

**MASTER DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR MOUNTAIN LAKE VILLAS**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN LAKE VILLAS ("Declaration") is made as of March __, 2020 by BWD, LLC, a Colorado limited liability company and OGI Real Estate Holdings, LLC.

RECITALS

1. The common interest community, which is the subject of this Declaration, was created by Villas At Pagosa Lodge, LLC a Colorado limited liability company, (the "Original Declarant") pursuant to a Development Agreement with the Town of Pagosa dated October 15, 2004 and that certain Declaration of Restrictive Covenants of The Villas at Pagosa Lodge recorded August 30, 2006 at Reception No. 20608315 ("Original Declaration").

2. The Original Declaration, among other things, did not contain a proper legal description of the real property to be submitted to the Declaration and it did not describe that the real property would consist of a phased development. The undersigned, BWD, LLC and OGI Real Estate Holdings, LLC have acquired all the real property described on Exhibit A attached hereto and incorporated herein, to be subjected now, and in the future, to the common interest community that was formerly known as The Villas At Pagosa Lodge and which will now be known as Mountain Lake Villas (the "Property").

3. In connection with its acquisition of the real property, BWD, LLC is a successor to the Original Declarant pursuant to the Act and, specifically, has acquired all development rights in the Property by way of Transfer of Special Declarant Rights dated May 30, 2018 recorded June 4, 2018 at Reception No. 21803368, in the real property records of Archuleta County, State of Colorado and by way of further Transfer of Special Declarant Rights dated May 31, 2018 recorded June 4, 2018 at Reception No. 21803369, in the real property records of Archuleta County, State of Colorado.

4. Among other things, BWD, LLC and OGI Real Estate Holdings, LLC as the 100% owners of the Property, desire to amend and restate the Original Declaration so that this Declaration shall supersede and replace, in its entirety, said Original Declaration.

5. Mountain Lake Villas is a planned community to be governed by a Master Association pursuant to the Colorado Common Interest Ownership Act (the "Act"), as set forth in Colorado Revised Statute 38-33.3-101 et. seq.

1. DECLARATION

1.1 Declaration. Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the covenants, conditions, restrictions, reservations, easements,

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assessments, charges, liens, and other provisions of this Declaration.

1.2 Covenants Running with the Land. All covenants, conditions, restrictions, reservations, easements, charges, liens, and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens, and benefits created by this Declaration shall bind and inure to the benefit of Declarant, the Owners, all other parties having any right, title, or interest in the Property or any portion thereof, and their respective successors, assigns, heirs, devisees, executors, administrators, and personal and legal representatives.

1.3 Declarant Control. This Declaration provides for control in and by Declarant including, but not limited to, (a) control of the Executive Board, the Design Review Board; the type, design, and location of Improvements that may be built within the Property; and the uses and limitation of uses of and upon all areas of the Property; (b) the right to amend this Declaration consistent with the Act; (c) the right to exercise any Special Declarant Rights consistent with the Act; and (d) substantial flexibility in developing the planned community to be known as Mountain Lake Villas. Each Owner, by accepting title to any portion of the Property, and each other person or entity acquiring any other interest in the Property, acknowledges and agrees to accept Declarant's control of the Property and the limited liability of Declarant as hereafter provided. Such control and liability limitation are integral parts of this Declaration and the development and management of the Property, including use of the Units for multi-family and/or commercial uses.

2. BASIC DEFINITIONS

As used in this Declaration, the following terms shall have the meanings given to them in this Section 2, unless the context expressly requires otherwise.

2.1 Act shall mean the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-319, as the same may be amended from time to time.

2.2 Allocated Interests means the Common Expense liability and votes in the Master Association allocated to each Unit which interests are allocated as follows:

(a) The Common Expense liability for each Owner shall be determined based on a fraction, the numerator of which is the total number of Units owned by the Owner and the denominator of which is the total number of all Units within the Common Interest Community as of the date of the calculation.

(b) Votes in the Master Association are allocated to each Unit as follows: Each Unit is allocated one vote.

2.3 Architectural Design Guidelines shall have the meaning given to that term in Section 8.6 hereof, and shall be guidelines (if any) adopted by Declarant and the Design

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Review Board in accordance with applicable zoning regulations set forth in the Development Agreement and provided to persons or entities desiring to build Improvements or carry on any other development and construction activity on a Unit.

2.4 Assessment shall mean any annual assessment, special assessment, and default assessment levied pursuant to Section 7 hereof.

2.5 Association shall mean the master association known as Mountain Lake Villas Owners Association, Inc., a Colorado non-profit corporation. The Association is sometimes referred to herein as the Master Association.

2.6 Common Elements shall mean all general and limited common elements as designated on a recorded subdivision plat of any portion of the Property, including all real estate and any Improvements within the Property that may be owned or possessed (through lease, easement, license, or other agreement) by the Association. Common Elements specifically include the paved access area and roads designated on the plat as GCE and all utilities located thereunder, any detention ponds and drainage facilities, common landscaped areas, trails, entrance features and signage, and common fencing or gating that may be constructed within such GCE in the future.

2.7 County shall mean the County of Archuleta, Colorado.

2.8 Declarant shall mean BWD, LLC, and any party designated by Declarant as a successor or assign of Declarant by written instrument duly recorded in the real estate records of the County, which instrument, to be effective, need only be signed by Declarant. Such instruments may specify the extent and portion of rights or interest being assigned by Declarant, in which case Declarant shall retain all other rights and interests of Declarant not so assigned.

2.9 Declarant Control Period shall have the meaning given to that term in Section 6.2 hereof.

2.10 Declaration shall mean this Master Declaration of Covenants, Conditions and Restrictions for Mountain Lake Villas (as it may be amended from time to time) for the Property.

2.11 Design Review Board shall be the committee established by the Association for the purpose of reviewing and approving Improvements or modifications to Improvements on Units and shall have the meaning given to that term in Section 8 hereof.

2.12 Development Agreement shall mean the Planned Unit Development Agreement (Villas At Pagosa Lodge) entered into by and between the Town of Pagosa and Declarant on October 15, 2004.

2.13 Executive Board shall mean the Board of Directors of the Association.

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2.14 Mountain Lake Villas shall be the descriptive name for the Property.

2.15 Improvements shall mean all single-family residences, multi-family residences, garages, other buildings, structures, parking areas, fences, walls, hedges, plantings, poles, driveways, recreational facilities, signs, decks, enclosures, drainage facilities and the like. Further, Improvements shall also mean all other site work, including, but not limited to, excavation, grading, road construction, utility improvements, landscaping, including the removal or planting of trees, and any new exterior construction or exterior improvement constructed or completed on Units.

2.16 Mortgage shall mean any mortgage, deed of trust or other document pledging any Unit or any interest in a Unit as security for payment of a debt or obligation.

2.17 Mortgagee shall mean any grantee or beneficiary of a Mortgage.

2.18 Mortgagor shall mean any grantor or trustor of a Mortgage.

2.19 Owner or Unit Owner shall mean the record holder of legal title to the fee simple interest in any Unit. If there is more than one record holder of legal title thereof, each recorded holder shall be deemed an "Owner". The term "Owner" includes Declarant to the extent that Declarant is the record holder of legal title to any portion of the fee simple interest in any Unit.

2.20 Property shall mean (a) the real estate described in the plat referenced in Exhibit A, attached hereto and made a part hereof, plus (b) any other real estate that may be annexed to, and made a part of, this Declaration by Declarant.

2.21 Special Declarant Rights shall mean the rights of Declarant as set forth in Section 11 hereof.

2.22 Sub-Association shall mean an association formed for the purpose of governing a multi-family townhome common interest community or condominium common interest community situated within the Property.

2.23 Unit shall mean a recorded and platted Unit consisting of either a residential lot, a townhome unit, or a condominium unit.

3. NAME, LOCATION, AND NUMBER OF UNITS

3.1 Name. The name of the project is Mountain Lake Villas.

3.2 Description. The entire Common Interest Community is situated in the Town of Pagosa, Archuleta County, 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 Mountain Lake Villas Owners Association, Inc. Declarant has caused the Association to be incorporated 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 Units. The maximum number of Units to be created hereunder shall be 33 as set forth in the Development Agreement or such higher number as permitted by Town of Pagosa in an amendment to the Development Agreement. Declarant hereby reserves the right to create within the Common Interest Community, the maximum number of Units thereon. Declarant, however, is not obligated to create the maximum number of Units/Units and may create a lesser amount.

4. PURPOSE OF DECLARATION

It is the purpose of this Declaration to provide for maintenance and upkeep of the Common Elements as well as protect and preserve the aesthetic values of the Mountain Lake Villas.

5. LAND USE RESTRICTIONS

The following general uses and restrictions are applicable to the Property. All Owners and their family members, guests, tenants and licensees and invitees shall comply with all covenants, conditions and restrictions as set forth in this Declaration, as it may be amended from time to time hereafter.

5.1 Residential Uses. Units may be used only for residential and related purposes. An in-home business activity may be conducted in and from a Unit only if conducted by a person or persons residing in the Unit and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements; and

(iii) is consistent with the residential character of the community and does not constitute a nuisance or a hazardous or offensive use, increase traffic, or threaten the security or safety of others, as the Executive Board determines in its discretion.

5.2 Leasing. Owners of Units are permitted to lease said Units for residential purposes, including vacation rental purposes; provided, however, the prior approval of the Town of Pagosa is obtained and the Owner is in compliance with applicable permitting and vacation rental regulations. All lease agreements shall be in writing and provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, and that failure of a lessee to comply with the terms of this Declaration shall be a default under such lease. Any Owner leasing Owner's residence shall promptly notify Declarant and the Association in writing of the names of all members of the lessee's family occupying such residence, and of the address and telephone number where such Owner can be reached.

5.3 Preferred Builder. All development and construction within the Property shall be undertaken consistent with the terms and conditions of this Declaration and must be performed by a builder approved by the Declarant or, after the Declarant Control Period, the Executive Board (the "Preferred Builder"). As of the date of recordation of this Declaration, BWD Construction is a Preferred Builder. A list of Preferred Builders shall be kept by Declarant or, after the Period of Declarant Control, the Executive Board and provided to Owners requesting construction of Improvements. The Declarant or, after the Period of Declarant Control, the Executive Board may add or remove Preferred Builders at their discretion. A significant penalty may be levied by the Declarant, or after the Period of Declarant Control, the Executive Board, in the event an Owner violates this Preferred Builder provision. In addition, Declarant or the Executive Board may seek an injunction or such other relief available to it under Colorado law to compel compliance with this restriction.

5.4 Approval of Design and Development. No platting of condominiums or townhome duplexes or triplexes shall be permitted without first obtaining the prior written approval of the Design Review Board and Declarant and the Town of Pagosa. No Improvements shall be constructed on any Unit without the prior written approval of the Design Review Board and Declarant.

5.5 Nuisances, Hazardous Activities, Property Restrictions. No person or entity shall conduct any activity on the Property that creates a nuisance or poses a hazard to any person or property. Without limiting the generality of the foregoing: (a) no light shall be emitted that is unreasonably bright or causes unreasonable glare; (b) no sound shall be emitted that is unreasonably loud or annoying; (c) no odor shall be emitted that is unreasonably offensive to others; (d) no activity shall be undertaken or done that shall be injurious to the reputation of Mountain Lake Villas or which is not permitted by applicable ordinances of the Town of Pagosa; and (e) no commercial uses shall be permitted on the Property.

5.6 Unsignliness. No unsightliness shall be permitted within the Property. All unsightly facilities, equipment and other items including, but not limited to, RVs., trailers, boats, trucks, garden and recreational equipment, and any similar items, shall be enclosed in a garage or building, except when in actual use. Refuse, trash containers and storage piles shall be enclosed within garages or appropriately screened from view by landscaping or fencing.

5.7 Damage by Owners. Each Owner is responsible for himself, herself or itself and for anyone engaged in any activity permitted by, or benefiting the Owner, for any damage inflicted upon the Property, including Improvements, during any development or construction of Improvements upon, or for the benefit of, the Owner's Unit. Damage shall include, damage resulting from improper drainage.

5.8 Preservation of Vegetation. Natural vegetation shall be preserved on the Property. Removal of any existing trees shall require the prior approval of the Declarant and the Design Review Board. Owners shall be required to replace, at the Owner's cost, any trees which have been removed from the Property as a result of an Owner's development of the Property.

5.9 Trash. All trash shall be placed in trash receptacles and all Owners shall comply with Town of Pagosa ordinances pertaining to the removal and placement of trash for pick-up.

6. MASTER ASSOCIATION

6.1 Formation. The Association shall be charged with the duties and invested with the powers prescribed by the Act, this Declaration, and the Association articles and bylaws. The Association articles and bylaws shall be consistent with this Declaration.

6.2 Executive Board and Officers. The affairs of the Association shall be conducted by the Executive Board and such officers as the Executive Board shall elect or appoint in accordance with its articles and bylaws, as the same may be amended from time to time. The Association, by and through the Executive Board, shall govern and manage the affairs and property of the Association and enforce the provisions of this Declaration. The Executive Board shall be composed of three members. The Executive Board may also appoint various committees. Declarant, during the "Declarant Control Period," shall have the right to appoint and remove Directors and officers. The Declarant Control Period commences on the date on which Declarant forms the Association and terminates on the earliest to occur of:

- (a) sixty (60) days after conveyance to Purchasers of seventy-five (75) percent of the maximum number of Units that may be created by Declarant under this Declaration;
- (b) two (2) years after the last conveyance of a Unit or Unit by Declarant to a purchaser in the ordinary course of business; or
- (c) two (2) years after any right to add new Units was last exercised.

Declarant may voluntarily surrender the right to appoint and remove Directors and officers before termination of the Declarant Control Period. In that event, Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Executive Board, as described in a recorded instrument executed by Declarant, be approved

by Declarant before they become effective.

Not later than sixty (60) days after conveyance to Owners other than Declarant of twenty-five (25) percent of the Units that may be created at least one (1) member, and not less than twenty-five (25) percent of the members of the Executive Board shall be elected by Owners other than Declarant. Not later than sixty (60) days after conveyance to Owners other than a Declarant of fifty (50) percent of the Units that may be created, not fewer than one-third (1/3) of the members of the Executive Board shall be elected by Owners other than Declarant.

Upon the termination of the Declarant Control Period the Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Owners. The Executive Board shall elect the officers. The Executive Board and officers shall take office upon election.

6.3 Association Rules. The Association may, by a majority vote of the Executive Board, adopt, amend and repeal rules to be known as the "Association Rules". The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration. Association Rules shall be consistent with this Declaration.

6.4 Liability. Consistent with the provisions of C.R.S. §38-33.3-303, officers and members of the Executive Board appointed by Declarant shall exercise the care required of a fiduciary of the Owners in performing their duties. Officers and members of the Executive Board not appointed by Declarant shall not be liable for actions taken or omissions made in performance of such member's duties except for wanton and willful acts or omissions. Officer or member actions taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and to have met the care required under the Act.

6.5 Membership. The Association shall be a membership association without certificates or shares of stock. Every Owner of a Unit created on the Property shall be a member of the Association. Membership in the Association shall automatically terminate when a member ceases to be an Owner. There shall be one class of membership, which is a voting membership by Owners.

6.6 Voting. Each Unit is allocated one vote. Neither fractional nor cumulative voting shall be allowed. If the Owners of a Unit cannot agree among themselves how to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner of a Unit casts the vote for that Unit, it shall thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of that Unit, unless an Owner of that Unit shall make an objection thereto to the person presiding over the meeting when the vote is cast. If more than one (1) vote is cast for any Unit, none of such votes shall be counted and all of such votes shall be deemed null and void. For the election of the Executive Board, those candidates receiving the highest number of votes shall be deemed elected.

6.7 Enforcement. Declarant and the Association shall each have the right and power to bring suit in its name for legal or equitable relief for the failure to comply with any provision of this Declaration or Association Rules. In addition, the Association shall have the right to impose on any Owner monetary fines for any lack of compliance with provisions of this Declaration or Association Rules and where such fines are not paid within the time provided, such fines may be collected as an Assessment Lien. The failure of Declarant and/or the Association to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or relinquishment of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorney's fees, in connection therewith.

6.8 Power of Association. Each Owner agrees that the Association shall have all the powers granted to it by the Colorado Nonprofit Corporation Act and the Act, and any amendments thereto. Such powers and rights shall include, without limitation, levying Assessments against Owners; imposing a lien on Units or Units for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens; enforcing this Declaration; acquiring, holding, owning, leasing, mortgaging and disposing of property (except as such disposition of property may be limited in accordance with the Act); adopting Association Rules; defending, prosecuting or intervening in litigation on behalf of all members; borrowing monies for Association purposes; and pledging future income in order to secure such borrowings. The term "pledging future income" shall include the right to impose a special assessment for repayment of such borrowings and to assign such special assessment (and all lien and collection rights appurtenant thereto) to the mortgagee as security for repayment thereof. The Association may exercise any other right, power or privilege given to it by this Declaration, the articles and bylaws of the Association, and the Act.

6.9 Other Association Functions. The Association shall undertake and provide functions and services to benefit its members as required in this Declaration. Further, the Association may undertake, to the extent the Executive Board in its sole discretion so elects, to provide its members certain other functions or services on such bases as the Executive Board shall reasonably determine. Any or all functions of the Association may be provided by the Association's employees or independent contractors retained by the Association. With respect to all such functions or services, the Executive Board shall have the authority to make common expense assessments consistent with the provisions of C.R.S. §38-33.3-315.

6.10 Common Elements. The Association shall maintain all Common Elements of Mountain Lake Villas which are identified in this Declaration or on the original PUD plat recorded at Reception No. 20608314 which is referenced in Exhibit A (the "Plat"). The Association shall NOT be responsible for maintenance or upkeep of any common elements

which are designated for the benefit of the Sub-Association and owners of condominiums or townhomes on the townhome or condominium plat.

6.11 Maintenance of Units. Each Owner shall, at such Owner's sole cost and expense, maintain such Owner's Unit in good order and repair. If, in the reasonable judgment of the Association, an Owner fails to maintain Owner's Unit or the Improvements located thereon, or a Sub-Association fails to maintain the Common Elements within a townhome or condominium community for which it shall be responsible, in good order and repair, and such failure remains uncured for more than thirty (30) days after the Association's delivery of written notice thereof to such Owner or such Sub-Association, the Association may enter upon such Unit, including Common Elements; perform such maintenance and repairs the Association deems necessary and appropriate; and charge all costs and expenses incurred by the Association in connection therewith to such Owner, or such Sub-Association's members, as a Default Assessment in accordance with Section 7.5 hereof. The Association may, without notice, make emergency repairs to and maintain any Unit or Improvements located thereon, or any Sub-Association's Common Elements, as may, in its judgment, be necessary for the safety of all persons or to prevent damage to any other property. The cost of such emergency repairs shall be charged to the Owner of the Unit or the members of a Sub-Associations as a Default Assessment.

6.12 Driveways and Parking Areas within Sub-Association community or Lot. Unless the Association agrees otherwise, the Sub-Association of a townhome or condominium community shall maintain the driveways and parking areas within its platted boundaries and shall assess its Owners for the maintenance and repair thereof. Single family lots are responsible for maintenance and upkeep of driveways within their lot boundaries. The Association will be responsible for repair and replacement of the primary accessways and the parking areas designated on the Plat.

6.13 Managers. The Association may employ or contract for the services of managers to whom the Executive Board may delegate certain powers, functions or duties of the Association. Managers shall not have the authority to make expenditures except upon prior approval of the Executive Board.

6.14 Special Provisions Regarding Association Property. All Common Elements which shall be owned by the Association shall, at all times, be owned, managed, operated, and maintained by the Association in accordance with the provisions of this Declaration and in trust for the use, benefit, and enjoyment of the Owners of the Units. Conveying or encumbering Association Common Elements shall only occur in accordance with the provisions of the Act.

6.15 Power to Adopt Master Rules and Regulations. The Master Association may adopt, amend, repeal, and enforce such Master Rules and Regulations as the Executive Board may consider necessary, desirable or appropriate from time to time with respect to the interpretation and implementation of this Master Declaration, the operation of the Master Association, the use and enjoyment of the Common Elements, and the use of any other

property within Mountain Lake Villas. Any such Master Rules and Regulations shall be effective only upon adoption by resolution at an open meeting of the Executive Board. Notice of the adoption, amendment, or repeal of any Master Rule or Regulation shall be given in writing to each Owner, and copies of the currently effective Master Rules and Regulations shall be made available to each Owner upon request and payment of the reasonable expense of copying the same. Each Owner and Sub-Association shall comply with such Master Rules and Regulations and shall see that occupants of all Units owned by such Owner comply with such Master Rules and Regulations. Such Master Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Master Declaration. In the event of conflict between the Master Rules and Regulations and the provisions of this Master Declaration, the provisions of this Master Declaration shall govern. Such Master Rules and Regulations may establish penalties and/or a schedule of fines for the violation of such Master Rules and Regulations or any provision of this Master Declaration, the Articles, or the Bylaws.

6.16 Duty to Accept Property and Facilities Transferred by Declarant. The Master Association shall accept title to any real property or interests in real property, including any Improvements thereon and personal property, transferred to the Master Association by Declarant or Declarant’s successors or assigns, and equipment related thereto. Property interests transferred to the Master Association by Declarant may include fee simple title, undivided interests, easements, leasehold interests, and licenses to use. Except as may otherwise be approved by the Executive Board, any property or interest in property transferred to the Master Association by Declarant or its successors or assigns shall be within the boundaries of the Common Interest Community; provided, however, that Declarant shall be entitled to transfer and convey the beneficial use of an easement, subject to any obligations thereunder, located outside of the Common Interest Community but which benefits the Master Association and the Owners.

Any property or interest in property transferred to the Master Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Executive Board, be transferred to the Master Association free and clear of all monetary obligations, liens and encumbrances (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Master Declaration and to all easements, covenants, conditions, restrictions, and equitable servitudes or other encumbrances of record or otherwise in existence. Except as otherwise specifically approved by resolution of the Executive Board, no property or interest in property transferred to the Master Association by Declarant shall impose upon the Master Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge, or fee.

6.17 Transfer of Records. Within sixty (60) days after the Owners, other than Declarant, elect a majority of the members of the Executive Board, Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by Declarant in accordance with the provisions of C.R.S. §38-33.3-303(9).

6.18 Insurance. Commencing not later than the time of the first conveyance

of a Unit to a Person other than Declarant, the Master Association shall maintain and keep in effect at all times the following types of insurance, and the cost of said coverage shall be paid by the Master Association as a Common Expense:

(a) **Casualty Insurance.** To the extent reasonably available, property insurance on all Common Elements, including but not limited to Improvements and personalty, owned or leased by the Association, and on all real property that becomes Common Elements of the Association. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonable obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

(b) **Liability Insurance.** To the extent reasonably available, 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 of 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 ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable, (a) have limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence; (b) insure the Executive Board, the Master Association and its officers, the manager, if any, and their respective employees, agents and all Persons acting as agents; (c) include the Declarant as an additional insured as its interests may appear; (d) include the Owners as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use or management of Common Elements; (e) cover claims of one or more insured parties against other insured parties; and (f) be written on an occurrence basis.

(c) **Workers Compensation.** A Worker's Compensation policy, if necessary, to meet the requirements of law.

(d) **Directors and Officers Liability Insurance.** Directors and officers liability insurance with coverage of at least One Million Dollars (\$1,000,000.00) or such greater amount as the Executive Board shall approve for all Master Association Executive Board and Design Review Board directors, officers, members and managers, for any and all errors and/or omissions and other covered actions that occur during their tenure in office or employment. This insurance coverage shall be optional.

(e) **Other Insurance.** Such other insurance in such amounts as the Master Association shall determine, from time to time, to be appropriate to protect the Master Association or the Unit Owners, or as may be required by the Act.

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(f) **Nonliability of Association or Executive Board.** Notwithstanding the duty of the Association to obtain insurance coverage, as stated herein, neither the Association nor any Executive Board member, nor the Declarant, shall be liable to any Unit Owner, Sub-Association, occupant, Mortgagee or other Person, if any risks or hazards are not covered by insurance, or if the appropriate insurance is not obtained because such insurance coverage is not reasonably obtainable on the Association's behalf, or if the amount of insurance is not adequate, and it shall be the responsibility of each Unit Owner and occupant to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Unit Owner or occupant may desire.

(g) **Premiums.** Premiums for insurance policies purchased by the Association and other expenses connected with acquiring such insurance shall be paid by the Association as a Common Expense; except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances, or the Common Elements, by a Unit Owner or Occupant, may at the Executive Board's election, be assessed against that particular Unit Owner and its Unit as a Special Assessment.

(h) **Insurance Claims.** The Association is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Executive Board has full and complete power to act for the Association in this regard, and may, in its discretion, appoint an authorized representative, or enter into an insurance trust agreement, wherein the trustee shall have the authority to negotiate losses under any policy purchased by the Association.

(i) **Benefit.** Except as otherwise provided herein, all insurance policies purchased by the Master Association shall be for the benefit of, and any proceeds of insurance received by the Master Association or any insurance trustee shall be held or disposed of in trust for the Master Association and the Unit Owners as their interests may appear.

(j) **Other Insurance to be Carried by Unit Owners.** Insurance coverage on the furnishings and other items of personal property belonging to a Unit Owner, public liability insurance coverage upon each Unit, and hazard insurance coverage on the Improvements constructed on Units, shall be the responsibility of the Owner of the Unit. No Unit Owner shall maintain any insurance, whether on its Unit or otherwise, which would limit or reduce the insurance proceeds payable under the casualty insurance maintained by the Master Association in the event of damage to the Improvements or fixtures on the Master Common Areas.

6.19 **Damage to the Property.** Any portion of the Property for which insurance is required under Section 38-33.3-313 of the Act (except any portion on which insurance is

carried by a Sub-Association) which is damaged or destroyed must be repaired or replaced promptly by the Master Association unless: (i) repair or replacement is the responsibility of a Sub-Association under a Declaration governing a condominium or townhome common interest community; (ii) the common interest community created by this Declaration is terminated; (iii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iv) 80 percent of the Unit Owners, including owners of every Unit that will not be rebuilt or repaired, vote not to rebuild or repair; or (v) prior to the conveyance of any Unit to a person other than Declarant, a Mortgagee on the damaged portion of the Property rightfully demands all or a substantial part of the insurance proceeds. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Property is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Property, and, except to the extent that other Persons will be distributes, the insurance proceeds attributable to Units that are not rebuilt must be distributed to the Owners of those Units, or to lienholders, as their interests may appear and the remainder of the proceeds must be distributed to all Unit Owners or lienholders as their interests may appear in proportion to the Common Expense liabilities of all the Units.

In the event of damage to or destruction of all or a portion of the Common Elements due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction or repair. If the insurance proceeds with respect to such Common Elements damage or destruction are insufficient to repair and reconstruct the damage or destruction, the Association may levy a Special Assessment in the aggregate amount of such deficiency, or if any Owner or group of Owners is liable for such damage, may levy a Default Assessment against the Owner or group of Owners responsible therefore, and shall proceed to make such repairs or reconstruction. Such Assessment shall be due and payable as provided by resolution of the Executive Board, but not sooner than 60 days after written notice thereof. The Assessment provided for herein shall be a debt of each Unit Owner assessed and a lien on his Unit and may be enforced and collected in the same manner as any Assessment Lien provided for in this Master Declaration. If the entire damaged Common Element is not repaired or replaced, the insurance proceeds attributable to the damaged Common Element must be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community. No distributions of insurance proceeds shall be made unless made jointly payable to the Unit Owners and first Mortgagees of their respective Units, if any.

7. ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS

7.1 Obligation for Assessments and Other Charges.

(a) Each Owner, by accepting a deed to a Unit, shall be deemed to have covenanted and agreed to pay the Association all Assessments and other charges that the Association shall be required or permitted to levy or impose on such Owner, or such Owner's Unit.

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(b) Notwithstanding the definition of the term "Owner": (i) a person or entity that acquires a Unit or Unit in a foreclosure sale shall be personally liable for all Assessments or other charges that the Association may levy, commencing on the date of the foreclosure sale; and (ii) a person or entity that acquires a Unit or Unit by deed in lieu of foreclosure shall also be personally liable for all such Assessments, commencing on the date the Owner executes the deed in lieu of foreclosure.

(c) Each Owner shall be personally liable for all Assessments and other charges levied on such Owner's Unit. If there is more than one Owner, each Owner shall be jointly and severally liable with the other Owners for all Assessments or other charges so levied.

(d) No Owner shall be exempt from liability for any Assessment or other charges by waiving the use or enjoyment of any Common Element, or by abandoning any Unit against which such Assessments or other charges are made.

(e) Each Assessment or other charge, together with the interest thereon and all costs and expenses incurred by the Association to collect such Assessment or other charge, including all fees and disbursements to attorneys, accountants, appraisers, receivers, or other professions engaged by the Association in connection therewith, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment lien (as defined by the Act) securing the same.

7.2 Budgets.

(a) Prior to the first levy of any Assessments, and, thereafter, on or before January 1st of each calendar year, the Executive Board shall adopt the proposed annual budget for the Association for the following calendar year that sets forth: (a) the Executive Board's estimates of common expenses for the next calendar year; and (b) the amount of funds for such common expenses that the Executive Board proposes to raise through all Assessments. The first levy of Assessments shall be at such time as determined necessary in the sole discretion of the Declarant; provided, however, that Owners shall be sent the proposed annual budget (as set forth below) prior to any such levy.

(b) The proposed annual budget shall be sent to all Owners in accordance with the provisions of C.R.S. §38-33.3-303(4); provided, however, that unless seventy-five (75) percent of all votes within the Association, whether or not a quorum is present, rejects the proposed annual budget, the proposed annual budget shall be deemed ratified. If the Executive Board deems it necessary to amend an annual budget that has been ratified by the Owners, the proposed amendment shall be sent to all Owners also in accordance with C.R.S. §38-33.3-303(4), and, unless seventy-five (75) percent of all votes within the

Association, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

7.3 Annual Assessments. Prior to the first levy of any Assessments, and, thereafter, on or before 1st of each calendar year, the Executive Board shall levy and collect from each Owner an annual assessment for the common expenses of the Association to be paid on a monthly, quarterly, semi-annual or annual basis as determined by the Executive Board.

7.4 Special Assessments. If, at any time, the Executive Board believes that the sum of common expenses for a calendar year will exceed the revenues of the Association for that calendar year, then the Executive Board may cause the Association to levy and collect a special assessment in an amount equal to the amount of such excess.

7.5 Default Assessments. Notwithstanding anything to the contrary contained herein, if any common expense for which the Association has assumed responsibility is caused by (a) the negligence or misconduct of an Owner or such Owner's family or guests and/or (b) a violation of any covenant or condition of this Declaration by an Owner or such Owner's family or guest, the Association may levy an Assessment against such Owner's Unit or Unit. Any such Assessment levied by the Association, and each fine, penalty, fee or other charge imposed upon an Owner for such violation, shall be referred to as a "Default Assessment." With respect to any Default Assessment, the Association shall provide reasonable notice and reasonable opportunity to the Owner against whom the Association seeks to levy the Default Assessment to review the Default Assessment circumstances with the Executive Board prior to its decision to levy the Default Assessment.

7.6 Assignment of Assessments. The Association shall have an unrestricted right to assign its right to receive Assessments and other future income, either as security for the obligations of the Association or otherwise.

7.7 Assessment Lien. The Association shall have a lien on each Unit or Unit for any Assessment levied against such property and any fine, late charges, penalties, interest, attorney's fees, and disbursement of costs of collection imposed against the Owner. The Assessment lien shall secure all of the foregoing obligations of an Owner until such time as the obligations become due. If any Assessment is paid in installments, the Assessment lien shall secure each installment from the time it becomes due, including any due dates set by the Association for the acceleration of installment obligations. An Assessment lien shall be prior to all liens and encumbrances on a Unit or Unit, except as otherwise provided in the Act. The recording of this Declaration shall constitute record notice and perfection of any Assessment lien on any Unit or Unit. No further recordation of any claim of any Assessment lien shall be required. This Section 7.7 shall not prohibit actions or suits to recover sums secured by an Assessment lien or prohibit the Association from taking a deed in lieu of foreclosure, which actions or suits the Association may undertake in accordance with this Declaration and the Act. A court may appoint a receiver for an Owner to collect all sums to be due from the order prior to or during the

action. An Assessment lien may be foreclosed in any manner as a mortgage or real estate.

7.8 Waiver of Homestead Exemption. By acceptance of the deed or other instrument of transfer for a Unit, an Owner, with respect to an Assessment lien, irrevocably waives the homestead exemption provided by C.R.S. §38-41-201, *et seq.*, as amended.

7.9 Estoppel Certificates; Notice to Mortgagees. The Association shall furnish to an Owner or its designee, upon written request, delivered personally or by mail, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against an Owner's Unit or Unit. The statement shall be furnished within fourteen (14) days after receipt of the request.

7.10 Administration of Assessments. The Association shall have the right to inspect and copy all records of any Owner that are related to the Owner's obligation to pay any Assessment. The Association may adopt such Association Rules that it deems necessary and appropriate with respect to the administration of Assessments.

8. ARCHITECTURAL CONTROLS

8.1 Design Review Board. After termination of the Declarant Control Period, the Executive Board, in its discretion, may create a design review board ("Design Review Board") which shall be composed of three (3) persons appointed by the Executive Board. If a Design Review Board is not created by the Executive Board, the Executive Board members shall fulfill the duties of the Design Review Board as described in this Article 8. Prior to the creation and appointment of the Design Review Board, all architectural approvals shall be made at the discretion of the Declarant. Persons on the Design Review Board shall serve at the direction of the Executive Board. The Executive Board may, in its sole discretion, remove a member of the Design Review Board and timely appoint a replacement member. The Design Review Board, with the approval of the Executive Board, may hire any professionals, including architects, engineers, geo-technical consultants and other personnel, to advise the Design Review Board and to perform administrative, clerical, or other functions. The Design Review Board shall have and exercise all the powers, duties and responsibilities set out in this Declaration and in the Architectural Design Guidelines (if any).

8.2 Authority. No Owner or agent of Owner may perform any earth movement, vegetation removal, paving or drainage modification; construct or alter the exterior appearance of any buildings or other Improvements; make any physical or cosmetic alteration or modification to existing buildings or Improvements; install or alter on any signage; install or alter any landscaping or exterior furniture, fixtures, equipment or art on any Unit or Unit until required plans and specifications thereof have been approved by Declarant during the Declarant Control Period and, thereafter, by the Design Review Board in accordance with the requirements of this Declaration and the Architectural Design Guidelines. Generally, plans and specifications for all Improvements on any Unit shall be

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reviewed and approved as to style, exterior design, appearances and location, and shall not be approved for engineering design or with any other applicable land use and building codes of the County and other applicable governmental agencies. Any work performed by or on behalf of Declarant within the Property, including, but not limited to, construction of amenities, infrastructure and the like, shall NOT require approval of the Design Review Board.

8.3 Discretion of Declarant. The Declaration provides for an extensive degree of discretion and control by Declarant. Such discretion is an integral part of the Declaration and of the development and management of the Property. Each Owner, by acquiring any interest in any Unit, and each other person or entity (including, but not limited to, mortgagees), by acquiring an interest in any part of the Property, acknowledges and agrees that subjective determinations and/or criteria bearing on compatibility of Improvements within the Property, on the appearance of Improvements from within and without, and on such other matters as Declarant, in its reasonable judgment, in the exercise of its discretion, shall deem important for the successful implementation and enforcement of the provisions, purposes and objectives of this Declaration are necessary and reasonable, and further agrees to Declarant's exercise of the degree of discretion and control provided for herein.

8.4 Approvals and Building Permit. Owners or other entities that anticipate constructing Improvements on any Unit must have the prior approvals of Declarant, the Town of Pagosa, other applicable governmental agencies, and, when applicable, the Design Review Board, in accordance with the requirements of this Declaration and the Architectural Design Guidelines. If plans and specifications submitted to the City differ in any way from the plans and specifications approved by Declarant and, if applicable, the Design Review Board, all approvals of Declarant and the Design Review Board shall be deemed to be automatically revoked. It is the responsibility of Owners, at their expense, to obtain all necessary Town of Pagosa and other governmental agency approvals regarding the construction of Improvements on Units.

8.5 General Standards. Declarant and Design Review Board shall evaluate, among other things: (a) size, design and location of Improvements; (b) applicability of the design guidelines if any; (c) compliance with site design guidelines, landscape guidelines, and construction impact guidelines; (d) construction scheduling and progress; (e) plans and specifications for all Improvements; and (f) compliance with all site design and development requirements of the Development Agreement, if any.

8.6 Rules and Regulations and Architectural Design Guidelines. The Executive Board may adopt and promulgate rules and regulations it deems necessary to implement this Declaration. Any architectural design guidelines shall be consistent with the applicable provisions of the Development Agreement, and shall contain, among other things, (a) information respecting the application and approval process and the information that shall be submitted with any application to the Declarant or, if applicable, the Design Review Board regarding an Owner's proposed development of and construction upon Owner's Unit and (b) guidelines and design criteria for all Improvements proposed for construction upon

Owner's Unit. In evaluating each application, Owner acknowledges that what may be determined acceptable in one situation may not be found acceptable in another, in the sole discretion of the Declarant or Design Review Board, as the case may be.

By way of illustration only and without requirement to do so, the architectural guidelines may address, and the Design Review Board shall have the power and authority to regulate, among other things, any or all of the following: (a) application procedures and processing fees; (b) charges by any professionals or other costs incident to evaluating any application; (c) security in the form of cash deposits, letters of credit, bonds, or other collateral acceptable to the Association regarding development of and construction upon a Unit or Unit, or for damage to infrastructure and improvements occurring as a result of development of and construction upon Owner's Unit; (d) size and design of Improvements; (e) colors and materials of roofs, chimneys, siding, masonry and glazing; (f) setbacks, height limitations, building profiles and driveway locations; (g) construction staging and construction hours; (h) storage of construction materials; (i) location of temporary construction facilities, such as trailers, dumpsters and toilets; (j) routing of utility extensions; (k) drainage, grading and erosion control; (l) landscaping and vegetation; (m) fencing, lighting and signage; (n) maintenance of Unit or unit ; (o) control of noxious weeds; (p) preservation of wildlife; (q) fire and wildfire safety; (r) privacy and visual characteristics; and (s) all other applicable provisions contained within the Development Agreement. Such rules and guidelines shall be adopted, amended or replaced by the Executive Board.

8.7 Delegation of Responsibilities. Except for final review and approval, the Design Review Board may delegate its responsibilities for reviewing drawings and specifications to one (1) or more of its members and/or to architectural, landscaping and other appropriate consultants retained by it.

8.8 Inspection, Right of Entry, and Enforcement. Declarant, and any member of the Design Review Board, or their authorized consultants and agents, may at any reasonable time enter, without being guilty of trespass, upon any Unit, except the interior of any occupied residence, after reasonable notice to the Owner, in order to inspect Improvements constructed, being constructed, or being changed or modified on such Unit or Unit to ascertain compliance with this Declaration, the Architectural Design Guidelines, if any, and the plans and specifications approved by Declarant or the Design Review Board.

Notwithstanding the above, Declarant and/or the Design Review Board shall have no duty or obligation to make any such inspections. Such inspections and notice of compliance or non-compliance shall be undertaken and performed in accordance with the Declaration and the Architectural Design Guidelines.

Upon the completion of any work for which approved plans and specifications shall be required, the Owner shall give written notice of completion to the Declarant or, if applicable, the Design Review Board. Within thirty (30) days after receipt of such notice, Declarant or the Design Review Board may inspect the work to determine its compliance with the approved plans and specifications. If Declarant or the Design Review Board find

that the work was not done in substantial compliance with the approved plans and specifications, that any construction or change in natural conditions on any Unit was undertaken without first obtaining approval from Declarant and the Design Review Board, or that an Owner is in violation of any provision of this Section 8 or the rules and guidelines applicable to Design Review Board activities, written notice thereof shall be sent by the Declarant or Design Review Board, or its designated agent, to such Owner specifying the non-compliance and requiring the Owner to cure such noncompliance within thirty (30) days.

If an Owner fails to cure the non-compliance or fails to enter into an agreement to cure on a basis satisfactory to the Declarant or Design Review Board within said thirty-day (30-day) period, the Association and/or Declarant shall have the following rights and remedies: (a) by written notice to Owner, to revoke any approval previously granted by Declarant and the Design Review Board, in which event the Owner shall, upon receipt of such notice, immediately cease any activity covered by the approval so revoked; (b) to enter upon the Owner's Unit and cure such violation at Owner's sole cost and expense; (c) to sue the Owner to enjoin such violation; or (d) to have all other rights and remedies available to it under this Declaration, at law or in equity. The Owner shall be personally liable, and shall reimburse Declarant and the Association for all costs and expenses incurred by Declarant, the Association and the Design Review Board in taking corrective action (including attorney's fees and other costs incurred in collecting amounts due), which costs and expenses shall become a Default Assessment within thirty (30) days after written notice of such costs and expenses have been received by Owner. All rights and remedies of the Association and Declarant shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

Notwithstanding any other provision hereof, neither the Association, the Design Review Board, nor Declarant shall be responsible for: (a) determining that any construction or construction documents of an Owner conforms to, or complies with, the applicable building codes, zoning or other land use regulations, (b) determining the accuracy or content of an Owner's construction documents or specifications prepared by any architect, engineer or any other person, (c) an Owner's, or Owner's contractor(s) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure of Owner, or Owner's contractor to carry out any construction in accordance with plans or specifications.

8.9 Fees. The Executive Board may establish reasonable Design Review Board processing and review fees for considering any requests for approval submitted to it, which fees shall be paid at the time the request for approval is submitted. All such fees shall be set annually and disclosed in the annual budgets described above. The Executive Board may also establish a requirement for the escrowing of funds in an amount sufficient to guarantee completion of Owner Improvements included as a part of the plans and specifications which have been presented to, or approved by, the Design Review Board; provided that such requirement has not been already imposed by a governmental or quasi-governmental authority for that purpose.

8.10 Liability. To the fullest extent permitted by law, neither Declarant, the Association, the Design Review Board, nor any of their respective officers, directors, employees or agents shall be responsible or liable for any defects, errors or omissions in any plans or specifications submitted, revised or approved under this Section 8, nor for any defects, errors or omissions in construction pursuant to such plans and specifications. A consent or approval issued by the Design Review Board, the Association, or Declarant, means only that the Design Review Board, Association, or Declarant believes that the construction, alteration, installation or other work for which the consent or approval was requested complies with this Declaration and the Association Rules. No such consent or approval shall be interpreted to mean that the construction, alteration, installation or other work covered thereby (a) complies with laws, rules, regulations, ordinances or other requirements of any governmental or quasi-governmental authority, (b) is free from defects, errors or omissions or (c) lies within the boundaries of the Unit. No consent, approval or permit issued by Declarant, the Design Review Board, or the Association shall relieve Owners or other entities of their obligations to comply with laws, rules, regulations, ordinances and other requirements of governmental or quasi-governmental authorities.

9. EASEMENTS AND RESERVATIONS

9.1 General Development. Declarant hereby reserves development rights and blanket easements over, across, through, and under the Property to:

- (a) exercise any of Declarant's rights under this Declaration;
- (b) construct, install, maintain, repair, replace, use, and interconnect all improvements Declarant deems necessary for the development of the Property, as permitted by applicable zoning regulations of the Town of Pagosa and pursuant to the terms and conditions of the Development Agreement;
- (c) preclude utility providers from using any easements on the Property to serve adjacent properties except as expressly permitted by Declarant;
- (d) receive all consideration paid for development rights and easements granted to third parties, including, but not limited to, utility providers;
- (e) amend plats, this Declaration, and the Development Agreement to reflect the as-built location of easements and the granting of new easements for any purposes permitted in any plat, this Declaration, and the Development Agreement;
- (f) retain permanent easements over streets, roads, parking areas, rights-of-way, and other easements to manage, operate, develop, use, and interconnect the Property;
- (g) record an instrument to designate the location of any easement

reserved by Declarant herein and not previously depicted with certainty on a plat, map, or other instrument recorded in the County real estate records; and

(h) enlarge streets, roads, rights-of-way, and entrances to accommodate the construction of entrance facilities and to meet the requirements of governmental agencies and utility providers.

Declarant’s exercise of its development and easement rights shall not unreasonably interfere with an Owners use of Improvements constructed or approved on or within a Unit.

9.2 General Ownership of Easements. Any easement or easement right reserved by, or granted to, Declarant in this Declaration and on plats shall remain owned by Declarant until such time as Declarant has executed and delivered an instrument in writing assigning or conveying such easement or easement right, in whole or in part, to a third party or to third parties, including, but not limited to, the Town of Pagosa, Owners, the Association or utility providers. The third party receiving the conveyance or assignment of such easement or easement right shall then assume the responsibility to provide the infrastructure and/or service or services for which the easement is intended, such as construction and maintenance of streets, water lines, sewer lines, and drainage facilities. Where an instrument recites that it is a complete transfer of a particular easement or easement right, Declarant shall be relieved from all continuing obligations or liabilities thereof.

10. VARIANCES FROM DECLARATION

Declarant, or the Association only with Declarant’s written consent, may grant reasonable variances from strict compliance with the provisions of this Declaration where a Unit or Unit is affected by naturally or artificially occurring circumstances or constraints not generally applicable to other Units.

11. SPECIAL DECLARANT RIGHTS

11.1 Reserved Rights. Declarant reserves the right for itself, and any successor Declarant, at any time and from time to time, to:

(a) maintain and relocate sales offices, management offices, models, and signs on any portion of the Property owned by Declarant (including Units owned by Declarant) and within the Common Elements;

(b) construct and maintain fences and or create construction staging areas on the Property during any time of the development and improvement of the Property;

(c) transfer and convey any utility or other easements within the Property to the Town of Pagosa, the Association, and/or utility providers for use in the development and subdivision of the Property;

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(d) establish easements, reservations, exceptions and exclusions in the best interests of Declarant in developing the Property, including all easements and easement rights set forth in Section 9 hereof;

(e) plan, develop, subdivide, and improve the Property as contemplated and permitted by the Development Agreement (including all amendments thereto) or applicable zoning of the Town of Pagosa then in effect, including, but not limited to, land use, density, density transfers, residential development, commercial development, real estate exchanges and other development.

(f) enter into agreements with the Association, the Town of Pagosa, or other governmental entities and agencies, utility providers, and any other third parties for the purpose of subdividing, developing, and operating the Property;

(g) withdraw any portion(s) of the Property to this Declaration or annex additional property to this Declaration;

(h) supplement, modify and amend the Development Agreement including amendments for the purpose of increasing density or creation of affordable or eco-housing;

(i) create and establish Common Elements within the Property;

(j) subdivide the Property for purposes of creating single-family lots, condominiums or other multi-family common interest communities within Mountain Lake Villas and subject said lots, condominiums and townhomes to the terms, conditions, burdens, and benefits of this Declaration; and to form Sub-Associations that may adopt declarations of covenants, conditions and restrictions, rules and regulations, articles and bylaws, or similar documents and instruments for the organization and operation of such associations; and

(k) exercise all rights of Declarant of any nature whatsoever contained in the Development Agreement and contained in this Declaration and in the Act.

11.2 Exercising Special Declarant Rights. Declarant may exercise its Special Declarant Rights in its discretion and at any time; provided, however, that its Special Declarant Rights must be exercised, if at all, no later than fifty (50) years following the date that the Declaration shall be recorded in the County real estate records. Declarant may exercise its Special Declarant Rights in any order and no assurance is given as to the order in which Declarant shall exercise its Special Declarant Rights. If Declarant exercises any of its Special Declarant Rights with respect to any portion of the Property, Declarant may, but shall not be obligated to, exercise such right(s) with respect to any other portion of the Property. Notwithstanding anything to the contrary contained in this Declaration: (a) Declarant may exercise any Special Declarant Rights described in this Section 11 and any other rights reserved to Declarant in this Declaration without the

consent of the Association, any Sub-Association, or any of the Owners; and (b) whenever and wherever rights of approval are granted to Declarant, to the Association, and/or to the Design Review Board, Declarant's approvals or non-approvals shall control.

11.3 Interference with Special Declarant Rights. Neither the Association, any Sub-Association, nor any Owner shall take any action or adopt any rule or regulation that interferes with or diminishes any Special Declarant Rights without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

12. TERM, AMENDMENT AND TERMINATION OF COVENANTS

12.1 Term and Termination. This Declaration shall run with and bind the Property in perpetuity until this Declaration shall be terminated as provided hereafter. The Owners may terminate the Association and this Declaration by a sixty-seven (67) percent or greater vote of all the votes in the Association. Termination shall be evidenced by a termination agreement or ratification thereof, duly executed, and recorded in the County real estate records. Notwithstanding the foregoing, the Owners may not terminate the Association or this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

12.2 Amendments. Except for the provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, the Owners may amend any provision of this Declaration at any time by a sixty-seven (67) percent or greater vote of all votes in the Association. If the necessary votes are obtained, the Association shall cause to be recorded in the County real estate records an amendment to this Declaration in accordance with the terms and conditions of the Act. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its discretion. Notwithstanding the preceding, no amendment shall be permitted that is (a) in conflict with, or diminishes, any of the rights granted, retained or reserved to Declarant or (b) that attempts to enlarge or expand any obligation of Declarant, unless such amendment is consented to in writing by Declarant, which consent Declarant may withhold in its sole discretion. Further, where any amendment shall be considered by Declarant in its reasonable judgment not to be a material change to any provision of this Declaration, such as the correction of a technical, drafting or typographical error; a correction of some obvious omission; a resolution of any conflict with applicable laws; or a clarification of any ambiguous statement or the like, such amendment may be made at any time by Declarant without requirement to obtain the consent of any Owner, Mortgagee, the Association, or any Sub-Association.

12.3 Provisions Incorporated in Deeds. Each provision contained in this Declaration shall be deemed incorporated in each deed and other instrument by which any right, title or interest in any Unit shall be granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

12.4 Declarant's Right to Amend. Without the consent of the Association, any

Multi-family Association, any Owner, or any other person or entity, Declarant reserves the absolute and unconditional right to amend this Declaration, as granted to Declarant under the provisions of C.R.S. 38-33.3-217 (1) (a) for conforming same to the requirements of the Federal Home Loan Mortgage Company, or the Veterans Administration, or any other institution involved in the purchase and sale of home loan mortgages, or any institutional mortgage lender, or any title insurance company of the County of Archuleta, the State of Colorado or the United States of America, or of any other governmental agency, instrumentality or political subdivision; (b) for perfecting, clarifying or making internally consistent the provisions of this Declaration; (c) for including provisions, as may be necessary, to effect Declarant's exercise and implementation of Special Declarant Rights as set forth in Section 12 hereof; and (d) so long as no existing Owner's rights to use that Owner's Unit are materially altered, for any other purpose whatsoever.

13. LIMITATION OF LIABILITY

Each Owner acknowledges that the location and use of Owner's Unit within Mountain Lake Villas involves certain risks associated with continuing, phased development and construction associated with activities. Each Owner hereby assumes all such risks for himself, herself, or itself and for Owner's immediate family members, Owner's guests, and Owner's lessees, and hereby waives and releases himself, herself, or itself and for Owner's immediate family members, guests and lessees any claims or causes of action that he, she, it or they may have against Declarant, and the Association, or their directors, officers, shareholders, partners, managers, members, employees, affiliates, representatives, agents, heirs, successors and assigns and the immediate family members of each of them, arising out of injuries or property damage which he, she, it or they may sustain as a result of residency, or ownership of property, in Mountain Lake Villas. Owner agrees to indemnify and hold harmless Declarant and Association, or their directors, officers, shareholders, partners, managers, members, employees, affiliates, representatives, agents, heirs, successors and assigns and the immediate family members of each of them, against any and all claims made by Owner's immediate family members, guests and lessees who allege injury or property damage resulting from the sole or comparative negligence of Declarant, and Association, in connection with such risks.

14. SUB-ASSOCIATIONS

Every Declaration in which a Sub-Association is organized and/or established shall contain sufficient language pursuant to Section 38-33.3-220 of the Act subordinating it to the Master Association and to this Master Declaration to effectuate the purposes of this Master Declaration. The Executive Board of the Master Association shall be elected after the termination of the Declarant Control Period of the Master Association by the vote of all Owners subject to this Master Declaration. If both a Sub-Association and the Master Association have liens for Assessments created at any time on the same Units, the lien of the Master Association shall take priority over the lien of any Sub-Association.

15. GENERAL PROVISIONS

15.1 Interpretation of the Declaration. Except for judicial construction, until the end of the Declarant Control Period, Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, either Declarant's (during the Declarant Control Period) or the Executive Board's (after the Declarant Control Period) construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the covenants and the provisions hereof.

15.2 Sales Activity. Declarant may conduct sales activities on the Property, including, but not limited to, showing Units by Declarant or sales agents, conducting promotional or marketing events or activities, and maintaining signs advertising the sale of Units or Units within the Property.

15.3 Conflict with Architectural Design Guidelines. In the event of any conflict or inconsistency between the provisions of this Declaration and the Architectural Design Guidelines, the provisions of this Declaration shall govern and control, and the Architectural Design Guidelines shall automatically be amended, but only to the extent necessary to conform the conflicting provision thereof with the provisions of this Declaration.

15.4 Priority of Declaration. In the event of any conflict or inconsistency between the declaration of covenants, conditions and restrictions, rules and regulations, articles and bylaws, or similar documents and instruments of any Sub-Association and this Declaration and/or the Association Articles or Bylaws, this Declaration and/or the Association Articles or Bylaws shall control.

15.5 Number and Gender. Unless the context herein shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

15.6 No Dedication. Unless expressly provided herein, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of Property to the public or for any public use.

15.7 Notices. Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and shall be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) days after a copy of the same has been posted in the United States mail, postage prepaid for first class mail and addressed to the receiving party at the address last given by such party to Declarant. Any notice to Declarant or the Design Review Board shall be sent to such address as it may from time to time designate in writing to each Owner.

15.8 Choice of Law and Jurisdiction. The terms and conditions of this Declaration shall be construed, interpreted, and enforced in accordance with the

applicable laws of the State of Colorado. Jurisdiction and venue for any action as to this Declaration and the interpretation, enforcement, or determination of the rights, obligations, and liabilities of the parties hereto shall be in the District Court in and for the County of Archuleta, Colorado. Each party submits to the jurisdiction and venue of the District Court in and for the County of Archuleta, Colorado, and waives any and all rights under the laws of the United States, any other state, or any other county, to object to the jurisdiction of the District Court of Archuleta County, Colorado, as to any action pertaining to this Declaration.

15.9 Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Property, or any portion thereof, or in connection with any development, construction, and improvements (including Improvements) thereon, or in respect to their physical condition, compliance with applicable laws, fitness for intended use and operation, cost of maintenance, or taxes, except as may be expressly provided in this Declaration or required by law.

15.10 Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges and reservations set forth herein, a successor and assign of Declarant shall be deemed a successor and assign only as specifically designated by Declarant by instrument(s) recorded in the real estate records of the County, and only with respect to the particular rights or interests specifically designated therein.

15.11 Tradenames. The term "Mountain Lake Villas," and any variation(s) thereof, and any logos, insignias, and designs in connection therewith, are tradenames of Declarant. No person or entity shall use these tradenames, or logos, insignias, and designs without the written agreement of Declarant.

15.12 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof. Where any provision of this Declaration is alleged to be or declared by a court of competent jurisdiction to be unenforceable, Declarant shall have the right by amendment to this Declaration to replace such provision with a new provision as similar thereto as practicable, but which in Declarant's reasonable opinion would be considered to be thereafter enforceable.

15.13 Run with the Land. Declarant hereby declares that all of the Property shall be held, used and occupied subject to the provisions of this Declaration and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the Property and shall be binding upon all Owners, persons, or entities who have any interest in the Property.

15.14 Binding Effect. All Owners and their families, guests, and lessees; the heirs, successors or assigns of an Owner; any Mortgagee; and any other person using or occupying a Unit shall be bound by and shall strictly comply with the provisions of this Declaration, the Architectural Design Guidelines, any deed restrictions and covenants, and all rules,

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Kristy Archuleta
Archuleta County

regulations, and agreements lawfully made by Declarant, the Association (including the Design Review Board) and any Sub-Association.

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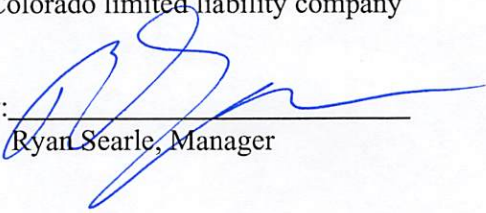
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Kristy Archuleta
Archuleta County

Signature Page
for
Master Declaration of Restrictive Covenants,
Conditions and Restrictions for Mountain Lake Villas

IN WITNESS WHEREOF, the BWD, LLC and OGI Realty Holdings, LLC have caused this Master Declaration of Restrictive Covenants, Conditions and Restrictions for Mountain Lake Villas to be executed this 3rd day of March 2020.


BWD, LLC
a Colorado limited liability company

By: 
Ryan Searle, Manager

STATE OF COLORADO)
) ss.
COUNTY OF ARCHULETA)

The foregoing instrument was acknowledged before me on March 3,
2020 by Ryan Searle, Manager of BWD, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires 7.23


Notary Public

Anna Harbison
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194022597
MY COMMISSION EXPIRES JULY 1, 2023

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Kristy Archuleta
Archuleta County

OGI Real Estate Holdings, LLC
a Colorado limited liability company

By: *Jack Searle*
Jack Searle, Manager

STATE OF COLORADO)
) ss.
COUNTY OF ARCHULETA)

The foregoing instrument was acknowledged before me on March 3,
2020 by Jack Searle, Manager of OGI Real Estate Holdings, LLC, a Colorado limited
liability company.

Witness my hand and official seal.
My commission expires 7.1.23

Anna Harbison
Notary

Anna Harbison
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194022597
MY COMMISSION EXPIRES JULY 1, 2023

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Kristy Archuleta
Archuleta County

EXHIBIT A
(Legal Description of Property)

All that tract of land located within the boundaries of The Villas at Pagosa Lodge Planned Unit Development, according to the plat thereof filed August 30, 2006, as Reception No. 20608314, in the office of the Clerk and Recorder, Archuleta County, Colorado.

TOGETHER WITH a Tract of land, being a portion of Parcel B of the Pagosa Lodge Minor Impact Subdivision, the Plat of which is recorded under Reception No. 20608313, in the office of the Clerk and Recorder, Archuleta County, Colorado, said Tract being more particularly described as follows, to-wit:

Beginning on the North boundary of said Parcel B, whence the Northwest corner of said Parcel B bears South 81° 17' 58" West, 12.55 feet distant;
thence North 81° 17' 58" East, 33.20 feet along the boundary of said Parcel B;
thence South 10° 20' 28" East, 7.025 feet along the boundary of said Parcel B;
thence North 86° 49' 42" West, 34.13 feet to the Point of Beginning.

LESS AND EXCEPT a Tract of land being a portion of Parcel A of The Pagosa Lodge Minor Impact Subdivision, the Plat of which is recorded under Reception No. 20608313, in the office of the Clerk and Recorder, Archuleta County, Colorado, said Tract being more particularly described as follows, to-wit:

Beginning at the most Southeast corner of said Parcel A; thence South 79° 39' 32" West, 61.63 feet along the boundary of said Parcel A;
thence North 10° 20' 28" West, 7.025 feet along the boundary of said Parcel A;
thence North 79° 39' 32" East, 64.97 feet to the boundary of said Parcel A;
thence South 31° 15' 34" West, 9.39 feet along the boundary of said Parcel A to the Point of Beginning.

NOTE: The original plat described above recorded at reception no. 20608314 (the "Original Plat") depicts the proposed configuration of units within the Property. Declarant, however, may NOT develop the Property based upon the unit boundaries depicted in the Original Plat. As-built plats will reflect the true location of the unit boundaries.