved for the purpose of these Covenants (except in the case of a request for variance).

Section 505. Liability. The Association, the officers, directors, shareholders and agents of the Association and the members of the ARC shall not be liable to any party whatsoever for any act or omission unless the act or omission is in bad faith and amounts to fraud, nor shall they be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing

provisions, or for any structural or other defects in any work done according to such plans and specifications.

Section 506. Violation: Remedy. The ARC or the Board, including an assignee or delegate, may give notice to the Owner of the Lot where a violation of these Covenants occurs or which is occupied by the persons causing or responsible for the violation, which notice shall state the nature of the violation, and the intent of the ARC or Board to invoke this Section unless within a period stated in the notice (which notice shall not be less than five (5) days, unless a shorter period of time is otherwise provided for in these Covenants), the violation is cured and terminated or appropriate measures to cure and terminate are begun and are thereafter continuously prosecuted with diligence. If the violation is not cured and terminated as required by the notice, the Association may, but shall not be obligated to, cause the violation to be cured and terminated at the expense of the Owner or Owners so notified, and entry upon such Owner's Lot as necessary for such purpose shall not be deemed a trespass. Each Owner of a Lot hereby grants a license to the Association for the purpose of entering onto a Lot to remedy violations or breaches of these Covenants. The cost so incurred by the Association shall be paid by the Lot Owner and the person responsible for the breach and if not paid within thirty (30) days after such Owner has been sent notice of the amount due, such amount, plus interest at the rate of eighteen per cent (18%) per annum and costs of collection (including reasonable attorney's fees), shall be a lien on the ownership interest in the Lot (including improvements thereon) and shall in all respects be the personal obligation of the Owner.

The Association may bring an action at law for recovery of the costs so incurred by it, plus interest and costs of collection against the Owner and may bring an action to foreclose the lien against the Lot and Improvements subject to the lien and there shall be added to the amount of such obligation the costs of collection and the judgment in any such action shall include interest as above provided and the costs of collection. The foregoing specified rights and remedies shall not limit the right of any Lot Owner to enforce these Covenants pursuant to Section 906 or as otherwise may be provided herein or by law or equity; provided, however, that only the Association shall have the right to proceed under this Section. In the event that the Association elects to exercise the right to enter upon a Lot to remedy a violation of these Covenants, the Association, its Board, or the ARC shall not be liable to the Owner of the Lot or anyone else, including tenants, guests, family, invitees, contractors or licensees for any loss, injury, or damage occasioned by the entry on the Lot unless it is caused by the willful and wanton acts of the Association. In no event shall there be any liability for damage to a Structure that is in violation of these Covenants.

Section 507. Variances. The Board of Directors shall have the authority to grant for a Lot or Building Site a variance from the terms of one or more of the Sections of Articles II or III of these Covenants, or the Design Standards, subject to terms and conditions which may be fixed by the Board of Directors and will not be contrary to the interests of the Owners and residents of the Subdivision where, owing to exceptional and extraordinary circumstances, literal enforcement of those sections could result in unnecessary hardship. Following an application for a variance:

(a) The Board of Directors shall, within 30 days after the request for the variance was delivered, determine whether to grant or deny the variance. If the Board of Directors fails to act on the request for the variance within this 30 days, the variance shall be deemed not to be granted.

(b) A variance granted hereunder shall run with the Lot or Building Site for which granted.

(c) A variance shall not be granted unless the Board of Directors shall find that all of the following conditions exist:

- (1) the variance will not authorize the operation of a use other than private, single-family residential use;
- (2) owing to the exceptional and extraordinary circumstances, literal enforcement of the sections above enumerated will result in unnecessary hardship;
- (3) the variances will not substantially or permanently injure the use of other property in the Subdivision;
- (4) the variance will not alter the essential character of the Subdivision;
- (5) the variance will not weaken the general purposes of these Covenants;
- (6) the variance will be in harmony with the spirit and purpose of these Covenants; and
- (7) the circumstances leading the applicant to seek a variance are unique to the Lot or Building Site or its Owner and are not applicable generally to Lots in the Subdivision or their Owners.

(d) If a variance is denied, another application for substantially the same variance for the Lot involved may not be made for period of one year after submittal of the original request.

ARTICLE VI

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 601. Membership. The following shall be members of the Association: Every Owner of a Lot which is subject to assessment hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership.

Section 602. Non-Liability of Association and Others. The Board of Directors, the officers and committees of the Association, including without limitation, the officers, directors, employees, agents, and representatives of the Association, shall not be liable in damages or otherwise to any person whatsoever for any act or omission done as an officer, director, agent or representative on behalf of the Association, except for willful misconduct done in bad faith or gross negligence and shall be indemnified from all such liability as provided in the Association's Bylaws.

Section 603. Management of Association. Bylaws. Rules. and Regulations. The affairs of the Association shall be managed by its Board of Directors who shall be elected in accordance with the Bylaws of the Association. The Association shall have the authority to adopt and amend its Bylaws, but such Bylaws may not conflict with these Covenants. In the event of a conflict among the documents pertaining to the Association, the following priority shall apply: (i) the Covenants, (ii) the Association Articles of Incorporation and then (iii) the Bylaws. The Association shall also have the authority to adopt and amend Rules and Regulations pertaining to the use of the Common Areas.

ARTICLE VII

COVENANT FOR ASSESSMENTS

Section 701. Creation of the Obligation for Assessments. Each Owner, for each Lot owned by acceptance of a deed, therefore, or interest therein, whether or not it shall be so expressed in such deed or instrument creating the interest in the Lot, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines, and other sums which are described in these Covenants and which shall be both a personal obligation of the Owner and a lien against his Lot as provided herein. Each Owner shall be jointly and severally liable to the Association for the payment of all assessments, charges, fees and other sums attributable to him and/or his Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by nonuse of the Common Areas or any facilities contained therein, by abandonment or leasing of his Lot, or claims against the Association or any other person or entity.

Section 702. Purpose of Assessments. The assessment levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and for the improvement and maintenance of the Common Areas, including any capital improvements made thereto, as more specifically provided herein.

Section 703. Annual Assessments. The annual assessment shall specifically include, but shall not be limited to the following common expenses:

- (a) expenses of management;

- (b) taxes and assessments for the Common Areas
- (c) premiums for all insurance which the Association maintains as required or permitted under these Covenants;
- (d) common lighting, water and other common utility and sewer service charges;
- (e) repair, replacement, improvements and maintenance which is the responsibility of the Association as provided in Section 801 hereof;
- (f) legal and accounting fees;
- (g) any deficit remaining from a previous assessment year;
- (h) a working capital fund;
- (i) the creation of reasonable contingency reserves, surpluses, and sinking funds;
- (j) trash removal; and
- (k) any other costs, expenses and fees which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of these Covenants.

The Association shall also have authority, to the extent it deems proper, to provide any other services requested by particular Owners, but only on a contract basis under which those Owners pay the cost thereof.

Section 704. Fixing Assessments. For the calendar year 2025, the annual assessment shall be Six Hundred dollars (\$600.00) per Lot in the Subdivision. Each year thereafter the Association's Board of Directors may set the annual assessment at an amount deemed necessary to meet the needs of the Association; provided, however, that notwithstanding anything in this Section to the contrary, the annual assessment shall never exceed the maximum adjusted amount allowed under C.R.S. § 38-33.3-116(1)(b).

Section 705. Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of an emergency situation or of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto.

Section 706. Procedure for Assessment Under Section 705. The Board on its own authority, and without a vote of the Owners, may issue one special assessment in a

calendar year in an amount up to twice the current annual assessment. Any assessment under Section 705 that is for more than twice the amount of the current annual assessment, or if the Board has already issued a special assessment on its own authority for that calendar year, shall require the vote, pursuant to a meeting described below, of at least fifty percent (50%) of the Owners of Lots in good standing, who are voting in person or by proxy at a meeting of the Owners. Written notice of any meeting called for the purpose of taking such action shall be sent to all Owners not less than thirty (30) days or more than sixty (60) days in advance of the meeting. If the vote is being had at a special meeting of the Owners, at the first such meeting called, the presence of Owners or of proxies entitled to cast fifty-one percent (51 %) of all the votes of membership shall constitute a quorum.

Section 707. Assessment Procedure.

(a) **Annual Assessments.** No later than thirty (30) days before the beginning of each annual assessment period, the Board of Directors of the Association shall set the total annual assessment based upon an advance budget of the administration and performance of its duties during the following assessment year. The annual assessment shall be payable, in the sole discretion of the Association, in one (1) payment due from each Lot Owner within thirty (30) days of receipt of the annual assessment notice from the Association or in monthly installments (the "monthly assessment") on the first day of each successive month, unless the Board otherwise directs. The Association shall cause to be prepared, delivered or mailed to each Owner, at least thirty (30) days in advance of each annual assessment period, a payment statement setting forth the annual and/or monthly assessment.

(b) **Owner/Lot Assessment:** In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of these Covenants, the Association's Bylaws or the Association's rules and regulations, the cost thereof shall be deemed to be an assessment against such Owner and his Lot and shall be enforceable provided herein, except that such assessment shall not require any vote of the Members and may be issued by the Board on its own authority.

(c) **Notice.** Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the owner of his Lot for such assessment, but if notice is not given, the date when payments shall be due shall be deferred to a date 30 days after such notice is given.

Section 708. Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 709. Effect of Nonpayment of Assessments – Remedies of the Association.

(a) **General.** Any assessments which are not paid when due shall be delinquent. If any assessment is not paid when due, the Association may impose a late charge/administrative fee for each delinquent annual or monthly assessment. The amount of the late charge shall be as set forth in a policy of the Association. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Association may file a lien against the Lot, bring an action at law against the Owner personally obligated to pay the same, have a receiver appointed by a court to manage the Lot and collect rents until the amount owed to the Association has been paid in full, and/or foreclose the lien against such Owner's Lot. The Association may suspend the delinquent Owner's right to vote and the right to use the Common Areas during such times as the Owner is delinquent in paying their assessments. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorneys' fee to be fixed by the court, together with the expenses, late charges and costs of the action.

(b) Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation interest thereon at the rate of eighteen percent (18%) per annum, an administrative charge per unpaid annual or monthly assessment or other sum, court costs and all other collection costs, and reasonable attorneys' fees, shall be a charge on the interest of the Owner in that Lot and shall be a continuing lien, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made. All payments on account shall be first applied to interest, the late charges, any costs or fees, and then to the assessment payment first due. The Board may enforce such lien by filing with the Clerk and Recorder of El Paso County a statement of lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot and the Owners interest therein, the name of the Association and the amount of delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer or authorized agent of the Association, and notice thereof shall be mailed to the Owner of the Lot, at the address of the Lot or at such other address as the Association may have in its records for the Owner of the Lot. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorneys' fees, administrative charges and interest, has been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the Board may proceed to foreclose the statement of lien in the same manner as provided for in the foreclosure of mortgages in the State of Colorado. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums, which are not fully paid when due.

(c) **Authority.** Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring all

actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid at foreclosure sale and to acquire and hold lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

Section 710. Notice to Mortgagees and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under these Covenants and/or the Bylaws of the Association, which is not cured within sixty (60) days after the Board of Directors has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall grant to each First Mortgagee the right to examine the books and records of the Association at any reasonable time.

Section 711. Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to a Lot subject to these Covenants shall constitute a waiver of the homestead exemption as against said assessment lien.

Section 712. Exempt Property. The following Property subject to these Covenants shall be exempt from the assessments created herein:

- (a) all Property dedicated to and accepted by local public authority; and
- (b) the Common Areas, except to the extent that any of the Common Areas are located within the boundary of a Lot.

ARTICLE VIII

MAINTENANCE

Section 801. Association Maintenance. The Association shall be responsible for the repair, replacement, improvements and maintenance of the Common Areas and all improvements thereto.

ARTICLE IX

GENERAL PROVISIONS

Section 901. Captions. Captions, titles and headings in these Covenants are for

convenience only and do not expand or limit the meaning of the section and shall not be taken into account in construing the section.

Section 902. Board of Directors Resolves Questions of Construction. These Covenants are intended to be interpreted in a manner that will provide for the preservation of the values and amenities of the Subdivision. If it is necessary to interpret the meaning of any word, paragraph, term or provision of these Covenants, the determination of the Board shall be final and conclusive.

Section 903. Covenants Run With the Land. These Covenants shall run with the land and shall inure to the benefit of and be binding on each Lot and upon each person or entity hereafter acquiring ownership or any right, title and interest in any Lot in the Subdivision.

Section 904. Covenants are Cumulative. Each of these Covenants is cumulative and independent and is to be construed without reference to any other provisions dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

Section 905. Waivers. Except as these Covenants may be amended or terminated in the manner hereinafter set forth, they may not be waived, modified or terminated and a failure to enforce shall not constitute a waiver or impair the effectiveness or enforceability of these Covenants. Every person bound by these Covenants is deemed to recognize and agree that it is not the intent of these covenants to require constant, harsh, or literal enforcement of them as a requisite of their continuing validity and that leniency or neglect in their enforcement shall not in any way invalidate these Covenants or any part of them, nor operate as an impediment to their subsequent enforcement and each such person agrees not to plead as a defense in any civil action to enforce these Covenants that these Covenants have been waived or impaired or otherwise invalidated by a previous failure or neglect to enforce them.

Section 906. Enforcement. These Covenants are for the benefit of the Owners, jointly and severally, and the Association and may be enforced by an action for damages, suit for injunction, mandatory and prohibitive, and other relief, and by any other appropriate legal remedy instituted by one or more Owners or the Association. All costs, including reasonable attorneys' fees, incurred by the Association in connection with any successful enforcement proceeding initiated by it (along or in combination with Owners) shall be paid by the party determined to have violated the Covenants. Any party exercising its right to enforce these Covenants shall not be required to post any bond as a condition to the granting of any restraining order, temporary or permanent injunction or other order. The rights and remedies for enforcement of these Covenants shall be cumulative, and the exercise of any one or more of such rights and remedies shall not preclude the exercise of any of the others. Whenever a right is given to the Association to do certain things in these Covenants, it shall be the right, but not the obligation, of the Association to do such things.

Section 907. Duration of Restrictions. Unless sooner terminated as provided in Section 908, the restrictions and other provisions set forth in these Covenants shall remain in force until twenty (20) years after the date of recordation of these Covenants in the El Paso County records, and shall be automatically renewed for successive periods of ten years unless before the expiration of the initial twenty (20) years, or before the end of any ten-year extension, there is filed for record with the Clerk and Recorder of El Paso County an instrument stating that extension is not desired, signed, and acknowledged by the Owners of seventy-five percent of all the Lots in the Subdivision, in which event these Covenants shall terminate as of the end of the initial twenty (20) year term or ten (10) year extension, as applicable.

Section 908. Amendment and Termination. All sections of these Covenants (except Section 210) may be terminated at any time, and from time to time any one or more sections of these Covenants (except Section 210) may be amended, or one or more new sections may be added to these Covenants by an instrument signed and acknowledged by the Owners of at least two-thirds (2/3) of the Lots in the Subdivision and filed for record with the County Clerk and Recorder of El Paso County and provided that any other requirements set forth in this Section are satisfied.

Section 909. Liability of Employees. Neither the Association, the Board of Directors, the Architectural Review Committee, or any of their employees or agents will be liable to any party whatsoever for any act or omission taken pursuant to these Covenants unless the act or omission amounts to fraud or willful misconduct.

Section 910. Severability. If any of these Covenants shall be held invalid or become unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

Section 911. Action in Writing. Notices, approvals, consents, applications and other action provided for or contemplated by these Covenants shall be in writing (in either paper or electron format) and shall be signed on behalf of the party who originates the notice, approval, consent, application.

Section 912. Notices. Any writing described in Section 911, including, but not limited to, any communication from the Association or the Architectural Review Committee to an Owner, shall be sufficiently served if delivered by mail (USPS first-class, certified return-receipt requested, or electronically) or otherwise:

- (a) to the dwelling situate on the Lot owned by that Owner; or
- (b) to the address or email address furnished by the Owner to the Association or the Architectural Review Committee and if the Owner has not furnished an address, then to the Owner's address within the Association.

Section 913. Colorado Common Interest Ownership Act. Declarant hereby

My commission expires: _____