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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS
OF
DEER VALLEY ESTATES**

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
DEER VALLEY ESTATES**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF DEER VALLEY ESTATES, La Plata County, Colorado, (this "Declaration") is made as of August 4, 2018 by the undersigned persons, who are duly authorized to execute this document on behalf of the Deer Valley Estates Property Owners' Association, Inc. (the "Association") a Colorado nonprofit corporation.

RECITALS

1. The Owners of Lots within the Deer Valley Estates Subdivision desire to amend and restate that certain Declaration of Covenants, Conditions, and Restrictions for Deer Valley Estates recorded on January 25, 2013 at Reception No. 1059751 (the "2013 Declaration").
2. Among other things, the purpose for amending and restating the 2013 Declaration is to amend and create additional provisions that bring the Association and its governing documents into compliance with changes in Colorado law governing the operation of common interest pursuant to the Colorado Common Interest Ownership Act (CCIOA) as set forth in Colorado Revised Statutes §§ 38-33.3-101 et. seq. (the "Act").
3. The Association further desires to protect and maintain Deer Valley Estates Subdivision as a residential area of high quality and value; to enhance and protect its desirability and attractiveness; and to provide for the maintenance of the common access and utilities serving the community, pursuant to this Declaration.
4. The Owners, by no less than 67% of the eligible votes in the Association, and pursuant to 38-33.3-217 of the Act, have approved and hereby adopt this Declaration.

ARTICLE 1

DECLARATION AND SUBMISSION

The Association and its Owners hereby declare that the real property described in that certain plat recorded at in the office of the La Plata County Clerk and Recorder on July 21, 2000 at Reception No. 789813 (the "Property") shall be leased, held, sold, and conveyed subject to the following covenants, conditions, restrictions and easements, which are for the purpose of protecting the value and desirability of the common interest community, and which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property. Additionally, the Owners and Association hereby submit the Property identified herein to the provisions of the Act.

ARTICLE 2

DEFINITIONS

- 2.1 Association.** "Association" shall mean and refer to the Deer Valley Estates Property Owners' Association, Inc., a Colorado non-profit corporation.

- 2.2 Allocated Interests** means each Owner's share of the Common Expenses and votes in the Association allocated to each Lot. Each Owner has one vote per Lot owned. The formula for calculating a Lot Owner's share of the Common Expense is based on a fraction: the numerator of which is 1 (one) and the denominator of which is the total number of Lots in the Subdivision. (The total number of Lots at the time of recordation of this Declaration is 84 (eighty-four); hence, the Allocated Interest for each Lot is 1/84).
- 2.3 Common Expenses.** Common Expenses are expenditures made, or liabilities incurred by, or on behalf of, the Association together with any allocations or reserves. Common Expenses include, but are not limited to, road maintenance and snow plowing of common roads; maintenance of perimeter fencing; maintenance of common landscaping; expenses of management; any taxes and special governmental assessments pertaining to the Common Elements and insurance premiums for insurance coverage as deemed desirable or necessary by the Association; wages; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any default remaining from a previous assessment period; and the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance of the Common Elements on a regular basis, as needed.
- 2.4 Member.** "Member" shall mean any person who is a member of the Association. Every person or entity who is an "Owner" shall automatically be a member of the Association.
- 2.5 Owner or Lot Owner.** "Owner" or "Lot Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple interest to a Single-family Lot or Lot, which is a part of the Property including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.
- 2.6 Property.** "Property" shall mean and refer to the property which is subject to this Declaration and which is described in the Deer Valley Subdivision Boundary Adjustment/Correction Plat recorded in the office of the La Plata County Clerk and Recorder on July 21, 2000 at Reception No. 789813 (the "Plat").
- 2.7 Single-family Lot.** "Single-family Lot" or "Lot" shall refer to any Lot, the boundaries of which are depicted on the Plat.
- 2.8 Common Elements.** "Common Elements" shall mean real property and the improvements or amenities thereon which may from time to time be owned or leased by the Association expressly for the common use and enjoyment of the Members or Owners. The Common Elements include, but are not limited to, the private roads, road rights-of-way, perimeter fences, gates, and any common improvements located within the Subdivision whether leased or owned. Common roads specifically include all of the roads named and shown within the boundaries of the Plat.

ARTICLE 3

NAME, LOCATION, AND NUMBER OF LOTS

- 3.1 Name.** The name of the Common Interest Community is Deer Valley Estates Subdivision (the "Subdivision").
- 3.2 Description.** The entire Subdivision is situated in the County of La Plata, State of Colorado, is located on the Property, and is a planned community as defined in the Act.
- 3.3 Association.** The name of the association is Deer Valley Estates Property Owners' Association, Inc. The Association is organized under the laws of the State of Colorado as a nonprofit corporation with the purpose of exercising the functions as herein set forth.

- 3.4 Number of Lots.** The total number of Lots in Deer Valley Estates Subdivision is 84 (eighty-four). The Lots are identified on the Plat as follows: Lots 1 through 15 and Lots 18 through 86. While depicted on the Plat, Lots 16A and 17A are NOT included in the Deer Valley Subdivision and are not subject to this Declaration.

ARTICLE 4

ASSESSMENTS FOR COMMON EXPENSES

- 4.1 Obligation.** Each Owner, by accepting a deed for a Lot, agrees to pay to the Association: (i.) the General Assessments imposed by the Board of Directors ("Board") as necessary to meet the Common Expenses of maintenance and management of the Common Elements and to perform the functions of the Association; (ii.) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (iii.) Default Assessments which may be assessed against a Lot for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents.
- 4.2 Purpose of Assessments.** The Assessments shall be used exclusively to promote the health, safety, and welfare of the Owners and occupants of the Subdivision, and for the improvement and maintenance of the Common Elements, all as more fully set forth in this Declaration.
- 4.3 Budget.** At a regular meeting of the Board or at a special meeting called for such purpose, the Board shall approve a proposed budget of the projected revenues, expenditures and reserves for the Association's next fiscal year. A summary of the proposed budget shall then be mailed to the Owners along with the Annual Meeting packet and shall be voted upon by the Owners. The proposed budget must be approved by 40% of the eligible voting Owners in the Subdivision. Mail-out ballots shall be counted at the Annual Meeting. In the event the proposed budget is rejected by the Owners, the budget last approved by the Owners continues until such time as the Owners approve a subsequent budget proposed by the Board as provided above. If the Board deems it necessary or advisable to amend an annual budget that has been approved, the Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider the proposed amendment. The date of such meeting shall be within a reasonable time after the delivery of the summary of the proposed amendment. The Owners shall vote upon the proposed amendment of the budget as described for the proposed budget above.
- 4.4 General Assessments.** General Assessments for Common Expenses shall be based upon the estimated cash requirements as the Board shall from time to time determine to be paid by all of the Owners, subject to this Article. General Assessments shall be payable on a prorated basis each year in advance and shall be due on the first day of each fiscal year, or such other periods as the Board may determine. The omission or failure of the Association to fix the General Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any General Assessments in excess of the actual expenses incurred in any fiscal year.
- 4.5 Apportionment of General Assessments.** Each Owner shall be responsible for their share of the Common Expenses in accordance with the Allocated Interests, subject to the provisions of this Article.
- 4.6 Special Assessments.** In addition to the General Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Board may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements, or for any other expense incurred or to be incurred as provided in this Declaration. This Section 4.6 shall not be construed as an independent source of authority for the Board to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration and in acting under this Section, the Board shall make specific references to this Section. Any amounts assessed

pursuant to this Section shall be assessed to Owners in the same proportion as provided for General Assessments, subject to the requirements that any extraordinary maintenance, repair, or restoration work on fewer than all of the Lots shall be borne by the Owners of those affected Lots only; and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the action of a particular Owner (or their agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than 30 days after such notice shall have been given. All Special Assessments shall require Owner approval by a majority of the eligible voters in the Subdivision.

- 4.7 Default Assessments.** All monetary fines assessed against an Owner pursuant to the Association 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 Association Documents, shall be a Default Assessment and shall become a lien against such Owner's 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 30 days prior to the due date.
- 4.8 Effect of Nonpayment; Assessment Lien.** Any assessment installment, whether pertaining to any General, Special, or Default Assessment, which is not paid within 30 days of its due date shall be delinquent. If an Assessment installment becomes delinquent, the Board, in its sole discretion, may take any or all of the following actions:
- 4.8.1** Assess a late charge for each delinquency in such amount as the Association deems appropriate;
 - 4.8.2** Assess a default interest charge from the date of delinquency at the yearly rate established by the Board, not to exceed 21% per annum;
 - 4.8.3** Suspend the voting rights of the Owner during any period of delinquency;
 - 4.8.4** Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
 - 4.8.5** Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
 - 4.8.6** File a statement of lien with respect to the Lot and proceed with foreclosure as set forth in this subsection 4.8.6. Assessments chargeable to any Lot shall constitute a continuing lien on such Lot, including any improvement on the Lot. To evidence the lien created under this Section, the Association may, but is not required to, prepare a written notice setting forth (i) the address of the Association, (ii) the amount of such unpaid indebtedness, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the Owner of the Lot, and (v) a description of the Lot. The notice shall be signed and acknowledged by the President or Vice President of the Association, the Association's attorney, or by the Manager. With prior approval of the Board, the Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under Colorado law. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on the Lot at a foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.
- 4.9 Personal Obligation.** The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of the Lot. Owners may not exempt themselves from liability for the Assessment by abandonment of their Lot or by waiver of the use or enjoyment of all or part of the Common Elements. No Owner has the right of offset against Assessments owed by an Owner to the Association. Suit to recover a money judgment for unpaid Assessments, any penalties and interest, thereon, the cost

and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be recoverable by the Association.

- 4.10 Successor's Liability for Assessment.** In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot, except as provided below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Lot without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall be personal, and shall not terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the Statement of Status of Assessment Payment by or on behalf of the Association under this Article.
- 4.11 Subordination of Lien.** The lien of the Assessments provided for in this Declaration shall be subordinate to (i.) the lien of real estate taxes and special governmental assessments, (ii.) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii.) liens for all sums unpaid for a first lien security interest on a Lot recorded before the date on which the assessment sought to be enforced became delinquent, subject to the priority granted to the Association's lien under the Act. The lien of the Assessments shall be superior to and prior to any Lot exemption provided now or in the future by the laws of the State of Colorado. An Owner's transfer of any Lot shall not affect the Association's lien except that sale or transfer of any Lot pursuant to foreclosure of any first mortgage, or any proceeding in lieu thereof, or cancellation or forfeiture shall only extinguish the Association's liens as provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.
- 4.12 Notice to Mortgagees.** The Association shall report to any Mortgagee any unpaid Assessments remaining unpaid for longer than 60 days after the same shall have become due, if such Mortgagee first shall have furnished to the Association written notice of the Mortgage and a request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment payable with respect to such Lot, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as the lien of the Mortgage.
- 4.13 Statement of Status of Assessment Payment.** The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee, upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within 14 calendar days after receipt of the request and is binding on the Association, the Board and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

ARTICLE 5

ARCHITECTURAL REVIEW COMMITTEE

- 5.1 The Committee.** There is hereby established an Architectural Review Committee, hereinafter referred to in this Declaration as the Committee, consisting of no less than three members (always an odd number), all of whom shall be appointed by the Board. The purpose of the Committee shall be to guide and review plans for building within the Subdivision and to help ensure that Owners maintain their properties in a safe and conforming manner to this Declaration. The aforesaid members of the Committee shall serve at the pleasure of the Board. The vote of the majority of the members shall constitute the action of the Committee.

5.2 Required Approval. No improvements or uses, as defined in Article 6 and Article 7 of this Declaration, shall be constructed, erected, placed, altered, maintained, or permitted on any Lot, nor shall any construction or excavation whatsoever be commenced, or materials, equipment, or construction vehicles be placed on any Lot until plans and specifications with respect thereto, in manner and form satisfactory to the Committee, showing the proposed improvements, site location of such improvements, complete building plans, landscaping, grading, easements, and utilities and such other information as may be requested by the Committee, have been submitted to and approved in writing by the Committee.

5.3 Criteria for Structures. No structure of a temporary or permanent character, including tents (to not include those used for camping, as defined by Article 7.19.3), shacks, detached garages, sheds or other outbuildings shall be placed on a Lot without plans being submitted to the Committee for approval. These structures would be subject to the Article 5.4 criteria for approval.

5.3.1 Expectation of Owner Compliance. It is expected by the Association that Owners will comply with all approved improvements. Failure to gain such compliance will be referred to the Board for further action.

5.4 Criteria for Approval. Approval shall be based upon, among other things, conformity and harmony of exterior design, colors, and materials with neighboring structures; relation of the proposed improvements to the natural topography, grade, and finished elevation of the structure to that of the neighboring structures and natural features of property; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

Two sets of complete architectural drawings, drawn to $\frac{1}{4}$ " = 1'-0" scale, for the structure(s) must be submitted to the Committee. Said drawings shall include a plot plan showing location of the structure(s); four elevations; approximate location of the propane tank, well, and septic system with dimensions from property lines for each item; type of septic system, i.e., leach field or engineered; all architectural details, such as type and color of roof, siding, and window trim; and the same specifications as above for any outbuildings, such as a detached garage. After approval, one set of plans will be returned to the Owner.

For existing homes, two sets of complete architectural drawings, drawn to $\frac{1}{4}$ " = 1'-0" scale, for any addition or modification must be submitted to the Committee for approval before construction begins. Said plans shall include a plot plan showing dimensions from existing structures and property lines; four elevations; and all architectural details, such as type of materials and colors. After approval, one set of plans will be returned to the Owner.

Upon submission of plans and specifications by the Owner to the Committee, it shall be the responsibility of the Committee to notify the Owner, either by electronic mail ("e-mail") or in writing via the USPS, of any information required, but not submitted. This notification shall take place within 20 (twenty) days of the original submission, or all information submitted shall be deemed complete. The Committee shall notify the Owner, either by e-mail or in writing via the USPS, upon receipt of all required plans and specifications and the aforesaid twenty-day approval period shall commence on the date of said notification. If the Committee either fails to approve or to disapprove such plans and specifications within 20 (twenty) days after the same have been submitted to it, it shall be conclusively presumed that said plans and specifications have been approved as submitted. Disapproval of any plans and specifications shall terminate the twenty-day approval period, and any further submittals shall begin the twenty-day approval period for the newly submitted plans and specifications. Final approval for construction is contingent upon the Owner and contractor executing the "Owner and Contractor Agreement". This Agreement includes an expectation of exterior completion conforming to the plans within a reasonable time following the start of construction. Such 'reasonable time' shall be defined as 365 calendar days following the beginning of foundation excavation.

5.5 Limited Liability of the Committee. The Committee shall not be liable in damages to anyone submitting plans for approval or to any Owner by reason of a mistake in judgment, negligence, or nonfeasance arising

out of or in connection with the approval, disapproval, or failure to approve such plans and specifications. Every Owner or other person who submits plans to the Committee for approval agrees by submission of such plans and specifications that they will not bring any action or suit against the Committee to recover any such damages. Approval by the Committee shall not be deemed to constitute the plans or the requirements of any local building codes, and it shall be the responsibility of the Owner or other persons submitting the plans to the Committee to comply therewith.

- 5.6 Variances.** Whenever circumstances such as topography, hardship, location of property lines, location of trees, brush, streams, or other matters require, the Committee may allow, by an affirmative vote of the majority of the members of said Committee, a reasonable variance as to any of the Covenants and Restrictions contained in this Declaration on such terms and conditions as it shall require. The Committee shall refer to Article 6 below, which shall govern their actions in respect to granting any variances. The Committee shall maintain in a documentary form details of every variance granted and the reasons for granting same.
- 5.7 Books and Records.** The Committee shall keep and safeguard a complete written record of all applications approved and submitted to it and all actions taken by it under the provisions of this Declaration. Said records shall be maintained as part of the permanent record. Architectural drawings shall be kept for a minimum of five years.

ARTICLE 6

ARCHITECTURAL DESIGN AND CONSTRUCTION STANDARDS

- 6.1 Minimum Dwelling Size.** Each single-family dwelling unit shall contain a minimum of one thousand two hundred (1,200) square feet. This minimum area shall be exclusive of roofed or unroofed porches, terraces, garages, unfinished basements or other structures.
- 6.2 Construction Limits.** All Lots within the Property are limited to single-family construction with out-buildings as defined below, as well as all Federal and State-authorized energy creating devices.
- 6.3 Setbacks and Access.** No structure shall be built within the following setback standards:
 - 6.3.1** Side lot lines 25-foot setback;
 - 6.3.2** Front lot lines 25-foot setback;
 - 6.3.3** Rear lot lines 25-foot setback; and
 - 6.3.4** Fences (all lot lines) No setback.
 - 6.3.5** All dwelling units shall have the use of Common Elements (i.e. the Subdivision roads and rights-of-way, referred to in Article 2.8) as required for installation and maintenance of driveways to the Subdivision roads as well as installation and maintenance of infrastructure such as electric power, telephone, and data conductors. Any trenching of Subdivision roads for installation of infrastructure shall be back-filled as directed by the Committee. Other uses of the Common Elements are severely restricted and are described in other areas of this Declaration. If the Lot will have a driveway which crosses a Subdivision roadway ditch, the Owner of said Lot must install a culvert under the driveway to keep the ditches, if any, along the Subdivision roads clear and unobstructed. When a culvert is required, the culvert must have a minimum size of twelve (12) inches in diameter by thirty (30) feet in length; however, a larger diameter may be required, subject to Committee approval and direction. Both ends of the culvert must be clearly marked with reflective surfaces up to an adequate height for snowplows. Maintenance of Owner-installed culverts is a shared responsibility between the Association and the Owner, since road debris may

cause restrictions; however, Owners are responsible for keeping pine cones, needles, and other natural debris from obstructing their culverts.

6.3.6 With the exception of driveway access and address signage, any use of Owners' Road Right-of-Way (RROW), as defined in Article 7.24.3 below, is prohibited unless approved by the Board.

6.4 Height. The maximum height of all structures shall be two stories. When built on top of a walk-in basement, at least one wall of said basement must be built into a hillside to a minimum depth of six feet.

6.5 Structure Surfaces. All exterior surfaces of all structures shall be constructed of natural woods, stone, brick, stucco, or other comparable materials as approved by the Committee. Non-galvanized corrugated metal may be used as exterior trim; however, no metal exterior surfaces will be permitted. No fences or trim or amenities of any structure shall be painted in any color other than a color approved by the Committee. Likewise, colors of stone or brick must complement the surrounding area and must be approved by the Committee.

6.6 Roofs. Roofs shall be constructed of metal, composition shingle, or comparable materials only. No wood or wood products, including but not limited to wood shingles or shakes will be permitted. Roofs shall be of a color harmonious with surrounding landscaping and structures. All materials and colors must be approved by the Committee.

6.7 Trees. It is the desire of the Association to maintain the natural environment of the Subdivision as much as possible. Clear cutting of trees is prohibited. Clearing trees for a building site of any kind prior to approval of plans by the Committee is prohibited. Trees that are diseased or lack stability or pose a hazard may be cut as necessary. Trees that require removal to minimize fire danger or to promote tree health may also be cut as necessary.

6.8 Fences and Gates.

6.8.1 Fences. Fences of a maximum of six feet in height shall be the accepted standard; however, fence height shall be dependent upon the purpose for which the fence is being erected and shall be approved by the Committee after consideration of the purpose of the fence. Fence material and appearance shall be harmonious with surrounding landscaping and structures.

6.8.2 Electric Fences. For public safety and because of fire danger, above-ground electric fences must be approved by the Committee prior to installation.

6.8.3 Gates. Gate height and width shall be approved by the Committee after consideration of the purpose of the gate. Any gate to be installed in the perimeter fence of the Subdivision must be approved by the Board and must meet requirements as specified by the Board. Gate material and appearance shall be harmonious with the fence, and with surrounding landscaping and structures.

6.9 Flags. Flags and flagpoles of the following sizes shall be allowed:

6.9.1 Each Lot shall be limited to two (2) flagpoles, neither of which shall exceed twenty-five (25) feet in height.

6.9.2 Flags of Affiliation (such as college, university, Armed Forces Branch, or Blue Star/Gold Star Mothers) shall not exceed three (3) feet by five (5) feet in size. The poles supporting these flags shall not exceed 25 feet in height if only holding this type flag. If a United States flag is in the vicinity, the pole displaying the Flag of Affiliation must be shorter.

6.10 Water and Septic Systems. Individual water wells and individual septic or sewage systems will be permitted on any Lot for use by the associated Single-family dwelling and/or guest house as authorized by La Plata County. It should be noted that La Plata County has permitted Deer Valley one water well per

Lot. Any evaporative pond associated with a septic system shall be fenced in accordance with La Plata County standards. This fencing shall be reviewed by the Committee.

- 6.11 Types of Houses.** No factory-built, manufactured, mobile, or modular homes will be approved. All homes must be custom built with a minimum of 70% on site construction. Some out-buildings such as a shed without a permanent foundation may be exempt, but all such structures are still subject to full review by the Committee with regard to outward appearance.
- 6.12 Guesthouses.** Guesthouses must comply with La Plata County building codes and applicable permitting procedures.
- 6.12.1** The guesthouse must not exceed eight hundred (800) square feet of living space.
- 6.12.2** The guesthouse must be combined with another approved ancillary structure as defined in Article 7.1.
- 6.12.3** Guesthouses will not be approved prior to the completion of a primary dwelling.
- 6.13 Variances.** Notwithstanding the Design and Construction Standards imposed hereinabove, the Committee may, upon request and in accordance with Article 5.6, at its discretion and upon good cause shown, grant variances to the restrictions set forth in this Article 6 only.

ARTICLE 7

USE AND OCCUPANCY RESTRICTIONS

- 7.1 Single-Family Use Restrictions.** All Lots within the Property shall be used for Single-family Lot purposes. Single-family Lot purposes do not include short-term vacation rentals of less than 90 days. In addition, Single-family Lots may include among others, a barn, a storage shed, a detached garage, and a guesthouse, as defined in Article 6.12. Addition of these structures does not preclude the Single-family use restrictions.
- 7.2 Lot 15 Restrictions.** Notwithstanding anything to the contrary herein, Lot 15 shall be allowed for commercial as well as residential use. Such residential use is subject to all Covenants, Conditions, and Restrictions that apply to all Lots. Such commercial use shall conform to the requirements of this Section 7.2, shall be compatible with the residential nature of Deer Valley Estates Subdivision and is subject to the approval of the Board, which approval shall not be unreasonably withheld, conditioned or delayed (see Article 5.4).

"Compatible with the residential nature" criteria as mentioned in Paragraph 1 of this Section shall include, but may not be limited to, concerns for appearance, odors, noise, traffic, and the family nature of the Subdivision. The commercial use (i) shall not cause increased parking or traffic on Subdivision roads (other than the entrance from the highway), (ii) shall not negatively impact the security and safety of the Subdivision, and (iii) shall not otherwise cause disproportionate utilization, measured on a per Lot basis, of any Subdivision facilities or Common Elements. As a condition of approval of any commercial use on Lot 15, general public access shall be prohibited by deed restriction or other sufficient legal instrument to prevent the public from accessing any road on the interior side of the Subdivision entrance gate or portal.

As with all other Lot improvements, the Committee shall have jurisdiction and approval authority for any and all improvements made to Lot 15, whether used for commercial or residential purposes, as well as the maintenance of those improvements. Specifically, no equipment, raw materials, finished goods, or items for sale shall be stored on the Property except within an approved structure(s) or as approved by the Committee. The Committee shall be subject to the same reasonableness provision for approving improvements relating to the approved commercial use as noted in Paragraph 1 of this section.

Submittal by the Owner of Lot 15 for approval of a planned commercial use shall be to the Committee in accordance with the provisions of this section and those provisions otherwise applicable to plan submittal to the Committee. The Committee shall immediately advise the Board of such submittal. Such submittal shall specifically include all plans for preventing general public access to the interior side of the Subdivision and may include a narrative description and promotion of the planned commercial use suitable for inclusion in a notice to the Owners (the "Owner Narrative").

Ruling by the Board on any proposed commercial use of Lot 15 shall be deferred until the Board has notified all Members of the proposed use (the "Member Notification"). The Member Notification shall include the Owner Narrative, if any is provided at time of submittal, and shall otherwise conform to the Notice provisions of this Declaration and shall be accomplished by the Board within 15 (fifteen) days of a completion by the Owner of Lot 15 of a complying submittal. At the conclusion of 30 (thirty) days from the date of completion of the Member Notification, the Board shall have 15 (fifteen) days within which to rule on the submittal. In making such ruling, the Board shall take all Owner comments into consideration together with comments of the Committee. In the absence of a ruling by the Board within 60 (sixty) days of completion of a complying submittal, the planned use shall be deemed approved.

In the event of disapproval by the Board of a complying submittal for commercial use of Lot 15, the Owner of Lot 15 may use the Association's Alternative Dispute Resolution procedures set forth in Article 8 of the Association's Governance Policies and Procedures.

Sign(s) on Lot 15 for the purpose of commercial business identification shall comply with County regulations.

7.3 In-Home Businesses. Other than Lot 15, no commercial uses shall be allowed, except that an in-home business or occupation may be carried out within the residence on a Lot, and it is considered approved by the Board provided it complies with the following criteria (the Board reserves the right to revoke said approval for non-compliance):

7.3.1 It does not interfere with the residential character of the dwelling or neighborhood;

7.3.2 It is secondary to the use of the residence as a dwelling place;

7.3.3 It causes no parking or traffic issues; and

7.3.4 It has no outward appearance of such home occupation.

7.3.5 With the exception of a maximum of two vehicles licensed for highway use which are utilized in the daily activities of the business, no equipment or materials incident to any business or occupation (whether conducted within the residence or elsewhere) shall be kept or stored on any Lot except within the residence, garage, or other outbuilding approved by the Committee.

7.4 No Mining or Drilling. No oil or gas drilling with the extraction thereof or mining operations shall be permitted on any Lot.

7.5 Water and Septic Systems. Septic systems must be properly maintained such that no noxious odors result from effluent that is not properly treated, particularly for those systems using a septic tank plus pond concept. It is the Owner's responsibility to maintain any fences associated with these ponds. Any vent pipes or cleanout pipes associated with these systems, as well as cistern covers and vent pipes, and well heads, must be painted a color to blend with the natural surrounding environment or shielded from public view.

7.6 Noxious, Hazardous, or Offensive Activities. No noxious, hazardous, or offensive activity shall be carried out on any Lot, nor shall anything be done or placed therein which may be or become a nuisance, hazard, or cause embarrassment, disturbance, or annoyance to the Owners in the enjoyment of the Property.

7.7 Garbage. No garbage, trash, junk piles, or other waste shall be placed or stored anywhere on any Lot other than in covered, sanitary containers. All garbage and trash collection and disposal shall be in strict compliance with rules for the residents, as established by the Association from time to time.

7.7.1 Any community trash receptacle/dumpster purchased/leased by and for Deer Valley Estates will be for Deer Valley Estates home-generated trash only. No furniture, TVs, electronics, auto parts, tires, used engine oil, etc. shall be permitted in the Subdivision dumpsters at any time. No trash from outside the Subdivision will be permitted. The community trash receptacle shall not be for contractors, construction workers, or other commercial business within the Subdivision.

7.8 Animals. No animals shall be kept, bred, raised, or boarded within the Property for commercial purposes. Only generally recognized household pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles shall be allowed on any Lot. In addition, each Lot is permitted to have a maximum of three horses. No stallions are permitted. No other livestock or domestic fowl are permitted.

Household pets, as defined above, shall not cause an unreasonable amount of noise or odor, and shall not become a nuisance to other Lot Owners or occupants. Animals shall not be permitted to roam at will, and steps may be taken to control any animal not under such control. All household pets shall be properly immunized and otherwise maintained and cared for as required by applicable laws.

The Owner of any animal shall be liable for all damage and destruction caused by such animal, and for any clean up necessitated by such animal. Pet owners may be subjected to fines as imposed by the Colorado Division of Parks and Wildlife or La Plata County Animal Control if domestic pets are caught harassing or destroying wildlife.

The Board is hereby given the authority to take such action(s) as it deems necessary to remedy any violations and enforce the restrictions of this Section 7.8 and charge Lot Owners Default Assessments, in accordance with the Bylaws and Governance Policies and Procedures, in connection with enforcing these restrictions.

7.9 Outside Burning. Fires in a contained barbeque unit, including LP gas for cooking purposes, outdoor fireplaces, campfires, chimineas, or ceremonial fires, all within a prepared area to prevent spreading, shall be allowed. Such fires **do not** require a formal burn permit.

Disposing of Lot vegetation matter using outside burning is subject to the following restrictions: such fires must be of wood, tree refuse, brush, or other such matter; and, under no circumstances shall garbage, household trash, paper products (other than those used to start a fire), or any petroleum-based products, including plastics, be burned within the Subdivision.

By La Plata County Ordinance, these fires require a formal burn permit that must be obtained from Upper Pine River Fire Protection District. (UPRFPD). Owners must ensure any outside burning does not cause hazardous conditions. Everyone is responsible for detection and should be alert to the potential of wildfire. **Therefore, before doing any outside burning that may emit smoke resembling a potential wildfire, it is a County requirement to first notify Central Dispatch that you wish to conduct a "controlled burn" by calling 970-385-2900.** You will be asked your name, address of the burn, a phone where you can be reached during the burn, what you will be burning, and a burn permit number, if required. If someone sees your smoke and calls emergency services (911), Central Dispatch may be able to avoid sending emergency services unnecessarily.

In the event that a "fire ban" is in effect or a "red flag" wind warning is predicted, you will be told not to conduct the burn. La Plata County Commissioners, with input from District Fire Chiefs, the La Plata County Sheriff, Colorado State Forestry, and U. S. Forest Service officials, determine when fire bans are in effect. The Board may seek to further alert Owners to increased fire dangers via signage, email or other means.

- 7.10 Clotheslines and Children's Playground Equipment.** Clotheslines and children's playground equipment shall be constructed and maintained in a manner that blends with the surrounding environment. Clotheslines shall be screened as much as possible from public view.
- 7.11 Storage Tanks and Exterior Equipment.** Tanks used for storage of gasoline, oil, or water, or apparatus for refrigeration, heating, or electrical generation require prior approval of the Committee. In these cases, plans shall be submitted showing how the equipment will be located, fenced, screened, or painted such as to make them unobtrusive or to hide them from public view.
- 7.12 Exterior Lighting.** All exterior lighting installed on a Lot shall be placed so that the light source is screened or shielded from shining directly upon the residence on any other Lot. No light shall be emitted which is unreasonably bright or causes unreasonable glare to surrounding Lots.
- 7.13 Antennas.** Satellite TV dishes and unobtrusive antennas to enhance reception of normal household radios and televisions or high speed Internet are permitted. However, any antenna shall not extend more than 10 (ten) feet above the highest point on the roof of the primary dwelling, nor shall any satellite dish be placed on any structure or erected in any manner so as to extend above the roofline of the primary dwelling. Appearances of such devices should blend with the surrounding areas as much as possible. The Federal Communications Commission Over-the-Air Reception Devices (OTARD) rules will be used as the basis for approval of any antenna or other such device that is presented to the Committee.
- 7.14 Alternative Energy Devices.** Solar energy devices, wind generating devices, awnings, shutters and other shade structures marketed to reduce energy consumption, garage and attic fans, evaporative coolers, energy-efficient outdoor lighting devices, and retractable clotheslines are permitted. The location of larger devices, such as solar energy devices, wind generating devices, etc. is subject to approval by the Committee before installation. Basis for approval will be that the devices are to blend with the forest environment, not extend more than 10 (ten) feet above the highest point of the primary dwelling, will be reasonable in size, placement and appearance, and will not impair or interfere with the normal operation of other approved devices in Articles 7.13 or 7.14.
- 7.15 Vehicle Parking.** No overnight parking will be permitted upon any Deer Valley Estates Subdivision road with exception of emergency situations.
- 7.16 Signs.** No signs shall be permitted on any lot with the exception of those listed below:
- 7.16.1** Signs required by legal proceedings;
 - 7.16.2** One "For Sale" sign which shall not exceed a total face area of six (6) square feet;
 - 7.16.3** Contractor identification sign on construction sites as required by Owner and Contractor Agreement: said sign shall be removed no later than 30 (thirty) days after completion of the exterior of the structure;
 - 7.16.4** Residence address sign MUST be posted and easily seen from the road in accordance with La Plata County fire and emergency requirements;
 - 7.16.5** "No Trespassing" signs;
 - 7.16.6** Political signs are limited to one sign per office and/or issue, not to exceed a total face area of six square feet per sign; and
 - 7.16.7** Residents are to place no signs other than address numbers in or upon the Common Elements.
- 7.17 Re-Subdivision or Consolidation of Lots.** No re-subdivision of Single-family Lots shall be permitted. In the event two or more Lots are consolidated, the Owner shall be responsible for paying the Common Expenses attributable to each of the consolidated Lots as they existed prior to the lot consolidation. For

clarification purposes, there shall be no reduction in the Common Expense Allocated Interests as a result of a Lot consolidation. The voting allocation attributable to the consolidated lots shall not change and the Owner shall have the same number of votes per Lot as prior to the Lot consolidation.

7.18 Junk Vehicles. Junk vehicles and vehicles without current registration are not allowed on any Lot within the Subdivision, with the exception of the following:

7.18.1 Vehicles without current registration that are being used for landscaping purposes must first receive approval from the Committee;

7.18.2 Vehicles that are inoperable or in disrepair for more than ninety (90) days shall be placed within an enclosed area, such as a garage or other approved structure, or shall be removed from the Property.

7.19 Recreational Vehicles. Any recreational vehicle placed on any Lot must have current registration and must meet the following criteria:

7.19.1 If a primary dwelling is in place, motor homes, camping trailers, and recreational vehicles (such as boats and ATV's, either on or off a trailer, and other towed items) should be stored out of view from roads and other Owners to the extent possible in order to maintain the openness and general appearance of the Subdivision.

7.19.2 If a primary dwelling is not in place, but approved house plans exist and foundation construction has begun, a recreational vehicle may be used as a temporary dwelling for not more than 365 days while the home is being constructed.

7.19.3 If a primary dwelling is not in place, recreational vehicles, tents, etc, may be on Lots for temporary use by the Owner. This use is limited to 180 days between May 1st and November 30th of any year. Vacant lots are not to be used for long-term storage of recreational vehicles.

7.20 Guesthouses. Subject to acquisition of the proper land use permit(s), a guesthouse may be constructed upon any Lot provided that it meets the criteria contained in Article 6.

7.21 Motorized Vehicles. Lot Owners or their guests may not operate passenger vehicles, snow machines, motorcycles, trail bikes, mini bikes, dirt bikes, all-terrain vehicles, mopeds, or similar vehicles on any Lot(s) other than their own without permission of the Lot Owner(s). Drivers may operate these vehicles on roads within the Subdivision so long as they adhere to the licensing requirements as prescribed by the State of Colorado and the proper rules of driving, including speed limits within the Subdivision. All motorized vehicles must be muffled at all times so as not to result in excessive noise.

7.22 Trespassing. It should be recognized that individual Lots are private property and should be treated as such. Walking, or riding bicycles, horses, or motorized vehicles, or any such intrusion is a violation of the law without the express permission of the Lot Owner.

7.23 Rental of Lots/Residence. An Owner who leases their Lot/residence to any person shall be responsible for assuring compliance by the lessee with all of the provisions of this Declaration, the Articles, Bylaws, and Association Policies and Procedures, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by the lessee thereof. As described in Article 7.1, short-term vacation rentals of less than 90 days are not permitted.

7.24 Maintenance. Owners of each Lot are required to maintain their Lot in keeping with standards of both neighborhood safety as well as the structural integrity and aesthetic appearances envisioned when improvements were approved by the Committee. Failure to do so may cause an Owner to incur Default Assessments imposed by the Board to ensure compliance.

7.24.1 Lot Maintenance. Wildfire mitigation, as defined in the Association's Community Wildfire Protection Plan (CWPP), shall be maintained, including control of oak brush, dry weeds, and grasses that may become ladder fuels or fire accelerants. Via reasonable and safe methods, noxious weeds, and mosquitoes in septic ponds or open water facilities as defined by the State of Colorado and La Plata County shall be controlled.

7.24.2 Structures/Improvements. Structures shall be maintained so as to preserve the harmony and conformity of exterior design, colors, and materials as approved by the Committee. Substantive changes will require the approval of the Committee including type and color of roofing and siding as well as window trim. This maintenance requirement applies to any and all improvements approved by the Committee including, but not limited to, fencing, entrances and gates.

7.24.3 Road Right-of-Way (RROW). Right-of-way along Association roads is owned by the Association, hence jointly by all Owners. Since all Lots border RROW, it is in the best interest of all Owners for each to maintain their portion in keeping with Lot Maintenance. While the Association is committed to ensuring all RROW is maintained for both safety and aesthetics, this maintenance is also a responsibility of Owners. If Owners do not maintain their Lot portion of the RROW, the Association is obligated to do it for them. A Default Assessment may be imposed to pay for such maintenance.

7.25 Hunting. As a safety issue, all hunting of large and small game with firearms or weapons of any kind is prohibited within Deer Valley Estates. The exception is that firearms may be used to control small nuisance varmints.

7.26 Shooting. The discharge of firearms or any other weapons for the purpose of target shooting within the Subdivision shall be subject to the laws of the State of Colorado, particularly the following firearm and noise related statutes: 18-12-107.5 Illegal discharge of a firearm -- penalty; 18-12-106 Prohibited use of weapons; 18-12-108.5 Possession of handguns by juveniles -- prohibited -- exceptions -- penalty; Article 12 Noise Abatement 25-12-101 Legislative declaration; 25-12-102 Definitions; 25-12-103 Maximum permissible noise levels; 25-12-104 Action to abate; 25-12-108 Preemption; 25-12-109. Exception -- sport shooting ranges -- legislative declaration. Target practice with archery equipment shall be permitted with the application of all appropriate safety considerations.

7.27 Perimeter Fence Access. Each Owner of a Lot having a boundary coincident with Association perimeter fencing, shall give the Association, its employees and agents, access as needed through their Lot to the perimeter fence for the purpose of installation, replacement, maintenance, and repair of the perimeter fence along the boundary of the Subdivision. Any Owner desiring to install a perimeter fence gate shall contact the Board for specific requirements.

ARTICLE 8

GENERAL PROVISIONS

8.1 Amendments. This Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the eligible votes in the Association. Any amendment must be signed by the President of the Association and recorded in the real property records of La Plata County, Colorado.

8.2 Notices. Any notice required to be sent to an Owner under the provisions of this Declaration or the Bylaws shall be deemed to be properly sent when sent via e-mail to that Owner at the last known e-mail address of the person who appears as such Owner on the records of the Association at the time of such transmission. Upon written request by an Owner, notifications will be mailed via the U.S. Mail, postage prepaid, to the last known address of the person who appears as such Owner on the records of the Association at the time of such mailing. A hard or electronic copy of all notices shall be kept in Association files.

- 8.3 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions of which shall remain in full force and effect.
- 8.4 Benefits and Burdens.** The terms and provisions contained in this Declaration shall run with the land and bind and inure to the benefit of the Lot and the private-dwelling unit Owners located within the Property and their respective heirs, successors, personal representatives and assigns.
- 8.5 Singular and Plural.** Words used herein regardless of the number and gender specifically used shall be deemed and construed to include any other number, singular and plural, in any other gender, masculine or feminine, as the context requires.
- 8.6 Non-Liability of Officials.** To the fullest extent permitted by law, as defined in the Colorado Revised Statutes, neither the Board, the Architectural Review Committee or any other committees of the Association or any Member thereof, nor any Directors or Officers of the Association, shall be liable to any Member, Owner, occupant, the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specification (whether or not defective), course of action, act, inaction, omission, error, negligence, or the like made in good faith and which the Board, or such committees reasonably believed to be within the scope of their respective duties.
- 8.7 Insurance.** The Association shall maintain and keep in effect at all times certain types of insurance, as described below, and the cost of said coverage shall be paid by the Association as a Common Expense. The Board is given full and complete authority to act on insurance matters on behalf of the Association. These matters shall include, but not be limited to: selection of policy form and provider(s); determination of fair premiums and terms of payment; administration of any and all claims; and receipt and distribution of any and all benefits. The beneficiary of said insurance shall be the Association or its covered representatives as indicated below.

Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient. In no event shall insurance coverage obtained or maintained by the Association preclude the need for Owners to obtain insurance for their own benefit. Insurance coverage on the furnishings and other items of personal property belonging to a Lot Owner, public liability insurance coverage upon each Lot, and hazard insurance coverage on the improvements constructed on Lots shall be the responsibility of the Lot Owner.

8.7.1 General Liability Insurance To the extent reasonably obtainable, the Association shall carry commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements and covering public liability or claims or liability for injury to persons and/or property, and death of any person or persons, and, if the Association owns or operates motor vehicles, public liability or claims of liability for bodily injury (including death) and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability, to the extent reasonably obtainable, shall

8.7.1.1 Have limits of not less than one million dollars (\$1,000,000) per person and two million dollars (\$2,000,000) per occurrence or such greater amounts as the Board shall approve;

8.7.1.2 Insure the Board, the Association and its Officers, and appointed agents;

8.7.1.3 Cover claims of one or more insured parties against other insured parties; and

8.7.1.4 Be written on a claims-made basis.

8.7.2 Directors and Officers Liability Insurance. To the extent reasonably obtainable, the Association shall carry Directors' and Officers' liability insurance with coverage of at least one million dollars (\$1,000,000) or such greater amount as the Board shall approve for all Association

Directors, Officers, and managers, for any and all errors and/or omissions and other covered actions that occur during their tenure in office or employment.

8.7.3 Other Insurance. The Association may carry such other insurance in such amounts as the Association shall determine, from time to time, to be appropriate to protect the Association or the Lot Owners.

IN WITNESS WHEREOF, this AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of DEER VALLEY ESTATES has been executed and acknowledged by the undersigned on this 21 day of August, 2018

Deer Valley Estates Property Owners' Association, Inc.

James B. Wiler
By:
Its: President

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

ERIK BERES
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20184018063
MY COMMISSION EXPIRES APRIL 26, 2022

The foregoing instrument was acknowledged before me this 21ST day of AUGUST, 2018, by JAMES WILER, President of Deer Valley Estates Property Owners' Association, Inc.

Witness my hand and official seal.
My commission expires: APRIL 26, 2022

Erik Beres
Notary Public