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**AMENDED, RESTATED AND CONSOLIDATED  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
CHERRY CREEK VILLAGE, ORIGINAL FILING,  
CHERRY CREEK VILLAGE, 2ND FILING,  
AND  
CHERRY CREEK VILLAGE, 4TH FILING**

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**AMENDED, RESTATED AND CONSOLIDATED  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
CHERRY CREEK VILLAGE, ORIGINAL FILING,  
CHERRY CREEK VILLAGE, 2ND FILING,  
AND  
CHERRY CREEK VILLAGE, 4TH FILING**

THIS AMENDED, RESTATED AND CONSOLIDATED DECLARATION is made on the date hereinafter set forth by the Cherry Creek Village North Civic Association, Inc., a Colorado nonprofit corporation.

**RECITALS**

A. Cherry Creek Village, Inc., a Colorado corporation, created the Cherry Creek Village, Original Filing, and Cherry Creek Village, 2<sup>nd</sup> Filing community by recording a Declaration of Protective Covenants for Cherry Creek Village on August 8, 1960 at Reception No. 728637 in Book 1206 on Page 329 in the office of the Clerk and Recorder of Arapahoe County, State of Colorado, as amended by the following amendments:

1. Amended Declaration of Protective Covenants for Cherry Creek Village recorded November 2, 1960 at Reception No. 738921 in Book 1223 on Page 396.

2. Amendment to Declaration of Protective Covenants for Cherry Creek Village recorded August 19, 1960 at Reception No. 730026 in Book 1208 on Page 485.

3. Amendment to Declaration of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village, 2<sup>nd</sup> Filing, and Cherry Creek Village, 4<sup>th</sup> Filing recorded June 19, 1972 at Reception No. 1295912 in Book 2028 on Page 478.

4. Amendments to Declarations of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village, 2<sup>nd</sup> Filing, and Cherry Creek Village, 4<sup>th</sup> Filing recorded October 29, 1981 at Reception No. 2118764 in Book 3520 on Page 523.

5. Amendments to General Conditions, Stipulations, and Restrictive Covenants of Cherry Creek Village and Cherry Creek Village, Second Filing recorded February 24, 1998 at Reception No. A8024294.

6. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217026.

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7. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217028.

8. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217030.

(collectively, the “1<sup>st</sup> and 2<sup>nd</sup> Filing Original Declaration”);

B. Colorado Real Estate & Development, Inc., a Delaware corporation, created the Cherry Creek Village, Fourth Filing community by recording a Declaration of Protective Covenants for Cherry Creek Village, Fourth Filing on August May 2, 1962 at Reception No. 806533 in Book 1336 on Page 418 in the office of the Clerk and Recorder of Arapahoe County, State of Colorado, as amended by the following amendments:

1. Amendment to Declaration of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village, 2<sup>nd</sup> Filing, and Cherry Creek Village, 4<sup>th</sup> Filing recorded June 19, 1972 at Reception No. 1295912 in Book 2028 on Page 478.

2. Amendments to Declarations of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village, 2<sup>nd</sup> Filing, and Cherry Creek Village, 4<sup>th</sup> Filing recorded October 29, 1981 at Reception No. 2118764 in Book 3520 on Page 523.

3. Amendments to General Conditions, Stipulations, and Restrictive Covenants of Cherry Creek Village, Fourth Filing recorded February 24, 1998 at Reception No. A8024295.

4. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217027.

5. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217029.

6. Amendment to the Protective Covenants for Cherry Creek Village and Cherry Creek Village Second Filing recorded December 14, 2001 at Reception No. B1217031.

(collectively, the “4<sup>th</sup> Filing Original Declaration” and, with the 1<sup>st</sup> and 2<sup>nd</sup> Filing Original Declaration, the “Original Declarations”);

C. Pursuant to Paragraph 8 of the General Conditions, Stipulations and Restrictive Covenants (the “General Conditions”) of the 1<sup>st</sup> and 2<sup>nd</sup> Filing Original

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Declaration, and pursuant to Paragraph 6 of the General Conditions, Stipulations and Restrictive Covenants (the "General Conditions") of the 4<sup>th</sup> Filing Original Declaration, a majority of the Owners of Lots are required to approve any amendments to the General Conditions;

D. Pursuant to Paragraph 7 of the Special Conditions, Stipulations and Restrictive Covenants (the "Special Conditions") of the 1<sup>st</sup> and 2<sup>nd</sup> Filing Original Declaration, and pursuant to Paragraph 8 of the Special Conditions, Stipulations and Restrictive Covenants (the "Special Conditions") of the 4<sup>th</sup> Filing Original Declaration, a majority of the Owners of Lots are required to approve any amendments to the Special Conditions;

E. The undersigned, being the President and Secretary of the Association, hereby certify that a majority of the Owners subject to the Original Declaration have approved in writing this Amendment as required under Paragraph 8 of the General Conditions of each Original Declaration and Paragraph 7 of the Special Conditions of each Original Declaration, and that the instruments signed by these Owners, along with the recorded copy of this Declaration shall be placed in the Association's corporate records and shall be available for review and inspection upon request.

NOW THEREFORE, the Original Declarations are consolidated, replaced and superceded by the covenants, servitudes, easements and restrictions set forth below:

**ARTICLE 1  
DEFINED TERMS**

Section 1.1 Defined Terms. Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration:

(a) Act shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et. seq., as it may be amended.

(b) Architectural Review Committee or Committee means the committee which may be appointed by the Board of Directors for the purpose of implementing the architectural review provisions of this Declaration and architectural guidelines for the Community to insure proper use, appropriate Improvement, and harmonious additions, alterations and Improvements within the Community.

(c) Assessment shall include all Common Expenses, insurance assessments, utility assessments, and any other expense levied to Lots pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(d) Association shall mean Cherry Creek Village North Civic Association, Inc., a Colorado nonprofit corporation, and its successors.

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(e) Board or Board of Directors shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

(f) Common Expenses shall mean and refer to all expenditures made and liabilities incurred by or on behalf of the Association, together with any allocation by the Association to reserves.

(g) Community or Cherry Creek Village Community or Planned Community shall mean the planned community known as "Cherry Creek Village," which shall include Cherry Creek Village Original Filing, Cherry Creek Village Second Filing and Cherry Creek Village Fourth Filing, and the real property subject to this Declaration and as further defined by the recorded Plats and the legal descriptions contained therein, and the Members of the Association.

(h) Declaration shall mean and refer to this Amended, Restated and Consolidated Declaration of Protective Covenants for Cherry Creek Village, Original Filing, Cherry Creek Village, 2<sup>nd</sup> Filing, and Cherry Creek Village, 4<sup>th</sup> Filing, as it may be amended from time to time, recorded in the office of the Clerk and Recorder of Arapahoe County, Colorado.

(i) Governing Documents shall mean this Declaration, the Plat, the Articles of Incorporation, the Bylaws, any maps and any Rules and Regulations of the Association, as they may be amended from time to time.

(j) Improvement(s) shall mean structures installed within or upon a Lot.

(k) Lot shall mean and refer to any plot of land shown upon any recorded Plat of the Property.

(l) Member shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(m) Owner shall mean the owner of record title, whether one or more persons or entities, 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.

(n) Plat or Map shall mean and refer to the plat(s) and/or map(s) of the Property and Improvements that are subject to this Declaration and which are designated in the plat for Cherry Creek Village recorded in the records of the Office of the Clerk and Recorder of Arapahoe County. More than one plat, map or supplement thereto may be recorded, and, if so, then the term "Plat" or "Map" shall collectively mean and refer to all of such plats, maps and supplements thereto.



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(o) Property shall mean the property described in the Original Declarations together with all easements, rights, and appurtenances thereto and the buildings and Improvements erected or to be erected thereon.

(p) Residence shall mean any improvement on a Lot which may be independently owned and is intended for use and occupancy as an attached or detached residence for a single family. In the case of duplexes, each dwelling shall be deemed to be a separate Residence.

(q) Rules and Regulations shall mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Community, including any amendment to those instruments.

**ARTICLE 2  
NAMES & DESCRIPTION OF REAL ESTATE/EASEMENTS**

Section 2.1 Name and Type. The Community is a Planned Community. The name of the Planned Community is "Cherry Creek Village." The name of the Association is the "Cherry Creek Village North Civic Association, Inc."

Section 2.2 Property. The Planned Community is located in Greenwood Village, Arapahoe County, State of Colorado. The Property of the Planned Community is described in the Original Declarations. Easements for utilities and other purposes over and across the Lots may be as shown upon a recorded Plat and on any recorded Map of the Planned Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.3 Number of Lots. The number of Lots initially included in the Cherry Creek Village Community is two hundred (200).

Section 2.4 Identification of Lots/Lot Descriptions. The identification of each Lot is shown on the Plat. Every contract for sale, deed, lease, security interest, will or other legal instrument shall legally describe a Lot by its identifying lot number, followed by the name of the Community, with reference to the Plat, any Map and the Declaration. An illustrative description is as follows:

Lot \_\_\_\_, Cherry Creek Village, according to the Amended, Restated and Consolidated Declaration recorded \_\_\_\_\_, 20\_\_, at Reception No. \_\_\_\_\_ and the recorded plat, in the records of the Clerk and Recorder, Arapahoe County, State of Colorado.

Reference to the Declaration, Plat and Map in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration, Plat or Map, without specific references thereto.

Section 2.5 Easements for the Board of Directors. Each Lot shall be subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) to allow for their performance of obligations in this Declaration, provided that the easement granted and the use thereof shall not unreasonably interfere with or

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impair the use of any Improvements constructed on a Lot and shall be exercised only after reasonable notice to the Owner of the Lot.

Section 2.6 Utility, Map and Map Easements. Easements for utilities and other purposes over and across the Lots may be as shown upon a recorded plat or the Plat or Map of the Community, and as may be established pursuant to the provisions of this Declaration or granted by authority reserved in any recorded document.

Section 2.7 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Community, to enter upon any part of the Community in the performance of their duties.

**ARTICLE 3  
THE ASSOCIATION**

**Mission Statement**

Section 3.1 Mission Statement. The reasons for the existence of the Association and the Governing Documents are to help maintain, preserve, enhance, and protect the property values and assets of the Community. Other goals are to help promote harmonious community living, preserve the common scheme and design of the Community, and create a sense of fairness and equity among Members. The Association is also committed to creating a positive community spirit by engaging in activities and events that promote respect, acceptance, and inclusiveness for all persons residing in the Community.

These covenants have been designed to promote voluntary compliance and remove nuisance requirements. By fostering positive interaction with one another and working collaboratively on common issues and concerns, the Community will maintain, enhance and protect property values and assets.

Section 3.2 Membership. Every person who is a record Owner of a fee interest in any Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership. Each Lot shall be allocated one (1) vote which shall be cast as a single vote and shall not be subject to fractional voting.

Section 3.3 General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform functions and manage the Cherry Creek Village Community as provided in this Declaration so as to protect the value and desirability of the Cherry Creek Village Community and the Lots. Any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

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Section 3.4 Authority of the Association. The business affairs of the Cherry Creek Village Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the Plat, any Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of its final responsibilities.

Section 3.5 Specific Powers. The Association shall have the powers, authority and duties as necessary and proper to manage the business and affairs of the Cherry Creek Village Community. The Association shall have all of the powers, authority and duties permitted or set forth in the Act. The Association shall have the power to assign its right to future income, including the right to assign its right to receive Assessments for Common Expenses, subject to the approval of a majority of the Owners present in person or by proxy and voting at a duly called meeting for that purpose or by ballot as provided for in the Bylaws.

Section 3.6 Association Management Agreements. Any agreement for professional management of the Cherry Creek Village Community may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice.

**ARTICLE 4  
COVENANT FOR ASSESSMENTS FOR COMMON EXPENSES**

Section 4.1 Creation of Association Lien and Personal Obligation to Pay Assessments for Common Expenses. Each Residence, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Assessments for Common Expenses and such other Assessments as imposed by the Association. For purposes of this section, a Lot with a duplex shall be deemed to have two Residences and each Residence shall be responsible for payment of Assessments as provided for herein. Such Assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Owner of such Residence at the time when the Assessment or other charges became or fell due. The Association annual Assessments for Common Expenses and such other Assessments as imposed by the Association, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Residence and shall be a continuing lien upon the Residence and/or Lot against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Lot Owner may become exempt from liability for payment of the Assessments for Common Expenses by abandonment of the Residence against which the Assessments for Common Expenses are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall

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be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Section 4.2 Apportionment of Common Expenses. Except as provided in this Declaration, all Assessments for Common Expenses shall be assessed and allocated equally among the Residences.

Section 4.3 Annual Assessment/Commencement of Assessments for Common Expenses. The Common Expense Assessment may be made on an annual basis against all Residences and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year. Assessments for Common Expenses shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Lot Owners from their obligation to pay.

Section 4.4 Special Assessments. In addition to the annual Assessments authorized above, the Association may levy, in any Assessment year, a special Assessment applicable to that year only for any purpose deemed necessary and appropriate by the Board of Directors; provided that any such Assessment shall have the assent of a majority of the Owners present in person or by proxy at a duly called meeting of the members.

Section 4.5 Default Assessments. All monetary fines assessed against an Owner pursuant to the Governing Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Governing Documents shall be a Default Assessment and shall become a lien against such Owner's Residence and/or Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

Section 4.6 Residence/Lot Specific Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article those amounts expended by the Association for the benefit of any individual Residence and/or Lot and the Owner thereof, including, but not limited to: fines; maintenance specific to a Residence and/or Lot; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his guests, employees, licensees, lessees or invitees; and all other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Lot and which are readily determined to be allocable to a particular Residence and/or Lot.

Section 4.7 Effect of Non-Payment of Assessments. Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of

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Directors, on a per annum basis from the due date, and the Association may assess a reasonable late charge thereon as determined by the Board of Directors. Failure to make payment within sixty (60) days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Residence and/or Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Residence and/or Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Residence and/or Lot, the Board may take possession and rent said Residence and/or Lot or apply for the appointment of a receiver for the Residence and/or Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 4.8 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Residence and/or Lot except: (1) liens and encumbrances recorded before the recordation of the Original Declarations; (2) a first lien security interest on the Residence and/or Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Residence and/or Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Residence and/or Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Residence and/or Lot pursuant to foreclosure of any first lien Security Interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

**ARTICLE 5  
COVENANTS AND RESTRICTIONS ON USE,  
ALIENATION AND OCCUPANCY**

Section 5.1 Flexible Application of the Subsequent Covenants and Restrictions. All Property within the Cherry Creek Village Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or must be contained in written guidelines or rules.

Section 5.2 Authority. All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

- (a) The ability of Owners to use their Lots may be limited by the provisions in the Governing Documents.
- (b) The Board may add, delete, modify, create exceptions to, or amend use guidelines and restrictions, or Rules and Regulations, in accordance with this Declaration and established legal principles.
- (c) The Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents.
- (d) The Board may establish penalties for the infraction of all regulations and Owners will be responsible for fines assessed against their tenants, guests and invitees for violations of the restrictions.
- (e) All penalties imposed are collectible as Assessments.

Section 5.3 Use/Occupancy. Lots shall not be used for any purpose other than a residential dwelling; provided, however, Lots with duplexes may have two Residences on a Lot. If a duplex Lot is subdivided into two Lots, a single Residence may be located on the Lot. Commercial and business uses with any adverse external effect on the nature, perception, operation or ambiance of the Cherry Creek Village Community as a first class residential Community, as reasonably determined by the Board of Directors of the Association, are prohibited.

Section 5.4 Leasing and Occupancy. Any Owner shall have the right to lease or allow occupancy of a Residence upon such terms and conditions as the Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record and subject to the following:

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(a) No Residence shall be occupied or leased except under the terms and conditions set forth in the Declaration and the Rules and Regulations. Each Residence shall be occupied and used by Owners, their guests, occupants or lessees for residential purposes only, except as may be provided by the Declaration.

(b) Owners shall be responsible for the actions and/or violations of their guests and lessees, and any lessee's guests. Owners shall provide a copy of the Declaration and any rules and regulations to each lessee at the time the lease is executed.

(c) Each Owner is strongly encouraged to conduct full background checks, including credit and criminal reports, for each lease applicant.

(d) All leases must be in writing, for a term of not less than six (6) months and must be signed by all occupants over the age of eighteen (18). No lease may be for less than the entire Residence. Every lease must include the following:

(i) A statement that the lessee has received a copy of the Declaration, the Bylaws and any rules and regulations, that the lease is subordinate to the Declaration, the Articles of Incorporation, the Bylaws and any Rules and Regulations, and that the lessee agrees to comply with the same.

(ii) An affirmative covenant of the lessee providing that failure by the lessee or the lessee's guest to comply with the terms of the Lease, the Declaration, the Bylaws, the Rules and Regulations or Colorado law shall constitute a default by the Lessee under the lease.

(e) Each Owner who leases his Lot and Residence shall provide the Association, upon request, a copy of the current lease and tenant information including names of all occupants, vehicle descriptions including license plate numbers, and any other information reasonably requested by the Association or its agents.

(f) All Owners who reside at a place other than the Residence on a Lot shall provide to the Association an address and phone number(s) where the Owner can be reached in case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.

(g) An Owner may be requested by the Board to evict any lessee who has committed more than two (2) violations of any of the provisions of the Declaration or any Rules and Regulations. Notwithstanding this provision, an Owner shall immediately evict any lessee who commits, or whose guest commits, any act, or series of acts, which endanger the life of any person, or who willfully and substantially endangers any property pursuant to the provisions of Colorado

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Revised Statutes § 13-40-107.5. If an Owner does not enforce the terms of this subsection (g), the Board shall have the authority to do so.

(h) Notice of violation may be sent to the lessee in addition to the Owner of the Residence on a Lot. The Owner will be held solely responsible for all fines incurred for violations by lessees.

Section 5.5 Lots to be Maintained. Owners are responsible for the maintenance, repair and replacement of the property and Improvements located within their Lot boundaries, including landscaping, exterior lighting, including any front yard lights and lampposts, decks, patios, driveways, sidewalks, doors, garage doors, and windows located on the Lots and Residences. Each Lot at all times shall be kept in a clean, sightly, and wholesome condition. Owners shall keep all exterior lights on the home and Improvements located on their Lot operating in good working order, including any front yard lights and lampposts. The Association, and its agents, shall have the right, but not the obligation, after giving the Owner sixty (60) days written notice, to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, and to charge and collect from the Owners thereof all reasonable costs related thereto as an Assessment hereunder.

Section 5.6 Landscaping Requirements and Restrictions. The landscaping of each Lot shall be maintained by the Owner in a neat, attractive and well-kept condition, which shall include lawns mowed, weeds cut, hedges, shrubs, and trees pruned and trimmed, adequate watering, replacement of dead, diseased or unsightly materials, and removal of weeds and debris.

Section 5.7 Restrictions on Animals and Pets. No livestock shall be raised, grown, bred, maintained or cared for in the Community. Pets, including cats, dogs, birds, reptiles, or other household animals, hereinafter for brevity termed "animal," may be kept, maintained or harbored in a Lot or a Residence, if the animal is not obnoxious to other Owners or occupants. All pets shall be controlled by their owner and shall not be allowed off of the pet owner's Lot, except when properly leashed and accompanied by the pet owner or his or her representative. Animal waste shall be cleaned up regularly from each Lot by the pet owner. If an animal is obnoxious to other Owners or occupants, the Owner or person having control of the animal shall be given a written notice to correct the problem or, if not corrected, that Owner, upon a second written notice, will be required to remove the animal from the Community. Animals may not be kept for any commercial purposes. Owners shall hold the Association harmless from any claim resulting from any action of their animals.

Section 5.8 Antennae. Subject to federal statutes or regulations governing planned communities, no exterior television or other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained within the Cherry Creek Village Community, except pursuant to the Rules and Regulations of the Association. Any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type erected, installed or maintained by an Owner is subject to reasonable and valid safety restrictions, and reasonable restrictions as to screening of the device from view



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by neighboring Lots. All costs associated with the installation or maintenance of any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type by an Owner, including costs of repair, replacement, improvement and maintenance of the structure to which such exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type is affixed, erected and/or installed upon, shall be the sole responsibility of that Owner.

Section 5.9 Nuisances. No nuisance shall be permitted within the Cherry Creek Village Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Lot, a Residence, or any other portion of the Cherry Creek Village Community by Owners. Further, no improper, offensive or unlawful use shall be permitted within the Cherry Creek Village Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Cherry Creek Village Community or a portion thereof shall be observed.

Section 5.10 V ehicular Parking, Storage, and Repairs.

(a) The following vehicles may not be parked or stored within the Community, unless such parking or storage is within a garage on a Lot, screened from view of the street and adjacent Lots or authorized in writing by the Board of Directors of the Association: oversized vehicles, commercial vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats or accessories thereto, self-contained motorized recreational vehicles, or other oversized types of vehicles or equipment as prohibited by the Rules and Regulations. Any such oversized vehicle may be parked as a temporary expedience, for up to seventy-two (72) hours, for loading, delivery of goods or services, or emergency. This restriction shall not apply to commercial vehicles temporarily located within the Community which are necessary for construction or for the maintenance of the Lots or any Improvement located thereon.

(b) No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on a Lot or within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado law governing inoperable or abandoned vehicles on public streets, or as defined by the Rules and Regulations adopted by the Board of Directors of the Association. In the event that the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof or shall be conspicuously placed upon the vehicle. If the abandoned or inoperable vehicle is not removed within seventy-two (72) hours after providing such notice, the Association shall have the right to remove the vehicle, and the owner thereof shall be solely responsible for all towing and storage charges.

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(c) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted outside of garages other than occasional use not to exceed two (2) weeks.

Section 5.11 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Cherry Creek Village Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Cherry Creek Village Community which would reasonably be found by others to be noxious or offensive.

Section 5.12 Restriction of Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Cherry Creek Village Community except one (1) "For Sale" or "For Rent" sign not exceeding six (6) square feet, one (1) professionally lettered sign not exceeding one (1) square foot, garage sale and political signs, subject to limitations in the Rules and Regulations concerning number and size of such signs and times of placement, or other signs as may be approved in writing by the Board of Directors or as permitted in other provisions of this Article or the Rules and Regulations of the Association.

Section 5.13 Outbuildings. An "outbuilding" as the word is used herein, is intended to mean an enclosed covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, trailers, mobile homes, shacks, barns, or detached garages, shall be allowed on any Lot unless approved in writing by the Board of Directors or the Architectural Review Committee. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

Section 5.14 Trash Removal Restriction. No garbage cans, trash cans or receptacles shall be maintained in an unsightly manner. If trash removal is a service ever offered by the Association to Owners, then the Association shall have the exclusive right to engage a trash removal contractor on behalf of the Owners.

**ARTICLE 6  
ARCHITECTURAL REVIEW**

Section 6.1 Required Approval. No structures, including Residences, accessory buildings, tennis courts, swimming pools, flag poles, fences, walls or any other Improvement shall be constructed erected or installed on a Lot, nor shall any alteration or change to the exterior of the Improvements, to the exterior of a Residence, to a Lot or to any structure or any attachment to the exterior of a Residence (including paint, awnings, patios, decks, or shutters) be commenced within the Cherry Creek Village Community unless complete plans and specifications (the "Application for Approval") shall have been first submitted to and approved in writing by the Board, or by the Architectural Review Committee ("Committee"), if one has been appointed, as outlined in this Declaration or any Rules and Regulations or architectural guidelines. The Board and/or Committee may require that applications of Owners and their plans and

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specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed Improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Board and/or Committee.

Section 6.2 Architectural Criteria. The Board and/or Committee shall exercise its reasonable judgment to the end that all attachments, Improvements, construction, landscaping and alterations to Improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth herein. The approval or consent of the Board and/or Architectural Review Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, effective location and use of Improvements on nearby Lots, preservation of aesthetic beauty, and conformity with the specifications and purposes generally set out in this Declaration. Upon its review of such plans, specifications and submittals, the Board and/or Committee may require that the applicant(s) reimburse the Board for actual expense incurred by it in its review and approval process.

Section 6.3 Establishment of the Architectural Review Committee. The Architectural Review Committee, if one is appointed, shall consist of a minimum of three (3) members appointed by the Board of Directors. In the event an Architectural Review Committee is not established, the Board shall perform all duties of the Architectural Review Committee as provided in this Article and the Governing Documents of the Association.

Section 6.4 Architectural Guidelines. The Committee may propose architectural guidelines from time to time, which guidelines may be approved by the Board of Directors and included in or with any Rules and Regulations of the Association.

Section 6.5 Reply and Communication. The Committee shall reply to all submittals of plans made in accordance herewith in writing within forty-five (45) days after receipt. In the event the Architectural Review Committee fails to take any action on submitted plans and specifications within forty-five (45) days after the Committee has received the plans and specifications, approval shall be deemed to be granted, unless such structure or Improvement violates the terms of this Declaration, the architectural guidelines, Rules and Regulations or zoning ordinances. All communications and submittals shall be addressed to the Committee at such address as the chairman of the Committee shall hereafter designate in writing addressed and mailed to the Owners.

Section 6.6 Commencement and Completion of Construction. All Improvements approved by the Committee hereunder must be commenced within one (1) year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national

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emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee hereunder shall be completed within ninety (90) days of commencement unless the Architectural Review Committee gives a written extension.

Section 6.7 Variances. The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in these covenants or in architectural guidelines. Such variances or adjustments shall be granted only when the granting thereof shall not be materially detrimental or injurious to the other Lots nor deviate substantially from the general intent and purpose of this Declaration.

Section 6.8 Right to Appeal. If the Board delegates its authority to an Architectural Review Committee, an Owner may appeal any decision of the Architectural Review Committee to the Board of Directors. The Board of Directors shall review the decision of the Architectural Review Committee pursuant to the criteria set forth in Section 6.2 above and the architectural guidelines. Any decision of the Architectural Review Committee may be overruled and reversed by a majority of the Directors by a written decision setting forth the reasons for the reversal when the Directors conclude that the Architectural Review Committee's decision was inconsistent with the criteria set forth in this Article and the guidelines.

Section 6.9 Waivers. The approval or consent of the Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 6.10 Liability. The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting a request for approval or for any approval or failure to approve or disapprove with regard to any matter within its jurisdiction under these covenants. Neither the Board nor the Committee shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements.

Section 6.11 Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested party during reasonable hours of the business day.

Section 6.12 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In addition, the Association shall have the right to

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levy fines for violation of this Article. Further, the Association shall have the authority to record, in the Arapahoe County records, notices of violation of this Article. In any action instituted or maintained under this Section, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure of the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE 7 INSURANCE/CONDEMNATION

Section 7.1 Insurance on the Lots/Residences. Each Owner shall obtain adequate hazard and liability insurance covering loss, damage or destruction by fire or other casualty to the Residences and other Improvements, installed or made to their Lot, the other property of that Owner, and any injuries occurring to the persons while in a Residence or on a Lot. Each Owner further covenants and agrees that, in the event of damage and destruction of structures on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 6 of this Declaration, unless a determination not to rebuild is made. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. If the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition.

Section 7.2 Insurance to be Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall include the following terms and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 7.3 Hazard Insurance on Easement Areas. The Association shall obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to any Improvements, if any, installed or made to any easement area and the other property of the Association.

Section 7.4 Association Liability Insurance. The Association shall obtain adequate public liability and property damage liability insurance for Association property, if any, and covering any easement area, in such limits as the Board may determine from time to time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries and operation of automobiles on behalf of the Association.

Section 7.5 Association Fidelity Insurance. The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the

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parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

Section 7.6 Association Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 7.7 Officers' and Directors' Personal Liability Insurance. The Association shall obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 7.8 Other Association Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 7.9 General Terms on Insurance Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to all of the Owners, holders of first lien security interests and the Association.

Section 7.10 Insurance Premium. Except as assessed in proportion to risk, insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 7.11 Managing Agent Insurance. The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association.

Section 7.12 Adjustments by the Association. Any loss covered by an insurance policy maintained by the Association shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first lien security interests as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association is not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored.

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## ARTICLE 8 GENERAL PROVISIONS

### Section 8.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Residence on a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association, acting through the Board, may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Residence and/or Lot. (In the event that any occupant, guest, or invitee of a Residence and/or Lot violates the Governing Documents and a fine is imposed, the fine shall be assessed against the Owner);

(ii) suspending the right to vote;

(iii) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(v) without liability to any person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Residence and/or Lot into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs

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incurred by the Association against the Residence and/or Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

Section 8.2 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 8.3 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 8.4 Amendment of Declaration by Owners. Any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least



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majority of the Owners in the Association. The amendment or repeal shall be effective upon the recordation by the Association in the office of the Clerk and Recorder of Arapahoe County. Any such amendments shall be certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. .

Section 8.5 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 8.6 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 8.7 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 8.8 Challenge to this Declaration. All challenges to the validity of this Declaration must be made within one (1) year after the date or recording of this document.

Section 8.9 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 8.10 Conflict of Provisions. In case of conflict between this Declaration and the Articles or Bylaws, this Declaration shall control. In the case of conflict between the Articles and Bylaws, the Articles shall control.

IN WITNESS WHEREOF, the undersigned, being the President and the Secretary of the Association, hereby certify that the Association has obtained written approval of this Amended, Restated and Consolidated Declaration from at least a majority of the Owners of Lots within the Cherry Creek Village Community, as evidenced by written instruments filed with the records of the Association.

**CHERRY CREEK VILLAGE NORTH CIVIC  
ASSOCIATION, INC.,**  
a Colorado nonprofit corporation

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

