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FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
MONTCLAIR SUBDIVISION

THIS FIRST AMENDMENT TO THE DECLARATION is made and entered into this 18th day of July, 2005, by MONTCLAIR PROPERTIES, LLC, a Colorado limited liability company, hereinafter referred to as the "Declarant."

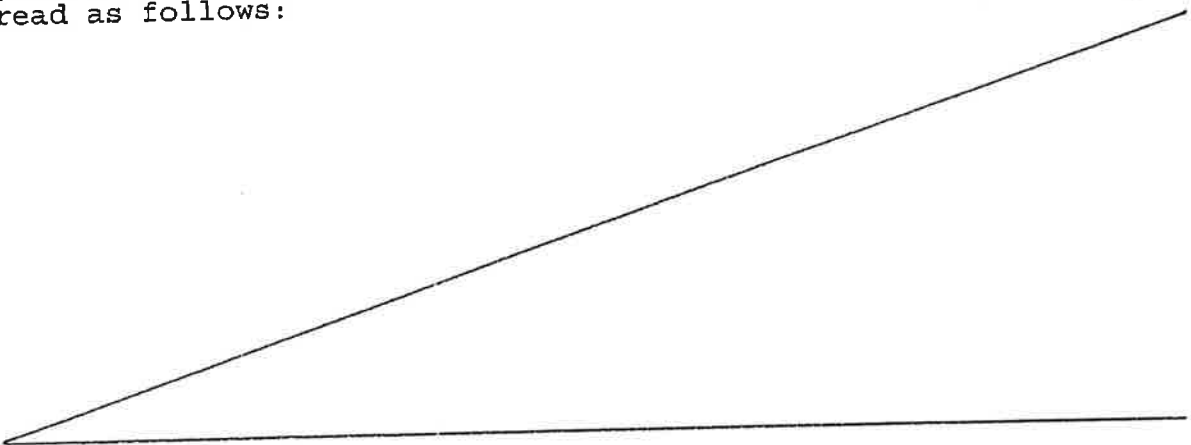
R E C I T A L S:

WHEREAS, Declarant has heretofore caused to be recorded on March 3, 2005, in Book 3847 at Page 385, and re-recorded April 21, 2005, in Book 3880 at Page 369, of the records of the Mesa County Clerk and Recorder's Office, a Declaration of Covenants, Conditions and Restrictions of Montclair Subdivision, hereinafter referred to as the "Declaration";

WHEREAS, pursuant to Article IX, Section 7, "Duration, Revocation and Amendment," Declarant, in its own right and as holder of in excess of sixty-seven (67) percent Member ownership, reserves the powers and privilege to modify and amend the Declaration by executing and recording an instrument setting forth the amendment; and

WHEREAS, Declarant desires to amend the Declaration in its entirety to read as submitted herewith.

NOW, THEREFORE, in consideration of the recitals and premises contained herein, the Declaration is fully amended to read as follows:



DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
MONTCLAIR SUBDIVISION

THIS DECLARATION is made and entered into this 18th day of July, 2005, by MONTCLAIR PROPERTIES, LLC, a Colorado limited liability company.

R E C I T A L S:

WHEREAS, the undersigned is the owner of certain real property situate in Mesa County, Colorado, known as Montclair Subdivision, according to the plat thereof recorded on the 13th day of June, 2005, in the real property records of Mesa County, Colorado, containing thirty-five (35) Lots as hereinafter defined, including the easements and licenses appurtenant to, or included in, the Property as shown on the plat; and

WHEREAS, the undersigned desires to create a planned community upon the real Property described on Exhibit "A" attached hereto and by this reference incorporated herein, including the above-described Property, and to subject and place upon the Property certain covenants, conditions, restrictions, easements, reservations, rights of way, obligations, liabilities and other charges set forth herein pursuant to the provisions of the Colorado Common Interest Ownership Act, as amended, ("Common Interest Act") for the purpose of maintaining the real Property, of protecting the value and desirability of said Property and for the purpose of furthering a plan for the improvement, sale and ownership of said Property.

NOW, THEREFORE, the undersigned hereby declares that all of the Property described above shall be held, maintained, sold and conveyed subject to the following covenants, conditions, restrictions, easements, rights of way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with the above-described Property and be binding on all parties having any right, title or interest in the above-described Property or any part thereof, their heirs, personal representatives, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I

Definitions

Section 1. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee referred to in Article V of this Declaration.

Section 2. "Association" shall mean and refer to Montclair Subdivision Home Owners Association, Inc., a Colorado non-profit corporation, its successors and assigns. The Association shall act by and through its board of directors and officers. The fiscal year of the Association shall end on December 31 of each calendar year.

Section 3. "Common Area" shall mean and refer to all land of the subdivision shown on the plat of Montclair Subdivision recorded in the real property records of Mesa County, Colorado, not defined as Dwelling Unit herein controlled and maintained by the Association for the common use and enjoyment of its Members.

Section 4. "Declarant" shall mean and refer to MONTCLAIR PROPERTIES, LLC, its successors and assigns, if such successors or assigns should acquire more than one (1) unimproved Lot from the Declarant for the purpose of development and resale, and said person or entity shall first be designated by MONTCLAIR PROPERTIES, LLC, as a Declarant for said purposes by a written instrument duly recorded in the real property records of Mesa County, Colorado.

Section 5. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Montclair Subdivision, as the same may be amended from time to time.

Section 6. "Dwelling Unit" shall mean and refer to any residential improvement constructed within Montclair Subdivision.

Section 7. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any first mortgage or any successor to the interest of any such person under such first mortgage having priority of record over all other recorded liens except those governmental liens superior by statute, i.e., general ad valorem tax liens and special assessments.

Section 8. "Lot" shall mean and refer to any separate numbered lot or plat of land shown upon any recorded subdivision of the Property or any portion thereof, as the same may be amended from time to time, together with all appurtenances and improvements now or hereafter thereon, with the exception of the Common Area as defined herein.

Section 9. "Member" shall mean and refer to each Owner of a Lot that is subject to assessment hereunder and Declarant. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 10. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of fee simple title to any Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Owner, as defined herein, shall further have an undivided one thirty-fifth (1/35) interest in the Common Area identified in Section 3 of this Article.

Section 11. "Property" shall mean and refer to that certain real property described in Exhibit "A" to this Declaration, together with such additions thereto, if any, as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

Property Rights Subject to Association Rights and Duties

Section 1. Owner's Right of Enjoyment. The right of enjoyment created hereby shall be subject to the right of the Association to maintain all landscaping and grounds, not otherwise defined herein as Dwelling Unit, and Common Area and to promulgate and publish rules and regulations with which each Member shall strictly comply, including but not limited to irrigation water management, pumps and utilization.

Section 2. Extent of Owner's Right. The right of enjoyment created hereby shall be subject to the following:

a. The right of the Association to promulgate and publish rules and regulations with which each Member shall strictly comply, including but not limited to irrigation water use schedule.

b. The right of the Association, as provided in its Articles of Incorporation and its Bylaws, to suspend the voting rights of a Member for any period during which any assessment against such Member's Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations.

c. The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

d. The right and obligation of the Association to landscape, irrigate and maintain the Common Area.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, an Owner's right of enjoyment to Common Area to the members of an Owner's family, an Owner's tenants or an Owner's contract purchasers who reside on an Owner's Lot.

ARTICLE III

Membership and Voting Rights: The Association

Section 1. Membership. Every Owner of a Lot, which is subject to assessment hereunder, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Lot shall be entitled to one (1) vote and the vote for such Lot shall be exercised by the Owner or Owners as they determine.

Section 2. Directors of the Association. The affairs of this Association shall be managed by a board of one (1) or more directors (the "Board") initially.

Section 3. Management of the Association. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of sixty (60) days after conveyance of seventy-five (75) percent of the Lots to Owners other than Declarant or two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's control. Not later than sixty (60) days after conveyance of twenty-five (25) percent of the Lots to Owners other than Declarant, at least one (1) member and not less than twenty-five (25) percent of the members of the Board will be elected by Owners other than Declarant. Not later than sixty (60) days after the conveyance of fifty (50) percent of the Lots to Owners other than Declarant, not less than seventy-five (75) percent of the members of the Board will be elected by Owners other than Declarant. Not later than the termination of the period of Declarant's control as provided above, the Owners (including Declarant) shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver to the Association all Property of the Owners and the Association held or controlled by Declarant, including without limitation those items specified in Section 303(9) of the Common Interest Act.

Section 4. Officers of the Association. The officers of the Association shall be as set forth in the Bylaws of the Association.

ARTICLE IV

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; (b) special assessments; (c) reconstruction assessments; such assessments to be established and collected as hereinafter provided; and (d) assessments imposed by enforcement of Sections 5 or 6 of Article VI. The annual, special and reconstruction assessments, together with interest, late charges, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration), on demand and without setoff or deduction. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney fees. The Board of directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by one (1) of the Board of directors or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the County of Mesa, State of Colorado. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for recording any notice of lien shall be added to the assessment for the Lot against which it is recorded and collected as part and parcel thereof. Each assessment, together with interest, late charges, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass from them. The Association's lien on a Lot for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States of America. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to make payment to promote the health, safety and welfare of the residents and to maintain any and all water delivery systems to the subdivision, maintenance of all grounds, improvements and landscaping, exclusive of Dwelling Units only, trash removal, recreational areas and insurance policies required.

Section 3. Maximum Annual Assessments.

a. Until commencement of the second annual assessment period, the maximum annual assessment for each Lot shall be Forty Dollars (\$40.00). Effective upon the second and each subsequent Association fiscal year, the maximum annual assessment shall not increase more than ten (10) percent of the previous year's annual assessment based on a May-to-May calendar year, prorated at closing.

b. Effective with commencement of the second and each subsequent Association fiscal year, the maximum annual assessment may be increased by a vote of the Members over the amount established by the applications of the provisions of subsection (a) above for the next succeeding Association fiscal year and at the end of that year, for each succeeding Association fiscal year, provided that any such increase shall have the assent of two thirds (2/3) of the Members who are voting in person or by proxy at the meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days or more than sixty (60) days in advance of such meeting setting forth the purpose thereof.

c. The Board of directors of the Association may, at any time and from time to time, after consideration of the projected maintenance costs and the other financial needs of the Association, fix the actual assessment against each Lot at an amount less than the maximum assessment for any Association fiscal year.

d. Within thirty (30) days after adoption of any proposed budget for the Association, the Board of directors shall mail, by ordinary, first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) or more than sixty (60) days after mailing or other delivery of the summary. Unless at the meeting a majority of all Owners rejects the budget, the budget shall be ratified, whether or not a quorum of Members is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

e. The Association shall maintain an adequate reserve fund out of the annual assessments for the repair and replacement of those elements of the Common Area that must be repaired or replaced on a periodic basis.

Section 4. Reconstruction Assessments. In addition to the annual and special assessments authorized in this Article IV, the Association may levy a reconstruction assessment for the purpose of repair or reconstruction of damaged or destroyed improvements. All such reconstruction assessments shall be equal to the net amount of the cost of repair or reconstruction of such improvements and shall be calculated by subtracting from the total cost of repair or reconstruction the sum of the insurance proceeds awarded for the damage or destruction thereof, if any, and shall be set equally against each Lot. Such reconstruction assessments shall be due and payable as provided by resolution of the Board of directors but not sooner than thirty (30) days after written notice hereof; provided, however, that, in appropriate circumstances, the Association may proceed directly against any Owner pursuant to Section 1 of this Article for any such amount.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action requiring a vote of the Members authorized under Section 3 of this Article shall be sent to all Members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60) percent of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding month.

Section 6. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots and shall be allocated to each Lot on the basis of a fractional share per Lot, the numerator of which fraction shall be one (1) and the denominator of which shall be the number of Lots contained within the Property, and shall be in an amount sufficient to meet the expected needs of the Association.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one (21) percent per annum, or at such lesser rate as may be set from time to time by the Association, and the Association may also assess a monthly late charge thereon. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien

against such Owner's Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the irrigation distribution system or abandonment of an Owner's Lot.

Section 8. Lien for Assessments.

a. Under the Common Interest Act, the Association has a statutory lien on a Lot for any assessment levied against that Lot and for fines imposed against its Owner from the time each assessment or fine becomes due. In addition, fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration or the Common Interest Act are enforceable as assessments. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

b. The statutory lien for assessments is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien of a first mortgage, which was recorded before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, the statutory lien for assessments is also prior to the lien of a first mortgage to the extent of an amount equal to the assessments based on a periodic budget adopted by the Association, which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action or a non-judicial foreclosure either to enforce or to extinguish the lien.

c. The recording of this Declaration constitutes record notice and perfection of the statutory lien. No further recordation of any claim of lien or assessment is required; however, a claim may be recorded at the Association's option, in which event, costs and attorney fees incurred in connection with the preparation and recording of such claim shall be assessed against the Owner's Lot as a default assessment.

ARTICLE V

Architectural Control Committee

Section 1. Approval. No building or exterior improvement of any kind shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the

location of the structure or improvement have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior design, materials and color scheme with existing structures and as to location with respect to topography and finished grade elevation.

Section 2. Composition of Committee. The Architectural Control Committee shall consist of three (3) or more persons appointed by the Board of directors of the Association; provided, however, that until Declarant has conveyed all Lots to Owners other than the Declarant or until three (3) years after the date of recording of this Declaration in the records of the Mesa County, Colorado, Clerk and Recorder's Office, whichever occurs earliest, Declarant shall appoint the Architectural Control Committee. A majority of the Architectural Control Committee may, from time to time, designate a representative to act for it. Reasonable effort shall be made to have a licensed architect as an Architectural Control Committee member. The power of the Declarant to "appoint," as provided herein, shall include without limitation the power to: initially constitute the membership of the Architectural Control Committee, appoint member(s) to the Architectural Control Committee upon the occurrence of any vacancy therein, for whatever reason, remove any member of the Architectural Control Committee, with or without cause, at any time, and appoint the successor thereof; and each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Declarant. All improvements within the Property constructed by Declarant during the period in which it appoints the Architectural Control Committee shall be deemed approved by the Architectural Control Committee without the issuance of any writing evidencing such approval. The Architectural Control Committee shall have the right to adopt architectural control guidelines from time to time to assist Owners in applying for Architectural Control Committee approval.

Section 3. Landscaping. Maintenance of all Common Area and landscaping areas shall be the responsibility of the Association and subject to Association rules and regulations.

Section 4. Submittals. Duplicate copies of plans and specifications relating to an improvement shall be submitted to the Architectural Control Committee for review and final approval. Plans and specifications shall contain without limitation the plot plans showing layout, including setbacks, flow and manner of surface drainage, finish and natural grade elevations, floor plans showing overall dimensions, roof plans showing pitch, roof materials, color, exterior elevations showing doors, windows and exteriors materials and colors and a perspective sketch, if requested, and other details necessary to explain any feature or component of the improvements.

Section 5. Plan Approval. The Architectural Control Committee's approval or disapproval as required in this Declaration shall be in writing. In the event the Architectural Control Committee or its designated representative fails to approve or disapprove within thirty (30) days after sufficient plans and specifications have been submitted to it, approval will not be required, and the related covenants shall be deemed to have been fully complied with. Two (2) complete sets of finished plans and specifications for construction shall be submitted at time of application, one (1) copy of which will be retained by the Architectural Control Committee for its records. Approval or disapproval as required in this Declaration shall be determined by a majority vote of the members of the Architectural Control Committee.

Section 6. Non-Liability. The Architectural Control Committee and the members thereof shall not be liable for damage to any person submitting requests for approval or to any Owner within the Property by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such request. The actions of the Architectural Control Committee shall be deemed conclusively binding upon the Owners.

Section 7. Non-Compensation. Neither the members of the Architectural Control Committee nor such representatives as it may designate shall be entitled to any compensation for services performed pursuant to this Declaration.

Section 8. Standards. In addition to all the other criteria herein set forth, the Architectural Control Committee shall generally determine whether the proposed improvement will protect the then value and future values of the Property located in the subdivision and to be erected therein. The Architectural Control Committee shall, in the exercise of its judgment and determination, use reason and good faith. Among the other considerations applied, the Architectural Control Committee will determine and base its approval or rejection upon the fact of whether said proposed improvements are reasonably compatible with other improvements erected and planned in the subdivision. The Architectural Control Committee shall evaluate the proposed construction as to location on the Property, harmony of exterior design, materials and colors with existing Dwelling Units and surroundings, finished grade evaluation and other criteria as it deems necessary for the purposes set forth in this section.

Section 9. Exterior Surfaces. All exterior building materials used must be approved by the Architectural Control Committee. Exterior design, materials and color scheme must be in harmony with the exterior design, materials and color scheme of existing structures on the Property. Samples of material and colored chips are to be included at the time of planned submittal for the Architectural Control Committee review.

Section 10. Alterations. An Owner shall not change, modify, paint, decorate, alter or in any way make any change to any exterior wall, surface, roof, deck, patio, entry, paving or other improvements without the approval of the Architectural Control Committee.

Section 11. Vote and Appeal. A majority vote of the Architectural Control Committee is required to approve a request for architectural approval pursuant to this Article. An Owner may appeal the decision of the Architectural Control Committee to the Board of directors if the Board is composed of different members than the Architectural Control Committee, and in such event, the decision of the Board shall be final.

Section 12. Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 13. Waivers. The approval or consent of the Architectural Control Committee to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Architectural Control Committee as to any application or other matters whatsoever subsequently or additionally submitted for approval or consent hereunder.

ARTICLE VI

Exterior Lot and Common Area Maintenance

Section 1. General. Except as otherwise provided herein, the maintenance and repair of the exterior of the Dwelling Units and improvements constructed thereon shall be the responsibility of the Association.

Section 2. Lot Maintenance. The Owners shall keep, maintain and repair their Lots, buildings and improvements in a neat, clean, cultivated, attractive and well-maintained condition, free from the accumulation of trash or debris or visual deterioration. The Association shall maintain all landscaping and vegetation of the Property, including Common Area, maintenance of same and improvements and amenities thereon.

Section 3. Maintenance of Landscaping. The Owners shall not cause or permit any damage, deterioration or the accumulation of trash and debris upon the grassed or landscaped areas. Landscaping maintenance shall be the responsibility of the Association and shall be funded by assessments and/or monthly charges to Owners for trash removal, electrical service for

irrigation, maintaining recreational areas and insurance policies required.

Section 4. Ownership. Each Owner shall be entitled to exclusive ownership of his or her Lot subject only to Association and Architectural Control Committee duties and obligations thereto. Each Owner may use the general Common Area in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other Owners.

Section 5. Maintenance of Common Area and Irrigation System. To the extent not performed by the applicable governmental entity or Owner, the Association shall be responsible for the landscaping and maintenance of the Common Area, including but not limited to repair of signs, fences, stone columns, irrigation equipment, lighting and electrical fixtures and equipment and plants. No Owner shall, in whole or part, change the landscaping, grade or fences or in any way change the retaining wall on any portion of the Common Area. The Association shall be responsible for on- and off-site maintenance of irrigation, landscaping, drainage and storm-water systems. If for any reason the Association does not maintain the irrigation system, water retention areas, water storage facilities, storm-water systems, parks or other elements comprising the Common Area subject to the Association's rights and obligations of maintenance and control, the Town of Palisade shall have the right of entry to the Common Area to maintain, repair or correct the situation and bill the Association for this service. Any unpaid amounts due the Town of Palisade shall become a lien on the individual Lots as outlined in Article IV of this Declaration.

Section 6. Owner's Negligence. Notwithstanding anything to the contrary contained in this Article VI, in the event that the need for maintenance or repair of the Common Area is caused by the willful or negligent act or omission of any Owner or by the willful or negligent act or omission of any member of an Owner's family or by a guest or invitee of an Owner, the cost of such repair or maintenance shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner or any member of an Owner's family or a guest or invitee of any Owner and the amount of the Owner's liability therefor shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination that assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE VII

Restrictions

Section 1. General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Property in order to enhance the value, desirability and attractiveness of the Property and to promote the sale thereof.

Section 2. Restrictions Imposed. The Declarant hereby declares that all of the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 3. Use of Common Area.

a. No use shall be made of the Common Area that will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Area.

b. No Owner shall engage in any activity that will temporarily or permanently deny free access to any part of the Common Area to all Members or shall any Owner place any structure or fence, except those installed by Declarant, whatsoever upon the Common Area.

c. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of directors of the Association.

d. Selected Dwelling Units contain overhang or balcony areas, which are designated as "restrictive common areas" and access to which is limited by the sole prerogative of the Owner.

Section 4. Residential Use. Lots shall be used for residential purposes, including all ancillary uses permitted by applicable zoning ordinances.

Section 5. Lots to be Maintained. Except during any period of construction or reconstruction, each Lot at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that the same are visible from any neighboring Lot, the Common Area or any street.

Section 6. Temporary Structures. Except as hereinafter provided, no structure of a temporary character, including but

not limited to a house trailer, tent, shack or outbuilding, shall be placed or erected upon any Lot, and no Dwelling Unit shall be occupied in any manner at any time prior to its being fully completed or shall any Dwelling Unit, when completed, be in any manner occupied until made to comply with all requirements, conditions and restrictions herein set forth; provided, however, that during the actual construction, alteration, repair or remodeling of a Dwelling Unit, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any Dwelling Unit shall be prosecuted diligently from the commencement thereof until the completion thereof.

Section 7. Miscellaneous Structures.

a. No advertising or signs, with the exception of political signs, of any character shall be erected, placed, permitted or maintained on any Lot other than a name of the occupant and a street number, and except for a "For Sale" or "For Rent" sign not to exceed five (5) square feet; notwithstanding the foregoing, signs, advertising or billboards used by the Declarant or its designees in connection with the sale of Lots or otherwise in connection with any development of the Property shall be permissible, provided that such use by the Declarant or its designees shall not unreasonably interfere with any Owner's use and enjoyment of an Owner's Lot, the Common Area or with an Owner's ingress or egress from a public way to the Common Area or an Owner's Lot.

b. Except as may otherwise be permitted by the Architectural Control Committee, all antennae, including satellite receivers, shall be installed inside any Dwelling Unit.

Section 8. Nuisances. No nuisance shall be permitted on or within the Property or any use, activity or practice that is the source of annoyance or embarrassment to or that offends or disturbs any residents of the Property or that interferes with the peaceful enjoyment or possession and proper use of the Property or any portion thereof by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant or its designees that are reasonably necessary to the development of and construction on the Property; provided, however, that such activities of the Declarant or its designees shall not unreasonably interfere with any Owner's use and enjoyment of an Owner's Lot or the Common Area or with any Owner's ingress and egress to or from an Owner's Lot and a public way.

Section 9. Underground Utility Lines. All electric, television, radio and telephone line installments shall be placed underground, except that during the construction of any Dwelling Unit, the contractor or builder may install a temporary overhead

utility line, which shall be promptly removed upon completion of construction.

Section 10. Rules and Regulations. Rules and regulations concerning and governing the Property or any portion thereof may be adopted, amended or repealed, from time to time by the Board of directors of the Association and the Board of directors may establish and enforce penalties for the infraction thereof, including without limitation the levying and collecting of fines for the violation of any of such rules and regulations.

Section 11. No Mining or Drilling. No mining, drilling, quarrying, digging or excavating for the purpose of testing for the existence of, or extracting oil, gas, coal or minerals of any kind shall be performed upon or within the Property.

Section 12. Drainage. Release of contaminants or hazardous materials into the subdivision drainage is prohibited, and the Association shall indemnify and hold harmless Palisades Irrigation District from any such contamination.

Section 13. Vehicle Parking. No Lot roadway or easement shall be used as a parking, storage or accommodation area for any type of junk vehicles or vehicles under repair. No vehicles, boats, campers, trailers, snowmobiles, motorcycles or other recreational vehicles, devices or equipment or vehicles used for business (other than normal passenger-type vehicles) shall be stored or permitted to remain on the Property unless garaged. Recreational vehicles, boats and trailers shall not be parked on the streets adjacent to each Lot. However, oversized parking for recreational vehicles, boats and trailers may be incorporated into each Lot upon application to and approval by the Architectural Control Committee pursuant to Article V hereof.

Section 13. No Annoying Light, Sounds or Odors. No light shall be emitted from any Lot that is unreasonably bright or causes unreasonable glare when viewed from the street, adjacent property or Common Area. No sound shall be emitted from any Lot that is noxious or offensive to others.

Section 14. Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, the Common Area or any Lot unless placed in a suitable container suitably located solely for the purpose of garbage pick up. All containers shall be removed from the street the same day and returned to its screened area. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in any exposed or unsightly manner. All trash receptacles shall be screened as provided in the Architectural Control Committee guidelines.

Section 15. Leases. The term "lease," as used herein, shall include any agreement for the leasing or renting of a Lot or any portion thereof and shall specifically include without limitation a month-to-month rental. Any Owner shall have the right to lease an Owner's Lot under the following conditions:

a. All leases shall be in writing.

b. All leases shall provide that the terms of the lease and lessee's occupancy of the Lot shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association and that any failure by the lessee to comply with any of the aforesaid documents in any respect shall be default under the lease.

c. No lease shall be for less than thirty (30) days.

Section 16. Management Agreement and Other Contracts.

a. The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business or any contract providing for the services of Declarant shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon thirty (30) days' prior written notice.

b. Subject to subsection 16(a) of this Article, any contracts, licenses or leases entered into by the Association while the Declarant controls the Association shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of the Declarant's control or the Association, upon thirty (30) days' prior written notice.

c. Notwithstanding anything to the contrary contained in this Section 16, the Association may enter into contracts, licenses and leases in violation of subsection 16(b) of this Article upon a waiver of any requirements contained herein by the Federal National Mortgage Association.

Section 17. Trash Removal. Each Dwelling Unit shall have access to and utilization of all trash bins and receptacles located on the Property.

ARTICLE VIII

First Mortgages

Section 1. Member and First Mortgagee Approval. The Association shall not, unless it has obtained the prior written consent of at least sixty-seven (67) percent of the Members and sixty-seven (67) percent of the First Mortgagees [based upon one (1) vote for each first mortgage owned]:

a. By act or omission, change, waive or abandon any scheme of restrictions or enforcement thereof, as set forth in this Declaration regarding the design or maintenance of the Lots or improvements thereon.

b. Change the method of determining the obligations, assessments, dues or other charges, which may be levied against an Owner.

c. Add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association, which establish, provide for, govern or regulate any of the following, provided that any First Mortgagee who receives a written request to approve any additions or amendments to any such documents and who does not deliver or post to the requesting party a negative response within thirty (30) days after receipt of such a request shall be deemed to have approved such request and provided that such additions or amendment shall not be considered material if they are for the purpose of correcting technical errors or for clarification only, the Articles of Incorporation or Bylaws of the Association made as a result of destruction, damage or condemnation of the Property or the improvements thereon:

- i. Voting;
- ii. Assessments, assessment liens or subordination of such liens;
- iii. Insurance, including but not limited to fidelity bonds;
- iv. Rights to use of the irrigation distribution system;
- v. Responsibility for maintenance and repair of any portion of the irrigation distribution system;
- vi. Expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property;

vii. Convertibility of Lots or Dwelling Units constructed thereon;

viii. Leasing of Lots or Dwelling Units constructed thereon;

ix. Any provisions which are for the express benefit of First Mortgagees or insurers or guarantors of first mortgages.

Section 2. Notice of Action. Upon written request to the Association, identifying the name and address of the First Mortgagee or insurer or guarantor of the first mortgage and the residence address of Property, which is subject to such first mortgage, each such First Mortgagee or insurer or guarantor of such a first mortgage shall be entitled to timely written notice of:

a. Any condemnation loss or casualty loss, which affects a material portion of the Property or any Lot subject to a first mortgage held, insured or guaranteed by such First Mortgagee, insurer or guarantor of a first mortgage.

b. Any delinquency in the payment of assessments or charges owed to the Association by the Owner of the Lot subject to a first mortgage held, insured or guaranteed by such First Mortgagee, insurer or guarantor of any default by such Owner in any obligation under the Declaration, Articles of Incorporation or Bylaws of the Association and the Board of directors of the Association has actual knowledge of such default, when such delinquency and/or default remains uncured for a period of sixty (60) days.

c. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

d. Any proposed action, which would require the consent of a specified percentage of First Mortgagees as provided in this Article VII.

ARTICLE IX

General Provisions

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights of way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation the Association, violating or

attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings, and the Association shall further have the right to levy and collect fines of the violation of any provision of the aforesaid documents in any action instituted or maintained under this Section, and the prevailing party shall be entitled to receive its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions, which shall remain in full force and effect.

Section 3. Easements. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded plat of the Property, or any portion thereof, or other duly recorded instrument(s). Within these easements, no structure, planting or other material shall be placed or permitted to remain, which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements. Declarant hereby reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.

Section 4. Common-Wall Easement. Each Dwelling Unit Owner shall have, in common with all other Dwelling Unit Owners whose Dwelling Units are abutted by a party wall, an easement to use all pipes, flues, ducts, cables, wires, conduits, public utility lines or other common elements located within the party wall and serving a Dwelling Unit and an easement for the continuance of any encroachment by an Owner's Dwelling Unit on an adjoining Dwelling Unit or on any common element, existing as a result of construction of the Dwelling Units or which may come into existence thereafter as a result of the Dwelling Units settling or shifting or as a result of restoration of the Dwelling Units or a Dwelling Unit after damage by fire or other casualty.

Section 5. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 6. Expansion.

a. Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the recording by Declarant in the Mesa County, Colorado, Clerk and Recorder's Office one (1) or more supplemental declarations setting forth the lots and other real property, if any, to be included in the expansion, together with any covenants, conditions, restrictions and easements particular to such property. The expansion may be accomplished in stages by successive supplements or in one (1) supplemental expansion.

b. Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded. For example, "Lot" shall mean the Lot described in Section 8 of Article I plus any additional lots added by a supplemental declaration or declarations, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Lots shall be effective to transfer rights in the Property as expanded. The recordation in the real property records of Mesa County, Colorado, of a supplemental parcel map or maps incident to any expansion shall operate automatically to grant, transfer and convey to the Association any new Common Area added to the Property as the result of such expansion. The allocation for assessments shall be amended pro rata to reflect the increase in the number of lots added to the Declaration.

c. Declaration Operative to New Lots. The new lots shall be subject to all of the terms and conditions of this Declaration and of any supplemental declaration upon placing the supplemental parcel map(s) depicting the expansion property and supplemental declaration(s) of public record in the real property records of Mesa County, Colorado.

d. No Objection to Expansion. No Member of the Association shall have any right to the exercise of the developmental right set forth above including but not limited to the inclusion of a maximum of thirty-five (35) Dwelling Units.

Section 7. Duration, Revocation and Amendment.

a. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time, this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Article VII hereof and in subsections (b) and (c) of this Section 7, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than sixty-seven (67)

percent of the Members or by petition to the Mesa County District Court as defined in CRS 38-33.3-217(7), as amended. Such amendment shall be effective when duly recorded in the real property records of Mesa County, Colorado.

b. If Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the agencies, Declarant shall have and is hereby specifically granted the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to termination of the Declarant's control of the Association.

c. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, the Articles of Incorporation or Bylaws of the Association at any time prior to the termination of Declarant's control of the Association for the purposes of correcting spelling, grammar, dates, typographical errors or as may otherwise be necessary to clarify the meaning of any provisions of any such document.

Section 8. Rights of Declarant Incident to Construction.
An easement is hereby retained by and granted to Declarant, its successors and assigns for access, ingress and egress over, in, upon, under and across the Common Area, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's or its designees' construction on the Property; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment or access by any Owner, an Owner's family members, guests or invitees to or of that Owner's Lot. Declarant, for itself and its successors and assigns, hereby retains a right to store construction materials on Lots owned by Declarant and to make such other use thereof as may be reasonably necessary or incidental for the purpose of completion or improvement of the Property, the performance of Declarant's obligations hereunder and the sale of the Lots. Any special Declarant rights created or reserved under this Article or elsewhere in this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the records of the Mesa County, Colorado, Clerk and Recorder's Office. The rights of Declarant reserved in this Section 8 shall expire five (5) years after the recording of this Declaration. Such instrument shall be executed by Declarant and its transferee. Any rights granted to Declarant under this Declaration shall expire on the date that

is ten (10) years from the recording date of this Declaration, unless otherwise provided herein.

Section 9. Easement for Encroachments. If any portion of a structure encroaches upon the Common Area or upon any adjoining Lot or if any portion of the Common Area encroaches upon any Lot, including any future encroachments, arising or resulting from the repair or reconstruction of a structure subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 10. Registration by Owner of Mailing Address. Each Owner shall register an Owner's mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent postage prepaid by certified mail, return receipt requested, addressed to the name of the Owner at such registered mailing address.

IN WITNESS WHEREOF, the undersigned Declarant has hereunto set its hand and seal the day and year first above written.

MONTCLAIR PROPERTIES, LLC

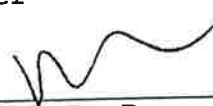
By:

B&B CONSTRUCTION SERVICES, INC.,
Manager

ATTEST


Robert P. Cucchetti, Secretary

By


Robert D. Bower, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

18th The foregoing instrument was acknowledged before me this day of July, 2005, by ROBERT D. BOWER as President and ROBERT P. CUCCHETTI as Secretary of B&B CONSTRUCTION SERVICES, INC., a Colorado corporation, Manager of MONTCLAIR PROPERTIES, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 11-12-2005



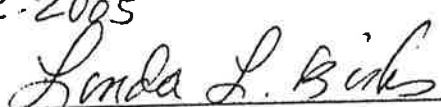

Notary Public

EXHIBIT "A"

Lots 1 through 8, inclusive, in Block 1,
Lots 1A through 9A, inclusive, in Block 1,
Lots 1 through 12, inclusive, in Block 2,
Lots 1B through 6B, inclusive, in Block 2, and
Tract A, Tract B and Tract C of
of MONTCLAIR SUBDIVISION,

County of Mesa,
State of Colorado.