

**2019 AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR LOTS 2-21 – THE RIVER RUN,  
A RESIDENTIAL DEVELOPMENT IN THE TOWN OF BUENA VISTA, COUNTY  
OF CHAFFEE, STATE OF COLORADO**

## RECITALS

- A. This 2019 Amended and Restated Declaration is made by the owners of the real property referred to as The River Run Subdivision (“River Run”) according to the plat filed in the office of the Clerk and Recorder of Chaffee County, Colorado on August 1, 2002 at Reception No. 327841 which shall be called “Property” herein. All recording and filing information is recorded or filed in the office of the Clerk and Recorder of Chaffee County, Colorado.
- B. The original Declaration of Covenants, Conditions and Restrictions for Lots 221 of The River Run Subdivision was recorded on August 1, 2002 at Reception No. 327841 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- C. The owners of the lots within the Property amended and restated the Original Declaration by the First Amended Declaration of Covenants, Conditions and Restrictions for Lots 2-21 of The River Run which was recorded on November 20, 2002, at Reception Number 330583 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- D. Resolution of the River Run Homeowner’s Association (related to the pedestrian access path located on the Lots 7 and 8 lot line) was recorded on July 17, 2003, at Reception No. 336732 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- E. Grant of Easement (related to a 20 foot Non-Exclusive Access Easement over the area designated as a 20 foot Sewer, Utility and Pedestrian Access Easement along the lot lines of Lot 7 and 8.) was recorded on July 17, 2003, at Reception No.336734 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- F. Shared Driveway Agreement (related to Lot 7 and Lot 8) was recorded on July 17, 2003, at Reception No. 336735 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- G. Affidavit of Survey Monumentation (by Hascall Surveys Inc.) was recorded on July 17, 2003, at Reception No. 336730 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- H. Grant of Access and Utility Easement and Shared Driveway Agreement (related to Lot 9 and Lot 10) was recorded on August 22, 2005, at Reception No. 352839 in the offices of the Clerk and Recorder of Chaffee County, Colorado.
- I. Replat of Lots 12 and 13 was recorded in the offices of the Clerk and Recorder of Chaffee County, Colorado.

**NOW THEREFORE**, for the purpose of providing orderly development of the Property, for maintaining the value of the lots within the Property, and for the mutual benefit of owners of the lots and their successors in title to the lots, the owners of the lots within the Property do hereby

further amend and restate the First Amended Declaration. The real property described in Article I (of this 2019 Declaration hereinafter to be referred to as "Declaration") is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth, all of which shall be covenants running with the land described herein and shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owners thereof. It is agreed that the 2019 Declaration of Covenants, Conditions and Restrictions are as follows:

**Article I**  
**Property Subject to this Declaration**

**Section I. The Property.** The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the Town of Buena Vista, Chaffee County, State of Colorado, and is more particularly described as follows:

*Lots 2-21 and Outlot B, The River Run, a Subdivision in the Town of Buena Vista, Chaffee County, State of Colorado, recorded with the Chaffee County Clerk and Recorder on December 28, 2001 under Reception No. 323093 Drawing Number BV 133, are described on The River Run Plat Map which is reduced and incorporated herein and attached hereto as Exhibit "A."*

all of which real property shall hereinafter be referred to as "the property" or "the lots". The Association shall mean The River Run Homeowners' Association, a Colorado non-profit corporation, the members of which are there said owners of Lots 2-21.

**Article II**  
**Membership and Voting Rights in the Association**

**Section 1. Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any land or living unit which is or may be subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. Each member shall have one vote for each lot within The River Run. If any lot owner permanently relinquishes it building rights on any lot, then said lot owner shall not be entitled to have a vote with regard to Association business.

**Article III**  
**Architectural Control**

**Section 1. Architectural Control.** No structure or improvement of any kind shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided.

- a. **Plans and Specifications Required** - Before anyone shall commence any landscaping or the construction, reconstruction, exterior remodeling, addition to, or alteration of any building, fence, or any structure whatsoever, or any lot, there shall be submitted to the Architectural Control Committee (herein referred to as the "Committee") two complete sets of plans and specifications for said improvements, the erection or alteration of which is desired. Such plans shall include lot plans, locations of structures and improvements, floor plans, elevations, off-street parking area, fence plans, landscaping, showing all aspects of

- occupancy and development of lot as an architectural unit, together with the proposed color scheme and materials for fences, roofs, and exteriors.
- b. Preliminary Drawings - In order to avoid unnecessary hardships, it is mandatory that all owners contemplating such construction, or alteration, as mentioned above, shall submit preliminary drawings in duplicate of such work to the Committee in order to obtain tentative action thereon before using the preparation of detailed or complete drawings, plans or specifications or incurring substantial expense.
  - c. Considerations for Approval - The suitability of the proposed building or other structure and the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other structure or landscaping as planned on the outlook from the adjacent or neighboring property, and if in accordance with all of all the provisions of this Declaration. The Committee may disapprove if the plans and specifications submitted are incomplete, or in the event the Committee deems the plans, specifications or details or any part thereof to be contrary to the spirit or intent of these conditions and restrictions.
  - d. Approval Process - The Committee has 30 days to approve or disapprove the plans in writing or by email. One set plans and specifications and details, with the approval or disapproval of said plans and specifications and details, with the approval or disapproval endorsed thereon, shall be returned to the person submitting same within thirty (30) days and the other copy thereof shall be retained by the Committee. The Committee shall have the right to disapprove any such plans or specifications or grading or landscaping plans which are not suitable or desirable in the Committee's opinion. The decisions of the Committee shall be final. In the event the Committee fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event if no suit to enjoin the construction has been commenced within one year from the commencement of the construction approval will not be required and there will be deemed to have been full compliance with the related covenants.
  - e. Committee Liability and Protection-The Committee (or the Board) by virtue of his or her membership thereon on the discharge of his or her duties required thereby shall not be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or specifications.
  - f. Subsequent Events-- No building or improvements of any kind constructed or placed upon any of the said lots thereafter shall be moved without the prior written approval of the Committee.

**Section 2. Architectural Control Committee.** The Committee shall consist of a minimum of three (3) lot owners within the Association, appointed by the Board of Directors for a one-year term. If a Committee member resigns or is otherwise unable to complete his or her term, the Board shall appoint a replacement member to serve the balance of the term. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this Declaration, but may be reimbursed for reasonable expenses incurred in discharging their duties. The Board members may act as the Committee in lieu of appointing the Committee.

**Article IV.**  
**Land Use Restrictions and Standards**

**Section 1. Land Use Regulation.**

- a) Zoning and Plat Reference All uses must conform to those uses itemized in the Town of Buena Vista Zoning and Development Regulations. All lots are subject to those notes and site specific conditions which are listed on said approved Plat Plan which is incorporated and referenced herein and attached hereto as Exhibit "A".
- b) Business Restriction No business, trade or related activity shall be carried on upon any lot so that it is visible or apparent to an outside observer or tends to alter the residential nature of the Property. In addition, no business or profession of any nature shall be conducted on any lots or in any building constructed thereon unless said business or profession is expressly allowed by the Town of Buena Vista Zoning and Development Regulations.
- c) Short-Term Rentals (STRs) STRs are defined as any rental for a term of less than 30 days (or as otherwise defined by the Town of Buena Vista.) STRs are allowed subject to the following restrictions:

- 1. **Common areas, notification and contract restriction-** Paying guests shall not be allowed to use the common areas or trails. Homeowners engaging in short-term rentals shall obtain approval and a license from the Town of Buena Vista and provide the HOA with a copy. Short-term rentals shall be restricted to one rental contract per lot per night. Homeowners are responsible for their paying guests to abide by all of the Covenants.
- 2. **Limits on Occupancy Nights-** Short-term rentals shall be unlimited as to nights per year if the homeowner is present during the rental period ("home-sharing"). If the homeowner is not present, short-term rentals will be limited to 30 nights per year; however, homeowners residing in River Run, on a full-time basis, for a minimum of 3 months per year shall be allowed an additional 15 nights (per year) for each month that they are full-time residents, not to exceed an additional 60 nights per year. (For example, this would allow an overall maximum of 90 nights per year for a homeowner residing in River Run full-time for four months or more.) See chart below:

2. Limits on Occupancy Nights	
Maximum Nightly Rentals Allowed Per Calendar Year	Qualifying Conditions
Unlimited Nightly Rentals	Homeowner must be present in the home ("home sharing") during the rental period.
30 Nightly Rentals	No residing conditions required.
75 Nightly Rentals	Homeowner must be a full-time resident for a 3-month period (90 consecutive days) during the same calendar year.*
90 Nightly Rentals (Maximum Rental Nights)	Homeowner must be a full-time resident for a 4-month period (120 consecutive days) during the same calendar year.*
* No short-term rentals shall be allowed during the 3 or 4 month qualifying period noted above.	

- 3. **Other Rentals (longer than 30 days)** Upon rental of a lot or residence, the lot owner shall promptly provide to the tenant/renter copies of the governing documents of the Association and to the Association a copy of the lease or a summary of the lease to include, at a minimum, the name(s), phone number(s) of the tenants and the term

(length) of the lease. Tenants shall sign a statement agreeing to abide by all of the terms of the governing documents.

## **Section 2. Building.**

- a) Building Type, Setbacks and Access All buildings constructed on the lots shall be used for residential purposes only. No structure shall be erected on any part of the properties which is not compatible with the character, quality and amenities associated with the development and approved in writing by the Committee in accordance with Article III. The committee shall approve the location of any structure placed on any lot. Such approval must be obtained before commencement of any construction or alteration in accordance with Article III. All buildings must be located within each lot and meet the required setback requirements of the Town of Buena Vista Zoning regulations. All lots must access their development through the access roads entitled River Run Drive and River Run Court, except for Lot 17, which may access either off of River Run Drive or Arizona Street, if approved by the Town of Buena Vista.
- b) Building Code All building shall be constructed in compliance with the Uniform Building Code in effect and adopted by Chaffee County at the time the building permits are obtained.
- c) Building Design Any building erected on the premises shall be designed by a licensed architect, engineer or designer, who shall consult in advance with the Committee as to matters of site planning, exterior materials and colors, signage and landscaping.
- d) Dwelling Size, Height and Garage Requirement Every principal residence constructed on a lot shall have not less than one thousand seven hundred fifty (1,750) square feet of floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, or garages). The total square footage for any dwellings shall not exceed a maximum of 4,000 square feet. The maximum height limitation for all structures and any outbuildings shall be 35'. The height limitation for all lots shall be measured according to the Town of Buena Vista regulations. The dwelling shall have a garage of sufficient size to house not less than two (2) cars; further, each such residence shall provide for hard-surfaced or approved rock driveway and off-street parking for at least two (2) cars, excluding the space in the garage. No on-street parking shall be allowed on River Run Drive or River Run Court.
- e) Overall Limits No buildings or other structures, or combination of building or structures, shall be erected, altered, placed or maintained on the premises, which shall occupy more than 20% of the land area of a lot. The combined area of the buildings, structures, and parking areas on a lot shall not exceed 30% of the area of that lot. All outbuildings, sheds, etc., shall utilize similar materials and color as the residence.
- f) Exterior Equipment No heating, air conditioning, electrical or other equipment shall be installed on the roof of any building or structure or hung on exterior walls unless the same is screened, covered and installed in a manner which shall first have been approved in writing by the Committee.
- g) Exterior Materials All exterior wall materials, colors and finishes shall harmonize with the natural surroundings and shall be subject to approval by the Committee as required elsewhere in these covenants.
- h) Construction Clean-Up During construction, all building sites shall be kept cleaned up on a daily basis, and all trash, rubbish, and debris removed from the site after any construction work is done thereon.

### **Section 3. Landscaping, Outside Storage, Maintenance, Fences and Parking.**

- a) Landscaping Plan Building sites shall be landscaped in accordance with a plan submitted and approved in writing by the Committee. In all cases, landscaping must meet the Town of Buena Vista standards. Such landscaping shall include ground cover, planting of trees, shrubs and the customary landscape treatment for the entire site, including adequate screening of parking and outdoor storage areas. Native grass and xeriscaping are permissible. No bluegrass or similar grass and/or sprinkler system are required. The approved plan for landscaping the site may not be altered without submitting the revised plan for written approval of the Committee.
- b) Landscape Maintenance The landscape development, having once been installed, shall be maintained in a neat and adequate manner, which shall include lawns mowed, hedges trimmed, irrigation when needed, and removal of weeds from planted areas. All lots will be responsible for mowing all grasses and weeds at least four times per year for any land adjacent to its lot between the lot lines. Each lot owner shall be responsible for eliminating all noxious weeds, including thistle.
- c) General Maintenance Each owner and tenant shall keep its premises, buildings, improvements and appurtenances in a safe, clean, and tidy condition, and shall comply in all respects with all government, health, and police requirements. Each owner and tenant shall remove at its own expense any rubbish or trash of any character, which may accumulate on its property and shall keep un-landscaped areas mowed. Rubbish and trash shall not be disposed of on the premises by burning in open fires or incinerators.
- d) Fences The style of any fence, including the materials to be used and the height of the fence, shall be approved by the Committee. No boundary line (perimeter) fences shall be allowed. Lot 21 shall be exempt from this requirement because of its existing, chain link fence around the north, east and south sides of the lot. Only patio privacy fences shall be allowed. All fences shall be approved by the Town of Buena Vista.
- e) Outside Storage. Storage of trailers, boats and recreational vehicles must be screened from adjacent lots and roadways.
- f) Parking No (overnight) parking shall be permitted on River Run Drive and River Run Court.

**Section 4. Utilities and Miscellaneous Provisions.** All gas, electrical and telephone connections and installations of wires to buildings shall be made underground from the nearest available power source. No transformer, electric, gas or other meter of any type or other apparatus shall be located on any power pole, but the same shall be placed on or adjacent to the residential building or below the surface of the land, and where placed on the surface shall be adequately screened and fenced, and all such installations shall be subject to the prior written approval of the Committee. Meters for said utilities may attach to the outside of any building. Lot 21 shall be exempt from the electrical meter restriction because of the existing electrical meter on the existing power pole. Television and satellite antennae shall not exceed 24" in diameter and shall be concealed from the view of adjacent lots. Insect zappers are expressly prohibited.

**Section 5. Mailboxes, Newspaper Boxes and Signs.** No sign may exceed 24" x 24" in outside dimensions or be placed upon the property without prior approval of the Committee. All mailboxes and newspaper boxes, prior to the placement on the property, must receive the approval of the Committee.

**Section 6. Easements and Rights-of-Way.** Easements and rights-of-way in perpetuity are hereby reserved for surface or subsurface drainage purposes and for the erection, construction maintenance and operation of underground wires, cable, pipes, tile lines, conduits and apparatus

for the transmission electrical energy, for telephone and television lines and for the furnishing of water, gas, sewer service or for the furnishing of other utility purposes, together with the right of entry for the purpose of installing, maintaining, and reading gas, electric and water meters, under, along, across, upon and through strips of land shown as easements on the attached plat map, Exhibit "A" and as designated on each lot.

**Section 7. Lighting.** All lighting shall be subject to review by the Committee. The objective in the lighting design shall be downcast, shielded and not toward adjacent lots. No freestanding lighting shall exceed six (6) feet in height. However, the River Run Association shall be responsible for maintaining the subdivision streetlights and electrical costs associated therewith.

**Section 8. Animals and Pets.** No horses, cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any part of said lot except that residents may keep dogs, cats, or other animals which are bona fide household pets so long as such pets are not kept for breeding or commercial purposes and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property. All pets must be either confined to their owner's property, or be on a leash when walking.

**Section 9. Domestic Water Service.** Domestic water service will be provided by the Town of Buena Vista. All property within this development is subject to the terms and conditions of the Town of Buena Vista regulations.

**Section 10. Sewage Disposal.** Sewage disposal for each lot will be provided by service from the Buena Vista Sanitation District. Lots 2 through 12 and Lot 21 cannot gravity drain into the Buena Vista Sanitation District system. Consequently, the River Run Subdivision Developer has designed and installed collection lines and a pumping system, which will cause the sewage to enter the Buena Vista Sanitation District system at the intersection of Lots 7 and 8 with River Run Court. The association will be responsible for the perpetual maintenance of the collection lines and pumping system for Lots 2 through 12 and Lot 21. An addition, separate assessment will be made annually to each of these lots for the maintenance and upkeep of the collection lines and associated pumping system.

**Section 11. Rules and regulations for construction.** During any construction in The River Run, the following rules and regulations shall apply:

- a) No temporary structures, including construction trailers or other temporary office or sales facilities, shall be placed or maintained on The River Run, except for one construction trailer per lot that is under construction.
- b) The River Run shall be kept free of weeds and debris, and all scrap materials generated by the construction activities shall be removed as soon as reasonable.
- c) Construction of any residence, exterior remodeling or any improvement shall be completed within eighteen (18) months from the date construction commences unless failure to do so is caused by fire or act of God or unless this requirement is specifically waived by the Architectural Control Committee. All unused building materials and debris shall be removed within 30 days of completion of construction.

**Section 12. No discharge of firearms or fireworks and no open fires.** No firearms shall be discharged in The River Run, no fireworks shall be set off and no open fires shall be lit or



permitted in The River Run, except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace or firepit.

**Section 13. Restoration of damaged or destroyed improvement.** If any building or improvement within the River Run is destroyed by fire or other casualty, owners shall, not later than one year after occurrence of damage or destruction, commence to repair or restore the same and diligently complete the repair or restoration thereof no later than two years from the date of the occurrence of such damage or destruction.

**Section 14. Variances.** The Committee may grant reasonable variances or adjustments of these conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the restrictions contained herein. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to other property or improvements in the development and shall not mitigate against the general intent and purposes hereof. No variances can be granted to Article IV, Section 2 (d), 3 (c), (f), 8, 9, 10 and 12.

**Section 15. Waiver of Liability.** Neither the Committee, nor any member, employee or agent thereof shall be liable to any owner or tenant or to anyone submitting plans for approval or to any other party by reason of mistake in judgment, negligence, or nonfeasance, arising out of or in connection with the approval, disapproval or failure to approve any such plans or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Committee for approval, by submitting such plans, and any person when he, she, or it becomes an owner or tenant, agrees that he, she or it will not bring any action or suit to recover any damages against the Committee, or any member, employee or agent of said Committee.

**Section 16. Notice of Soil Conditions and Groundwater.** All lot owners are hereby placed on notice that prior to any building or structure construction a groundwater/soils investigation and report shall first be conducted, by a registered professional engineer, in order to determine the existing conditions, the suitability and appropriateness, together with recommendation for construction. Owners, by virtue of a lot purchase, shall assume all liability.

## **Article V** **Covenant for Assessments**

**Section 1. Creation of the Lien and Personal Obligation for Assessments.** Each owner of any lot by acceptance of a deed or other conveyance, shall be deemed to covenant and agree to pay the Association: 1) annual assessments or charges, which are payable in an annual payment; 2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. If any lot owner permanently relinquishes its building rights on any lot, then said lot owner shall not be entitled to have a vote with regard to Association business and no annual or special assessment shall be due or collected from said lot. The annual and special assessments on each lot, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the real property and interest therein which comprise that lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligations of the person who was the owner of such property at the time when the assessment came due.

**Section 2. Purpose of Assessments.** The assessments levied by the Association through its Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the properties, the ownership maintenance and upkeep of Outlot B, the pedestrian paths (between Lots 3 and 4) from River Run Drive to Outlot B and River Run Court (between Lots 7 and 8) to Outlot B, entrance signage, street lighting, landscaping and annual or monthly assessment for maintaining and operating the sewage collection and pumping system for Lots 2-12 and Lot 21 (which system is necessary in order to cause the sewage from the above referenced lots to flow into the collection system which is owned and maintained by the Buena Vista Sanitation District). In addition, as hereinafter set forth, and in particular, for the enforcement of the covenants and restrictions contained herein, all types of insurance and premiums deemed necessary by the Association, and legal and accounting fees and costs associated with the activities of the Association.

**Section 3. Assessments.** Each calendar year, the assessment shall be fixed, established and collected from time to time, as hereinafter provided.

- a) The annual assessment may be increased each year not more than six percent (6%) above the assessment for the previous year without a vote of the membership.
- b) The Association shall, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for the year.
- c) Nothing herein shall prevent the Association from collecting the annual assessment on a monthly basis.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 3 hereof, the Association may levy a special assessment, applicable to such years as are described in the resolution authorizing the assessment, for the purpose of defraying, in whole or part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the property, including the necessary fixtures and personal property related thereto, provided that a resolution establishing any such assessment shall have the assent of sixty percent (60%) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of which shall be sent to all members at least thirty (30) days in advance, which written notice shall set forth the purpose of the meeting.

All or any part of the proceeds of any special assessment made as above provided, for the entire period over which the assessment is to be levied, or any part thereof, may be assigned to a lender as security for repayment of a loan or loans made to pay, in whole or in part, the expenditure for which the special assessment was authorized. The rights granted to the lender under such assignment may include the right to require the Association to collect the special assessments. Any such assignments of the proceeds of any special assessment shall require approval by vote in the same manner as the special assessment itself.

**Section 5. Date of Commencement of Assessments: Due Dates.** The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Association to be the date of commencement. However, nothing herein shall prevent the Association from making one-twelfth (1/12) of each annual assessment due on a day each month fixed by the Association.

The due date for any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Written notice of the assessment (or email) shall thereupon be sent to every owner subject thereto.

The Association shall, upon demand at any time, furnish to any owner liable for said assessment or any mortgage or potential mortgagee or purchaser of property subject to assessment of a certification in writing signed by a member of the Association, setting forth whether said assessment has been paid and the amount of any unpaid assessments. The Association may charge a fee not to exceed fifty dollars (\$50) for each certification. As to any mortgages or purchaser who had disbursed funds in reliance thereon, such certificate shall be conclusive against the Association as to items set forth therein.

**Section 6. Effects of Non-payment of Assessment; the Lien; Remedies of the Association.**

All Assessments are due within thirty (30) days after the Association gives the Member notice of the Assessment. Assessments not paid within thirty (30) days are deemed delinquent. The Association may charge and collect interest at an annual rate of eighteen percent (18) or the maximum amount allowed by law, whichever is less, on any annual or special Assessment. Additionally, the Association may charge and collect fifty dollars (\$50) for any returned checks. The Board of Directors, upon recorded vote, may authorize the filing of a legal action to recover delinquent amounts subject to Section 6 of this Article V against any Member or former Member personally obligated to pay the same or cumulatively, to foreclose the lien against the property in the same manner as foreclosure upon a deed of trust; and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and reasonable attorney's fees, together with the cost of the action. However, prior to referring any delinquent account to an attorney or turning a delinquent account over to a collection agency, the Association must send the member a notice of delinquency stating the following:

- a) The total amount due, with an accounting of how the total was determined;
- b) Whether the opportunity to enter into a payment plan exists pursuant to section 38-33.3-316.3 and instructions for contacting the Association to enter into such a payment plan;
- c) The name and contact information for the individual the Member may contact to request a copy of the Member's ledger in order to verify the amount of the debt; and
- d) That action is required to cure the delinquency and that failure to do so within thirty days may result in the Member's delinquent account being turned over to a collection agency, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the Member's property, or other remedies available under Colorado law.

**Section 7. Payment Plans for Delinquent Accounts.** Notwithstanding Section 6 of this Article V, when a member fails to remit payment of an Assessment for an amount exceeding six months of common expenses, that member may enter into a payment plan to pay the amount of the delinquency as long as that Member has not previously entered into a payment plan for the payment of previous delinquencies. The terms of the payment plan will be for six equal installments of the delinquent amount paid monthly for a period of six months. If a Member fails to comply with the terms of the payment plan, the Association may take legal action to collect the delinquent amount as detailed in Section 6 of this Article V above. A Member's failure to make payment of an installment or to remain current with Assessments as they come due constitutes a

failure to comply with the terms of the payment plan. For the purposes of the payment plan, the Assessment includes regular or special assessments, associated fees, charges, late charges, attorney fees, fines and interest.

**Section 8. Lien Statement.** Subject to the requirements of Section 7 of this Article VII, the Association may, by and through its Board of Directors, file for record a Statement of Lien for all Assessments unpaid thirty (30) days after the delinquency date thereof.

**Section 9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have come due and payable prior to issue of a deed to such property pursuant to a decree or foreclosure, or a public trustee's deed pursuant to foreclosure through the public trustee, or a deed issued in any other proceeding in lieu of foreclosure. Such deed shall not relieve such property from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment.

## **Article VI** **General Provisions**

**Section 1. Duration of Covenants.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date of this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10 ) years unless an instrument signed by all lot owners agreeing to change the duration of said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change the duration shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

**Section 2. Enforcement.** In addition to the provisions above for collection of assessments, in the event of a violation of any provision contained herein, River Run HOA or any lot owner may apply to any court having jurisdiction over the Property or persons for an injunction or proper relief to enforce this Declaration. In addition to any damages or other remedy, the court shall award the prevailing party all reasonable costs for the action, including court costs and attorney fees. No delay on the part of River Run HOA or any other person in the exercising of any right, power, or remedy contained herein shall be construed as a waiver thereof or an acquiescence therein. No legal action shall be commenced or maintained to enforce the terms of any building restriction contained in this Declaration or the River Run HOA, bylaws, articles, or rules or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction unless the action is commenced (suit actually filed in court) within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained. The rights and remedies of all persons hereunder shall be cumulative, and any lot owner may use any and all of said rights without in any way affecting the ability of River Run HOA or any other property owner to use or rely upon or enforce any other right. River Run HOA shall have all the duties, rights, and powers under Colorado law to enjoin violations or seek damages or do both from any person violating this Declaration. In addition, after giving an alleged violator notice and an opportunity to be heard in accordance with its rules, River Run HOA, through its

Board, shall have the right to assess a fine against any person violating the governing documents for the Property or River Run HOA. Said fine shall become a lien against the lot owned by the violator, or the lot to which the violator is related, enforceable in the same manner as an assessment and the assessment lien provided elsewhere in this Declaration.

**Section 3. Titles and Section Headings.** Titles of Articles and Section headings shall be disregarded in the interpretation of this document and shall have no binding effect.

**Section 4. Court Jurisdiction and Severability.** In the event that any one or more of the provisions, conditions, restrictions, and covenants herein set forth shall be held by any Court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions, and covenants herein set forth shall continue unimpaired and in full force and effect. In any litigation the laws of the State of Colorado shall govern, and by acceptance of title to any lot, each owner consents and agrees that venue for any action commenced thereunder is properly lain in the Town of Buena Vista.

**Section 5. Binding Effect, Amendment** The provisions contained herein are for the benefit of each and every lot in the Property and shall inure to the benefit of and be binding upon current lot owners and their respective heirs, legal representatives, successors in title, successors, and assigns. Each purchaser of a lot, by acceptance of record title to a lot, shall be subject to each and every restriction, condition, covenant, provision, and agreement contained herein and to the jurisdiction, right, and powers of the River Run HOA. By such acceptance, each owner, for the owner and the owner's heirs, legal representatives, grantees, invitees, guests, tenants, successors, and assigns, covenants and agrees to keep, observe, comply with and perform said restrictions, covenants, conditions, provisions, and agreements contained herein. All provisions contained herein shall touch and concern the land and shall constitute covenants running with the land as to all lots within the Property. This Declaration shall be amended only by a written document executed by owners of

No less than two-thirds (maximum allowed by Colorado statute) of the lots within the Property and recorded in the office the Clerk and Recorder of Chaffee County, Colorado.

**Section 6. Records.** The Association shall maintain all records required under C.R.S. 38-33.3317 available for inspection and copying by any Member or any Member's authorized agent including:

- a) Detailed records of receipts and expenditures affecting the operation and administration of the association;
- b) Records of claims for construction defects and amounts received pursuant to settlement of those claims;
- c) Minutes of all meetings of its unit owners and executive board, a record of all actions taken by the unit owners or executive board without a meeting, and a record of all actions taken by any committee of the executive board;
- d) Written communications among, and the votes cast by, executive board members that are:
  - (i) Directly related to an action taken by the board without a meeting pursuant to section 7128-202, C.R.S.; or
  - (ii) Directly related to an action taken by the board without a meeting pursuant to the association's bylaws;
- d) The names of unit owners in a form that permits preparation of a list of the names of all unit owners and the physical mailing addresses at which the association communicates with them, showing the number of votes each unit owner is entitled to vote; except that this paragraph (e)

does not apply to a unit, or the owner thereof, if the unit is a time-share unit, as defined in section 38-33-110 (7);

- e) Its current declaration, covenants, bylaws, articles of incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity, rules and regulations, responsible governance policies adopted pursuant to section 38-33.3-209.5, and other policies adopted by the executive board;
- f) Financial statements as described in section 7-136-106, C.R.S., for the past three years and tax returns of the association for the past seven years, to the extent available;
- g) A list of the names, electronic mail addresses, and physical mailing addresses of its current executive board members and officers;
- h) Its most recent annual report delivered to the secretary of state, if any;
- i) Financial records sufficiently detailed to enable the association to comply with section 38-33.3-316 (8) concerning statements of unpaid assessments;
- j) The association's most recent reserve study, if any;
- k) Current written contracts to which the association is a party and contracts for work performed for the association within the immediately preceding two years
- l) Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners;
- m) Ballots, proxies, and other records related to voting by unit owners for one year after the election, action, or vote to which they relate;
- n) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members; and
- o) All written communications within the past three years to all unit owners generally as unit owners

**Section 7. Registration.** The Association shall register annually with the Director of the Division of Real Estate in the form and manner specified by the Director and shall update the following information within 90 days of after any change to the following:

- (a) The name of the association, as shown in the Colorado secretary of state's records;
- (b) The name of the association's management company, managing agent, or designated agent, which may be the association's registered agent, as shown in the Colorado secretary of state's records, or any other agent that the executive board has designated for purposes of registration;
- (c) The physical address of the HOA;
- (d) A valid address; email address, if any; website, if any; and telephone number for the association or its management company, managing agent, or designated agent; and (e) The number of units in the association.

**Section 8. Approval** This 2019 Amended and Restated Declaration has been approved by the owners of no less than two-thirds of the lots within the Property, as evidenced by the attached signature pages and shall be effective when duly recorded in the office of the Clerk and Recorder of Chaffee County, Colorado.

