

Indexing Notes:

Index in:

- Grantee's Index under "Weldon Creek" (the name of the Community) and "Weldon Creek Property Owners Association" (the name of the Association)
- Grantor's Index under "Weldon Creek Property Owners Association" (the name of the Association) and the names of each person and entity executing this document

**SECOND AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
OF
WELDON CREEK**

This Second Amended and Restated Declaration of Protective Covenants of Weldon Creek is effective upon recording in the office of the Chaffee County Clerk and Recorder.

RECITALS

A. The original Declaration of Protective Covenants of Weldon Creek created the Weldon Creek Planned Community and was made by Thomas H. Smith, as "Declarant."

B. The original Declaration of Protective Covenants of Weldon Creek was recorded on July 8, 2002, at Reception No. 2002-327325, in the records of the Chaffee County Clerk and Recorder. That declaration has been amended of record, on three separate occasions thereafter, all of which amendments were recorded in 2002. As amended of record, the Original Declaration is referred to in this Amendment as the "Original Declaration."

C. The Original Declaration was then amended and restated in its entirety by the Amended and Restated Declaration of Protective Covenants of Weldon Creek recorded on May 19, 2014, at Reception No. 414103, in the records of the Chaffee County Clerk and Recorder (the "Amended and Restated Declaration").

D. The Amended and Restated Declaration has been amended on multiple occasions by Limited Amendments recorded at the Chaffee County Clerk and Recorder, as follows:

<u>Recording Date</u>	<u>Reception No.</u>
May 27, 2016	427028
April 16, 2020	458330
May 29, 2020	459333
February 1, 2021 (four separate Limited Amendments)	467119

As so amended, the existing Amended and Restated Declaration is referred to herein and defined as the "Declaration."

E. The purposes of the amendments in this Second Amended and Restated Declaration of Protective Covenants of Weldon Creek ("Second Amended and Restated Declaration") include, but are not limited to, the following:

- i. To incorporate and consolidate all previous amendments to the Declaration as listed in Recital D above, which amendments were validly approved and duly recorded;
- ii. To update the Declaration to comply with current state law;
- iii. To delete expired and no longer applicable declarant and/or developer rights and responsibilities, with the exception of those additional rights and responsibilities added pursuant to the Limited Amendment recorded on May 29, 2020 at Reception No. 459333;
- iv. To update provisions and provide tools to allow the Association to efficiently operate the community, deal with community concerns and effectively enforce the Association's governing documents;
- v. To address duplicative and conflicting provisions in the Association's governing documents.

F. Article 11, Section 11.2 of the Declaration provides that the Declaration, or any provision, may be amended upon the written consent by the Owners of 75% or more of the Lots in the Property. Any such amendment shall be by an instrument duly executed, acknowledged and recorded in the records of the County, and upon such recording is binding on all Owners of Lots within the Property.

G. Pursuant to C.R.S. § 38-33.3-217, any Owner approval percentage requirement over 67% is declared void as contrary to public policy and is deemed to be reduced to require approval of 67% of the Owners.

H. By vote of Owners with at least 67% of all votes in the Weldon Creek Planned Community, this Second Amended and Restated Declaration has been approved and it has been determined that the terms of this Second Amended and Restated Declaration are reasonable and not burdensome.

I. The Declaration is replaced by this Second Amended and Restated Declaration in its entirety.

ARTICLE 1
STATEMENT OF PURPOSE OF DECLARATION

Section 1.1 Ownership of Property -the "Real Estate" of the Community -Annexable Property.

- a) The Association and the Owners are the owners of the real property situated in Chaffee County, Colorado, together with all improvements, as set forth in attached Exhibit A.
- b) The real property set forth in Exhibit A is the "Real Estate" of the Community and is

the real property within the definition of "Real Estate" as that term is defined and used in the Colorado Common Interest Ownership Act.

- c) THS Investments, LLC, owns the real property situated in Chaffee County, Colorado, together with all improvements set forth on attached Exhibit B. The property set forth on Exhibit B is subject to development and annexation into the Association as further set forth in this Declaration.

Section 1.2 Declaration of Covenants. The covenants, restrictions and easements set forth herein shall affect the Property. This Second Amended and Restated Declaration shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any Lots, lots, tracts or parcels thereof, their heirs, successors and assigns and their employees, guests and invitees and shall inure to and be for the benefit of each Owner of a Lot within the Property.

Section 1.3 Common Interest Community. Those approving this Amendment confirm and declare that the Property is a "planned community" under the Colorado Common Interest Ownership Act and the name of the planned community is "Weldon Creek."

Section 1.4 Statement of Purpose. This Second Amended and Restated Declaration is imposed for the benefit of all Owners and future owners of Lots, lots, tracts, and parcels located within the Property and to provide for the preservation of values of the Property and to preserve the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Property.

Section 1.5 Maximum Number of Lots that may be created in the Common Interest Community. Declarant has reserved the right, as provided in this Declaration, and subject to the terms set forth below, to create a maximum of 80 Lots within Weldon Creek. The maximum number includes the 63 Lots already subject to the Declaration as described and set forth in the attached Exhibit A and also includes not less than 15 Lots that may be annexed as described and set forth in attached Exhibit B.

In construing the purposes of these Protective Covenants primary consideration shall be given to assure the continued recreational usage of the Property in harmony with the residential usage of the Lots.

ARTICLE 2 DEFINITIONS

The following terms and words shall have the following definitions:

Section 2.1 "Articles of Incorporation" shall mean the Articles of Incorporation of the Association that have been or will be filed with the Secretary of State of the State of Colorado, as amended from time to time.

Section 2.2 "Assessments" shall mean regular monthly, quarterly or annual assessments, special assessments or default assessments levied pursuant to the Association

Documents to provide the funds required to meet the obligations of the Association, including the expenses of the agricultural operation of Weldon Creek.

Section 2.3 “Association” shall mean the Weldon Creek Property Owners Association, a Colorado nonprofit corporation, or any successor thereof charged with the duties and obligations set forth herein.

Section 2.4 “Association Documents” shall mean this Second Amended and Restated Declaration, the Articles of Incorporation and Bylaws of the Association, any amendments thereto, the Design Guidelines adopted by the Association, and any rules, regulations or policies adopted by the Association.

Section 2.5 “Barn” shall mean an accessory building designed to enclose livestock and to store agricultural products, feed, supplies and agricultural and livestock equipment and property, recreational equipment and property and any incidental use associated therewith.

Section 2.6 “Board of Directors” or “Board” shall mean the Board of Directors of the Association duly elected and acting according to the Articles of Incorporation and Bylaws of the Association. The Board of Directors is also defined as an Executive Board by the Colorado Common Interest Ownership Act.

Section 2.7 “Building” shall mean any structure having a roof supported by columns or walls, or any similar type of Improvement situated and located within the Property.

Section 2.8 “Building Site” or “Building Envelope” shall mean the site, envelope or area within a Lot where the Buildings and other Improvements shall be located within a Lot and as set forth in Section 4.7 below.

Section 2.9 “Bylaws” shall mean the Bylaws of the Association, as amended from time to time.

Section 2.10 “Colorado Common Interest Ownership Act” shall mean the “Colorado Common Interest Ownership Act of the State of Colorado,” and being Section 38 33.3 101, et seq., Colorado Revised Statutes.

Section 2.11 “Common Allocation” shall mean a percentage allocated to each Lot that is derived from a fraction, the numerator of which is one and the denominator of which is the total number of Lots within Weldon Creek. The percentages comprising the Common Allocations for the various lots may be rounded by the Association in accordance with its ordinary practices adopted from time to time; provided, however, that the rounding methodology is applied in a materially uniform and consistent manner for all of the Lots.

Section 2.12 “Common Elements” shall mean all of the Property in which the Association has an ownership, easement or leasehold interest for the common use and enjoyment of its members, as designated on the recorded plat or conveyed hereafter to the Association, including, but not limited to, the entry monument, gate, access easement along Weldon Creek and private roads.

Section 2.13 “Common Expenses” shall mean all costs, expenses and financial liabilities incurred by the Association pursuant to this Declaration or the Bylaws, including, without limitation: all costs of operating, managing, maintaining, replacing or restoring the Common Elements; taxes on the Common Elements; general administrative costs incurred by the Association, including, without limitation, any administrative costs incurred in levying and collecting Assessments; and contributions to the Maintenance Fund. Except as expressly provided in this Second Amended and Restated Declaration, Common Expenses shall not include costs or expenses to be funded by or payable through the levying of Special Assessments or Default Assessments.

Section 2.14 “Common Interest Community” shall have the definition set forth in the Colorado Common Interest Ownership Act.

Section 2.15 “County” shall mean Chaffee County, Colorado.

Section 2.16 “Declarant” shall mean Thomas H. Smith and Margie E. Smith, husband and wife, and their specific assigns.

Section 2.17 “Declaration” or “Second Amended and Restated Declaration” shall mean this Declaration and as the same may be hereafter amended, modified or extended.

Section 2.18 “Design Guidelines” shall mean those guidelines, rules and regulations published from time to time by the Board of Directors.

Section 2.19 “Weldon Creek” means, in the proper or appropriate context, all of the Property or Real Estate as set forth on Exhibit A, together with the property set forth on Exhibit B once annexed and/or the Planned Community as established by the Declaration. 'Weldon Creek' and the Real Estate of the Community includes any leased land or property, grazing permits, permits, licenses or rights appurtenant or associated therewith. 'Weldon Creek' also means all of the Property as may be platted or set forth on one or more Plats filed in the records of Chaffee County, Colorado of which the Real Estate is a part.

Section 2.20 “Family Residence” shall mean the primary residence on any Lot designed for occupancy by the owner of the Lot.

Section 2.21 “Fiscal Year” shall mean the fiscal year of the Association as defined in the Bylaws.

Section 2.22 “Garage” shall mean an accessory Building or an accessory portion of a Family Residence or Guest House designed for the storage of one or more motor vehicle and any incidental use associated therewith.

Section 2.23 “Guest House” shall mean a separate residence, either attached or detached from the Family Residence, designed for occupancy either by the owner of the Lot or the Owner’s guests.

Section 2.24 “Lot” means a numbered lot, tract or parcel of land as set forth on a Plat of Weldon Creek or of all or any part of the Real Estate, as amended from time to time per the provisions of this Declaration.

Section 2.25 “Improvement” shall mean all buildings, structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, decks, enclosures, changes in exterior color or shape, excavation, and all other site work including, without limitation, grading, road construction, utility Improvements, removal of trees or plantings, and any new exterior construction or exterior Improvements constructed or completed on the Property.

Section 2.26 “Landscaping” shall mean planted areas and plant materials, including, trees, shrubs, laws, flower beds and ground cover.

Section 2.27 “Maintenance Fund” shall mean the fund created by Assessments and fees levied pursuant to this Declaration to provide the Association with funds it requires to carry out its duties hereunder.

Section 2.28 “Member” shall mean any person holding membership in the Association.

Section 2.29 “Mortgage” shall mean any mortgage, deed of trust or other document pledging a Lot or any interest therein as security for the payment of any indebtedness. “First Mortgage” shall mean any mortgage which is not subject to or junior to any lien or encumbrance, except liens for taxes and other liens which are given priority by statute.

Section 2.30 “Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot.

Section 2.31 “Plat” shall mean the Plat of Weldon Creek, replats of plat(s) of Weldon Creek and Lot splits as filed in the records of the County, which is subject to these Protective Covenants, and as the same may be amended, enlarged or revised from time to time and affecting the Property.

Section 2.32 “Property” shall mean and include all of the property subject to this Declaration and additional property added from time to time thereto.

Section 2.33 “Quorum” shall mean with respect to a meeting of the Members or the Board, the percentage or number of the Members or Board that constitute a quorum pursuant to the applicable provisions of the Bylaws.

Section 2.34 “Taking” shall be the exercise of eminent domain or conveyance in lieu thereof.

ARTICLE 3 USE OF WELDON CREEK

Section 3.1 Easement for Use, Access and Enjoyment in and to the Common Elements. The Association hereby establishes and grants to each Owner a nonexclusive easement of use,

access and enjoyment in and to the Common Elements for the purposes for which the Common Elements are intended and operated by the Association. Any Owner may extend its right of use and enjoyment to its permittees subject to reasonable regulation by the Association. Unless otherwise provided in a writing furnished to the Association by the Owner, an Owner who leases its Lot shall be deemed to have exclusively assigned all such rights to the lessee or lessees of such Lot.

Section 3.2 Water and Irrigation. The Association hereby acknowledges the easement rights of the owners of the Hoosier Ditch, Post Hole Ditch, and Post/Lionelle Lateral as provided under federal and Colorado Law, including the right to maintain such ditches as provided by Colorado Law. No Owner, family member, guests, invitees, or employees shall at any time interfere with, obstruct or utilize any irrigation ditch or water unless expressly authorized to do so by law, this Declaration or the Board of Directors.

Section 3.3 Weldon Creek. The Pedestrian, Equestrian, Bicycle and Creek/Pond Access Easement along the creek known as Weldon Creek shall be maintained by the Association as a conservation area, wherein no motorized vehicles shall be and no Improvements shall be constructed.

Section 3.4 Wildlife. Wildlife in its natural state with Weldon Creek will be encouraged. The recreational and agricultural usage of Weldon Creek will be accomplished in a manner to encourage and protect all wildlife and no taking of any wildlife shall be allowed except in accordance with all applicable laws, rules and regulations, this Declaration and the rules and regulations of Weldon Creek. Specifically, no hunting by any means shall be allowed in Weldon Creek.

Section 3.5 Recreational Activities. All recreational activities within Weldon Creek, including but not limited to fishing, snowmobiling, skiing, hiking, bicycling, horseback riding, and all-terrain vehicle usage and other motorized vehicle usage, shall be in accordance with Rules and Regulations adopted by the Board of Directors. All recreational activities shall be solely for the private use and enjoyment of the Owners, members of their family, their guests and invitees. Except only as may be prohibited by law, fishing shall at all times be allowed within Weldon Creek, but subject to compliance with the Rules and Regulations adopted by the Board of Directors.

Section 3.6 Partition of Lots. No Lot may be partitioned, subdivided, nor in any manner divided into two or more tracts of land without an affirmative vote of sixty-seven percent (67%) or more of the Lots as set forth in Section 11.2. Under no circumstances shall the Conservation Easement, as defined in Section 8.10 below, be separated from or conveyed without the Lot to which it is appurtenant.

ARTICLE 4 USE OF LOTS

Section 4.1 Residential Use. All Lots shall be used exclusively for residential purposes. One single Family residence, together with one attached or detached Guest House, one attached or detached Garage for the Family Residence, one Barn, one additional Building that is not an

additional Residence/House (e.g., a greenhouse), Common Elements, and easements as specifically authorized by this Declaration shall be permitted. No additional Buildings, Improvements, or usage shall be permitted except as authorized by this Declaration and all Buildings and Improvements shall be meet the requirements of Article V.

Section 4.2 Guest House. One Guest House, either attached or detached from the Family Residence, shall be allowed on each Lot. If the Guest House is detached from the Family Residence, it may have an attached Garage in addition to an attached or detached Garage that serves the Family Residence.

Such Guest House shall at all times be owned by the Owner of the Lot upon which it is situated. At no time may a Guest House be used as the primary residence of a person or family other than the Owner of the Lot, the Owner's family or guests, or a caretaker and the family of the caretaker employed by the Owner of the Lot.

Any detached Guest House shall be served by and connected to the same access driveway as used by the Family Residence, unless otherwise approved by the Board of Directors.

Section 4.3 Garage. One Garage, either attached or detached from the Family Residence, shall be required on each Lot. Any Garage shall be sufficient in size to park and store all motor vehicles, recreational vehicles, all-terrain vehicles, snowmobiles, boats and trailers located upon the Lot.

Section 4.4 Barn. One Barn with an appropriately fenced corral or corrals shall be allowed on each Lot.

Section 4.5 Approval of Use. No Improvement shall be constructed on any Lot, except only as approved by the Board of Directors.

Section 4.6 No Commercial Use. No commercial or business enterprise of any nature shall be allowed or permitted on any Lot; provided, however, that the Owner of the Lot may be permitted to conduct an in home executive office or an in home occupation, artistic or literary activity on a Lot upon the prior approval by the Board of Directors as to such occupation or activity. No such occupation or activity shall be approved by the Board of Directors which would create a visual, sound or traffic nuisance. Any such occupation or activity shall be subject to a reasonable limitation as to the number of persons and the number and type of motor vehicles involved in such occupation or activity. Certain in home activities may require a permit from governmental entities.

Section 4.7 Setbacks. All Improvements, including houses, garages, barns and outbuildings, shall be constructed within the building envelopes established and shown on the Plat of Weldon Creek, except for one driveway, fencing, and entry signage for each lot denoting the property address.

ARTICLE 5
DESIGN REQUIREMENTS

Section 5.1 Design Requirements. Any Family Residence, Guest House, Garage, Barn, Building or Improvement situate within Weldon Creek shall comply with the design requirements of this Article.

Section 5.2 Building Site. Any Building or Improvement shall be constructed entirely within the building envelope on the Lot.

Section 5.3 Uniform Building Code. All Buildings and Improvements shall meet all of the requirements, including fire protection standards, of the Uniform Building Code and any other building code or fire code of the County, then in effect.

Section 5.4 Building Density. The following minimum and maximum building densities are established for all Buildings, unless otherwise approved by the Board of Directors:

Family Residence: Minimum: Not less than 1700 square feet of gross residential floor area.

Guest House: Minimum: Not less than 600 square feet of gross residential floor area.

Garage: Minimum: None.

Barn: Minimum: None.

Section 5.5 Height. The maximum height of any Building shall be 32 feet. Cupolas, chimney, flag poles, and similar architectural features not usable as habitable floor area may extend above the height limit a distance of not more than 25% of the height of the Building. Height shall be measured from the average grade of the footprint of the Building to its highest point. Owners are encouraged to construct low profile Buildings to lessen the impact of the structure on the landscape and to not create a visual obstruction to any other Lot.

Section 5.6 Exterior Building Materials and Style. All Buildings, including roofs and chimneys, shall be built in an exterior style and with colors and materials harmonious to the area and all Buildings and structures within a single Building Site shall be similar in style. All colors of exterior walls, roofs and chimneys will be natural or earth tones in color to blend with the natural surroundings except that colored trim may be allowed upon approval of the Board of Directors.

Section 5.7 Service or Utility Areas. All service or utility areas or yards and including garbage cans and trash storage areas shall be screened from view on all sides. Provided, however, that garbage and trash cans and receptacles may be placed in view on the day of commercial trash pickup.

Section 5.8 Exterior Lighting. All exterior lighting shall be designed and directed in a manner approved by the Board of Directors. All exterior lighting or illumination on any Lot shall be so located, placed, shielded and designed to be architecturally and aesthetically in keeping with

the Buildings and surroundings and to have minimum visual pollution or impact on roads and any other Lot in Weldon Creek. All lighting shall be within the building envelope or at the entrance of a Lot, as otherwise approved by the Board of Directors.

Section 5.9 Antennae. No exterior radio, television, microwave or other antennae or antennae dish or signal capture or distribution device shall be permitted or installed on any Lot unless it is reasonably screened from view on all sides and such screening shall be in keeping with the terrain and environment. Provided, however, that antenna or satellite dishes with a diameter of 36" or less may be maintained without screening.

Section 5.10 Design Guidelines. The Board of Directors may adopt Design Guidelines which shall include all design requirements for the construction of any Family Residence, Guest House, Garage, Barn or other Buildings or Improvements within Weldon Creek. Such Design Guidelines are in addition to the requirements of this Declaration, are supplemental thereto and are enforceable in the same manner and shall have the same force and effect as this Declaration. Such Design Guidelines may be altered, amended, revised, and changed from time to time as determined by the Board of Directors.

ARTICLE 6 CONSTRUCTION, USE AND MAINTENANCE REQUIREMENTS

Section 6.1 Excavation. No excavation shall be made on any Lot, except in connection with an Improvement approved in accordance with this Second Amended and Restated Declaration.

Section 6.2 Electrical, Telephone and Utility Services. All electrical, telephone and utility services within any Lot shall be underground.

Section 6.3 Signs. No sign of any kind shall be displayed to public view on any portion of any Lot, except only a sign not to exceed four square feet identifying the Owner and/or address of the Lot, and a "for sale" sign not to exceed four square feet. Provided, however, that the Declarant may erect and maintain such signs as it deems appropriate to market and/or advertise the Property.

Section 6.4 Drainage. No Owner shall do or permit any work, construct any improvements or do any Landscaping which shall alter or interfere with the natural drainage for the Property.

Section 6.5 Temporary Structures. No temporary structure, mobile home, modular home, trailer house, travel trailer or recreational vehicle shall be permitted on any Lot, except only as may be determined to be necessary during the period of construction of the Family Residence and/or Guest House as specifically approved by the Board of Directors. Provided, however, a motorhome, travel trailer or similar vehicle of any Owner or their guests shall be permitted on a Lot for a short term period of time, not to exceed 90 days in any one calendar year, unless completely enclosed in a permanent structure. No permanent camping shall be allowed.

Section 6.6 Continuity of Construction. All construction, reconstruction, alterations or Improvements shall be prosecuted diligently to completion and shall be completed within twenty-

four months of the commencement thereof, unless an exception is granted by the Board of Directors.

Section 6.7 Tree Preservation. Living trees shall not be removed from any Lot except those which must be removed in connection with the construction of Improvements or necessitated by generally recognized conservation practices. An Owner shall remove any beetle infested or diseased tree within six (6) months after infestation or disease is first discovered or becomes apparent.

Section 6.8 Trash. No trash, ashes, garbage or other refuse shall be allowed to accumulate or place on any Lot or area within the Property. There shall be no burning or other disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles, subject to the provisions of 5.8 above, shall be screened from the public view and from the wind and protected from animal and other disturbances. The Board of Directors, in its discretion, may cause to be constructed and maintained common trash enclosures for Owners and residents of Weldon Creek.

Section 6.9 Abandoned or Inoperable Vehicles. Abandoned or inoperable automobiles or motor vehicles of any kind shall not be stored or parked on any portion of a Lot unless fully enclosed in a permanent structure. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three months or longer; provided, however, this shall not include vehicles parked by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within seventy two hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner.

Section 6.10 Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of persons and Improvements on any Lot, shall be placed or used on any Lot. No animals shall be kept or maintained on any Lot which create a nuisance by noise, including without limitation, barking dogs.

Section 6.11 Nuisance. No obnoxious or offensive activity shall be carried on within the Property, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its Owners or occupants; provided, however, that this Section shall not apply to any noise or other activity approved by the Board of Directors as to the construction of any Improvement.

Section 6.12 Fencing. The primary purpose for the construction of perimeter fencing shall be to control livestock; i.e. keeping personal livestock within the Lot area. Construction and maintenance is the responsibility of each Owner. Design and construction of fences must meet functional requirements to "hold" livestock and must be kept in an excellent state of repair at all times. Gates and cattle guards should be designed and installed in accordance with Ranch quality standards for durability, longevity and appearance. Fences may be constructed of wood (split rail, buck rail, log, etc.), barbless wire, rock, or other material as may be approved by the Board of Directors. Colors must be harmonious to the natural setting and the buildings in the Lot. These

same guidelines apply to fences constructed within the Lot used to create pastures and corrals. Minimum requirements for fencing shall be that the fence shall not exceed 42” high and the bottom of the horizontal fencing material shall be at least 14” from the ground. All fencing adjoining the easement described in Section 3.2 shall be split rail, with materials and height as approved in advance by the Board of Directors.

Section 6.13 Hazardous Activities. No activities shall be allowed or conducted on the Property which are or might be unsafe or hazardous to any person or property. Such hazardous activities include, but are not limited to, fireworks, firearms, bow and arrows, explosives, air or pellet guns or any similar type devices except only in approved areas in accordance with Rules and Regulations adopted by the Board of Directors. No outside open fires shall be permitted on any Lot unless contained within a cooking or barbecue type unit or grill.

Section 6.14 Underground Tanks. Underground tanks (except septic and/or propane tanks) are prohibited.

Section 6.15 Firearms and Weapons. This use or discharge of firearms is prohibited in Weldon Creek.

Section 6.16 Leases. Any Owner has the right to lease their Lot subject to the covenants and restrictions found in this Declaration and any duly adopted Association Rules and Regulations. Notwithstanding the preceding, leases of less than thirty (30) days in duration are prohibited.

ARTICLE 7 ANIMALS

Section 7.1 Dogs and Cats. The Owner of a Lot may keep and maintain a reasonable number of dogs and cats within the Lot subject to the following conditions:

7.1.1 All dogs and cats shall be confined to the building envelope on the Owner’s Lot or, if outside the building envelope of such Lot, on a leash.

7.1.2 The Owner shall at all times be personally liable and responsible for all actions of any dog or cat and any damage caused by the dog or cat.

7.1.3 No dog or cat shall create a nuisance or noise problem within Weldon Creek.

Section 7.2 Horses and Llamas. The Owner may keep and maintain a reasonable number of horses and/or llamas within the Lot so long as the horses and/or llamas are kept and maintained within a fenced or enclosed area and such area is kept in a clean and sanitary condition.

Section 7.3 Other Animals and Pets. No other animals or pets may be kept or maintained by any Owner except upon the prior written permission of the Board of Directors.

Section 7.4 Rules and Regulations. The Board of Directors shall adopt suitable rules and regulations as to the keeping and maintaining of animals and pets within Weldon Creek. The Board of Directors shall have the sole authority to determine what constitutes a reasonable number

of dogs, cats or horses and to determine that any such animal has created a noise, odor or nuisance problem within Weldon Creek.

Section 7.5 Impoundment of Animals. The Association is specifically empowered to impound any animal running at large. Upon impoundment, the owner of the animal, if known, shall be immediately notified and the animal taken to the nearest facility which accepts impounded animals. It is the duty of the owner of such animal to recover the animal from such facility and to pay all costs and fees incurred in the impoundment of the animal. If the animal is not recovered by the owner in accordance with the rules and regulations of the impoundment facility, the facility may destroy the animal without liability to the facility, any other Owner or the Association by the owner of such animal.

ARTICLE 8 WELDON CREEK PROPERTY OWNERS ASSOCIATION

Section 8.1 Government of Association. Weldon Creek Property Owners Association, a Colorado nonprofit corporation, shall be governed by and shall exercise all of the duties, privileges and obligations set forth in this Article, and the Articles of Incorporation and Bylaws of the Association.

Section 8.2 Members. Each Owner shall be a Member of the Association. No Owner, whether one or more persons or entities, shall have more than one membership per Lot owned by such Owner, but all persons owning each Lot shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each Lot.

Section 8.3 Termination of Membership. The right of membership in the Association and the status as a Member shall terminate upon the termination of status as an Owner of a Lot. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for Assessments levied from and after the date of such sale or conveyance; provided, however, that no such sale or conveyance of any ownership shall relieve an Owner of liability arising prior to the date of such sale or conveyance.

Section 8.4 Voting Rights. All Owners within the Weldon Creek shall be Members of the Association. Each Lot shall be entitled to one vote in the Association. The one vote for each Lot shall be exercised by the Owner and when more than one person or entity holds an interest in a Lot, the vote for the Lot shall be exercised consistent with the requirements of the Bylaws.

Section 8.5 Compliance with Documents. Each Owner shall abide by and have the benefit from the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 8.6 Majority Approval. Except as otherwise provided in this Declaration, the Bylaws or the Colorado Common Interest Ownership Act, the affirmative vote of the Owners present and held in accordance with the Bylaws will be sufficient to approve any matter submitted to a vote of the Association if such Owners hold a majority (i.e., more than 50%) of the votes in the Association represented at such meeting.

Section 8.7 Board of Directors. The affairs of the Association shall be governed by the Board of Directors, which may, by resolution, delegate any portion of its authority to an executive committee or an officer, executive manager or Director of the Association. The qualifications and number of Directors, the term of office of Directors, the manner in which Directors shall be elected and the manner in which Directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws. Except as otherwise provided in Section 38-33.3-220(5) of the Colorado Common Interest Ownership Act, the Board will consist of three Directors (or such other number, but never fewer than three, as may from time to time be set forth in the Bylaws), elected by the Owners, at least a majority of which Directors must be Owners other than Declarant.

Section 8.8 Removal of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by the affirmative vote of Owners holding more than 50% of the votes in the Association present, either in person or by proxy, and entitled to vote at any meeting of the Association, at which a Quorum is present, may remove, with or without cause, any Director.

Section 8.9 Board Authority. Except as otherwise specifically provided by law or in this Declaration, the Articles of Incorporation or the Bylaws, all rights and powers of the Association may be exercised by the Board without a vote of the Members. In the performance of their duties, the Directors will act according to their ordinary business judgment, except to the extent the Colorado Common Interest Ownership Act requires a greater standard of care. Unless otherwise provided in this Declaration or the Colorado Common Interest Ownership Act, the affirmative vote of a majority (i.e., more than 50%) of the Directors will be necessary and sufficient to approve any matter before the Board. The Board shall select the officers of the Association, which officers may also serve as Directors.

Section 8.10 Rules and Regulations. The Association may from time to time adopt, amend and repeal rules and regulations to be known as the “Weldon Creek Rules and Regulations” governing, among other things, and without limitation:

8.10.1 The use of any Common Elements or easements.

8.10.2 The conservation, maintenance, repair and use of all Buildings, structures and uses thereof within any Common Elements.

8.10.3 The use and maintenance of all roads, easements, common water systems and subdivision entry gates/systems within Weldon Creek.

8.10.4 The maintenance and keeping of animals within Weldon Creek.

8.10.5 The use of easements for walking, hiking, horseback riding, bicycling, fishing, and other purposes as determined by the Board of Directors.

8.10.6 Repairs, maintenance and upkeep of all Common Elements and any property under the jurisdiction of the Association.

8.10.7 Standards for the care, maintenance, and use of all Lots and all Improvements, Buildings, grounds and Landscaping situate upon such Lots within Weldon Creek.

8.10.8 All matters delegated to the Association by this Declaration.

Section 8.11 Dedication of Common Elements. All Common Elements within Weldon Creek are intended for the common use and enjoyment by the Owners within the Weldon Creek. The Common Elements are hereby dedicated to the above and foregoing uses for the Owners, their families, tenants, employees, guests and invitees, and not to the use of the general public, under the terms and conditions contained in the Association Documents.

Section 8.12 Management of Common Elements. The Association shall be responsible for the management and control of the Common Elements and all Improvements thereon, and shall keep them in a good, clean, attractive and pleasant condition and shall maintain and repair the same consistent with the purposes and uses of the Common Elements as set forth in the Association Documents.

Section 8.13 Roads and Streets. The Association, for and on behalf of the Owners of the Lots within Weldon Creek, shall be responsible for the proper maintenance of all private roads and drives, including the resurfacing, grading, drainage and snow removal thereof, any construction after the initial construction by the Declarant, and entry and security gates.

Section 8.14 Conservation Easement. A conservation easement has been recorded on portions of Weldon Creek, the purposes of which include the preservation of natural areas. To the extent the holder of such easement fails to do so, the Association shall be responsible for ensuring that the purposes of such easements are respected and violations of the conditions of such easements are not allowed. Anything in this Second Amended and Restated Declaration to the contrary notwithstanding, a clubhouse for the common use of the residents of Weldon Creek may be constructed as set forth in such conservation easement.

ARTICLE 9

FINANCIAL MATTERS, BUDGET AND ASSESSMENTS

Section 9.1 Creation of Lien. Each Owner of any Lot, by acceptance of a Deed therefor, whether or not it shall be so expressed in any Deed, is deemed to covenant and agree to pay to the Association: (1) all Regular Assessments or charges; (2) any Special Assessments or charges; and (3) any Default Assessments or charges; all of which shall be fixed, established and collected as determined by the Association. The annual, special and Default Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which each such Assessment is made until paid. Each such Assessment, together with interest, costs and reasonable attorneys' fees shall be the personal obligation of the Owner of such Lot at the time when the Assessment became due.

Section 9.2 General Financial Matters; Budget. The Board, on behalf of the Association, shall discharge the following obligations with respect to financial matters:

9.2.1 Books and Records. The Board shall cause to be maintained full and complete books and records of the Association's business and operations, including, without limitation, current copies of this Declaration and all amendments hereto, the Articles of Incorporation, the Bylaws, the rules, the approved budget for the current Fiscal Year, financial statements, books and records reflecting all assets, liabilities, capital, income and expenses of the Association, and supporting materials, such as bank statements and invoices, for at least the shorter of (i) the prior seven Fiscal Years or (ii) all of the Fiscal Years in which the Association has been in existence. All of such books and records will be made available for inspection by any Owner, holder of a first mortgage, insurer or guarantor of a first mortgage or their respective authorized representatives during normal business hours upon reasonable prior written request.

9.2.2 Returns. The Board will cause to be prepared and filed before delinquency any and all tax, corporate or similar returns or reports that the Association is required by law to prepare and file.

9.2.3 Preparation of Budget. As set forth in the Bylaws, the Board will cause to be prepared and will adopt annually, no later than 30 days after the beginning of the fiscal year, a proposed budget for the Association. The proposed budget will include all of the following items, in addition to any other items the Board deems appropriate:

- (a) the estimated Common Expenses of the Association for such Fiscal Year;
- (b) the estimated revenues of the Association that will be necessary to defray the Common Expenses;
- (c) the current cash balance in the operating account and the Maintenance Fund, which fund shall be established and maintained by the Board;
- (d) an estimate of the amount required to be spent during such Fiscal Year from the Maintenance Fund for the major repair or replacement of the Common Elements; and
- (e) a statement of the amount required to be added to the Maintenance Fund during such Fiscal Year to cover anticipated withdrawals and adequately address contingencies and anticipated needs in future Fiscal Years.

9.2.4 Ratification of Budget. Within 7 days after adoption by the Board of any proposed budget for the Association, the Board will mail by ordinary first-class mail or electronically deliver to all Owners a summary of the proposed budget and will set a date for a meeting of the Owners to consider the proposed budget. The Board will give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require the affirmative approval of the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by more than 50% of the total number of Owners, whether or not a Quorum is present. In the event that the proposed budget is vetoed, the budget last proposed by the Board and not vetoed by the

Owners will continue in effect until such time as a subsequent budget proposed by the Board is not vetoed by the Owners as described above.

9.2.5 Maintenance Fund. The Board shall cause the Maintenance Fund to be maintained in a bank account that is separate from the operating account, which is a bank account(s) used for the Association's ordinary receipts and disbursements.

Section 9.3 Purpose of Assessments. The Assessments levied by the Association shall be limited to and used exclusively for the following:

9.3.1 The maintenance and improvement of all Common Elements, ditches and headgates, including the construction, repairs and maintenance of all facilities contained therein.

9.3.2 The continued maintenance and use of the Common Elements for agricultural purposes including all construction, maintenance and repairs as may be necessary or desirable for such uses and purposes.

9.3.3 To comply with the terms and conditions of any lease or agreement pertaining to the lease of the Common Elements for agricultural and ranch purposes.

9.3.4 The maintenance, repair, snow removal and Improvement of any private road or street within the Property.

9.3.5 Any maintenance, repair or improvement required to be made by any Owner to any Improvement on any Lot which the Owner fails to do.

9.3.6 Any costs and expenses pertaining to the operation of the Association in the performance of its duties.

9.3.7 Any other purpose approved by a majority vote of all Members of the Association.

Section 9.4 Regular Assessments. Each Lot is subject to Regular Assessments for the Lot's share of the Common Expenses as allocated pursuant to Section 9.6 below. Regular Assessments shall be calculated, paid, adjusted and reconciled in accordance with the following provisions:

9.4.1 Budget and Payment. The Association shall set the Regular Assessments for each Fiscal Year at a level that is reasonably expected to produce total revenues for the Association for such Fiscal Year equal to the total Common Expenses set forth in the budget adopted by the Board and ratified by the Owners pursuant to Section 9.2.4. In determining the total funds to be generated through the levy of Regular Assessments, the Board may consider other sources of funds available to the Association, including any surplus from prior Fiscal Years.

9.4.2 Adjustment. If during any Fiscal Year it becomes apparent that the estimated Common Expenses and/or revenues of the Association as set forth in the budget

upon which the Regular Assessments were based were in error for any reason, including nonpayment by any Owner of its Regular Assessments, to the extent that the Regular Assessments the Board determines will be received for the balance of such Fiscal Year will be inadequate, or more than required, to meet the Association's obligations intended to be covered by such Regular Assessments, the Board may increase or decrease the Regular Assessments for the balance of such Fiscal Year upon not less than 30 days' prior notice to all Owners. Notwithstanding the foregoing, however, if any such amendment individually or in the aggregate with all previous amendments within any Fiscal Year would increase the total Regular Assessments for a Fiscal Year by more than 10% of the Regular Assessments called for by the budget previously ratified by the Owners pursuant to Section 9.2.4, then prior to increasing the Regular Assessments the Board must submit a revised budget for ratification by the Owners using the procedures set forth in Section 9.2.4.

9.4.3 Reconciliation. If the Board, in its discretion, determines that one or more Owners may have been materially under-billed or over-billed for their proper allocated shares of the Common Expenses for any Fiscal Year, the Board shall cause the actual Common Expenses incurred by the Association during such Fiscal Year to be reconciled against the Regular Assessments received by the Association from the Owners. To the extent that any Owner has paid more than its Common Allocation of such actual Common Expenses, the Board may in its discretion either refund the overpayment to the Owner or credit such overpayment against such Owner's obligation for Regular Assessments for the next ensuing Fiscal Year. To the extent any Owner has underpaid its Common Allocation of such actual Common Expenses, the Board may in its discretion either demand in writing that such Owner pay the amount of such underpayment of Regular Assessments to the Association within a specified period of time, as determined by the Board, after the Board notifies such Owner of such underpayment (which period of time may not be less than 30 days), or the Board may include such underpayment in such Owner's obligations for Regular Assessments for the next ensuing Fiscal Year. Nothing in this Section 9.4.3 shall be construed as limiting any of the enforcement rights of the Association with respect to delinquent Assessments under Article X.

9.4.4 Failure to Assess. Failure of the Association to fix Regular Assessments amounts or rates for a given Fiscal Year or to deliver or mail to each Owner a Regular Assessments notice shall not be deemed a waiver, modification or release of any Owner's obligation to pay its allocated share of Regular Assessments. In such event, each Owner shall continue to pay Regular Assessments on the same basis as during the last year for which Regular Assessments amounts were set by the Association, if any, until new Regular Assessments are levied, at which time the Association may retroactively assess any shortfalls in collections.

Section 9.5 Special Assessments. In addition to the Regular Assessments set forth in Section 9.4 above, the Board of Directors may levy in any fiscal year one or more Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement within or upon any private roads and/or ditches, or to make up any shortfall in the current year's budget. Notice of the amount and due dates for such Special

Assessments shall be sent to each Owner at least thirty days prior to the due date. All Special Assessments shall be apportioned and allocated equally among all Lots.

Section 9.6 Assessment for Each Lot. Each Lot is allocated, and the Owner of the Lot is liable for, a percentage of the Common Expenses equal to such Lot's Common Allocation in effect from time to time. All other costs and expenses of the Association are allocated among the Lots as otherwise provided in this Declaration.

Section 9.7 Default Assessments. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner, shall be a Default Assessment and shall become a lien against such Owner's Lot and may thereafter be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least thirty days prior to the due date.

Section 9.8 Nonpayment of Assessments. Any Assessment, whether Regular, Special, or Default Assessment, which is not paid within thirty days of its due date shall be deemed delinquent. In the event that any Assessment becomes delinquent, the Association, in its sole discretion, may take any or all the following actions:

9.8.1 Assess a late charge and interest in accordance with the Association's Collection Policy and Procedure as approved by the.

9.8.2 Suspend the voting rights of the Owner during any period of delinquency.

9.8.3 Bring an action against any Owner personally obligated to pay the delinquent Assessment.

9.8.4 File a Statement of Lien with respect to the Lot and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Recorder of the County, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of the delinquent Assessments then owing, which Statement of Lien shall be signed and acknowledged by the President, Vice President or Secretary of the Association and which shall be sent by certified mail, postage prepaid, to the Owner of the Lot at the latest address the Association may have in its records as to the Owner. Thirty days following the mailing of such notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Such Statement of Lien shall secure all Assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same have been satisfied and released, together with the Association's attorneys' fees and cost incurred in the preparation and recording of such Statement of Lien and any release thereof. In any action for the payment or foreclosure of such Assessment, the Association shall be entitled to recover as part of the action, the interest, costs and reasonable attorneys' fees with respect to the action.

9.8.5 The Statement of Lien shall be superior to all other liens and encumbrances on such Lot, except only any tax and assessment liens levied by any government entity and the lien of any First Mortgage. Provided, however, at all times the lien of the Association shall have priority and status over any other lien or Mortgage as provided by the Colorado Common Interest Ownership Act, as it now exists and as it may hereafter be amended.

Section 9.9 Successor's Liability for Assessment. In addition to the personal obligation of each Owner of a Lot to pay all Assessments and the Association's lien on a Lot for such Assessments, all successors to the ownership of a Lot shall be jointly and severally liable with the prior Owner for any and all unpaid Assessments, interest, costs, expenses and attorneys' fees against such Lot.

Section 9.10 Limited Assessment Cap for Fiscal Years 2020 and 2021. For the fiscal years beginning in 2020 and 2021, the annual Common Expense Assessment shall not exceed \$2,750 per Lot.

Section 9.11 Borrowing. The Association, acting through its Board of Directors, has the power to borrow money and assign future income as collateral for any loan, including the right to assign its right to receive Common Expense assessments. No Owner vote or approval shall be required to borrow money or assign future income as collateral unless the principal amount of the loan exceeds \$10,000. In such case, the Board shall notify all Owners of the proposed loan and set a meeting in substantial compliance with the process set forth in Section 9.2.4 of the Declaration. The loan proposal shall be deemed approved in the absence of a veto at the noticed meeting by more than 50% of the total number of Owners, whether or not a quorum is present.

ARTICLE 10 ENFORCEMENT OF COVENANTS

Section 10.1 Violations Deemed a Nuisance. Every violation of this Second Amended and Restated Declaration, the Articles and Bylaws of the Association or any Rules and Regulations adopted by the Association shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 10.2 Failure to Comply. The failure to comply with this Declaration, the Design Guidelines, or any Rules and Regulations adopted by the Board of Directors shall be grounds for the levying of fines and penalties, an action to recover damages, or for injunctive relief or for specific performance, or any of them under the Covenant and Rule Enforcement Policy and Procedure, as approved by the Board.

Section 10.3 Who May Enforce. Any action to enforce any violation of any provision of these Protective Covenants may be brought as follows:

10.3.1 By the Association in name of the Association and on behalf of the Owners.

10.3.2 By the Owner of any Lot.

Section 10.4 No Waiver. The failure of the Board, the Association, an Owner or the County to enforce or obtain compliance as to any violation, shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

Section 10.5 Right of the County. The Board of County Commissioners of the County is specifically granted the right to enforce these Protective Covenants and to bring any action as may be required for the violation of these Protective Covenants pertaining as to the following matters:

10.5.1 As may be required to protect the County or its inhabitants.

10.5.2 To enforce any provisions and requirements as to the construction, maintenance and control of all roads and driveways in accordance with the approval of the road permits by the County.

The County may enforce this Declaration at its sole discretion, without assumption of any liability whether or not such enforcement is exercised, and without obligation to exercise such enforcement in any circumstance. The ability of the County to enforce this Declaration is non-exclusive and does not preclude any other authorized party from enforcing the same.

ARTICLE 11 DURATION OF COVENANTS

Section 11.1 Term. The term of these Second Amended and Restated Declaration, and any amendments or supplements thereto, shall be from the date of recording in the records of the County and until January 1, 2030. Thereafter, this Second Amended and Restated Declaration shall be automatically renewed for successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 11.2 Amendment. This Second Amended and Restated Declaration, or any provision thereof, may only be terminated, extended, modified or amended as to the Property subject to the Protective Covenants, or any portion thereof, upon the written consent by the Owners of sixty-seven percent (67%) or more of the Lots in the Property. Any such amendment shall be by an instrument duly executed, acknowledged and recorded in the records of the County, and upon such recording shall be for the benefit of and be binding on all Owners of Lots within the Property.

11.2.1 Termination. Any termination instrument shall be recorded and must comply with the termination procedures set forth in Colorado Common Interest Ownership Act. Nothing in this Section 11.2.1 shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

11.2.2 Restrictions on Amendments. For the period ending the earlier of (i) 5 years from the date the Final Plat for the property described in Exhibit B is recorded in Chaffee County; or (ii) all of the Lots described in Exhibit B are deeded to third parties not related to Declarant, further amendments to Article 5 or 6 of this Declaration, including the creation or imposition of design requirements not otherwise existing as of January 1, 2020, or that are materially adverse to the Declarant or his affiliates may not be made without the prior written consent of the Declarant or THS Investments, LLC.

ARTICLE 12 INSURANCE

Section 12.1 Association's Insurance.

12.1.1 Required Coverage. The Association, acting through the Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance if reasonably available or, if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Broad form property insurance covering any insurable Improvements owned by the Association. The Association shall have the authority to insure any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the good faith estimated replacement cost of the insured Improvements.

(b) Commercial general liability insurance, insuring the Association and the Owners against damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury and property damage.

(c) Directors' and officers' liability coverage in an amount determined by the Board.

(d) Employee dishonesty insurance covering all persons responsible for handling Association funds in an amount not less than the maximum amount of reserves budgeted to be on hand during the policy year.

(e) Such additional insurance as the Board determines advisable.

12.1.2 Policy Requirements. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to any Owner or mortgagee. Each policy may provide for a deductible which may not exceed \$10,000.00

. Premiums for all insurance maintained by the Association pursuant to this Section 12.1 shall be Common Expenses and shall be included in the Regular Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after providing notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the recklessness or willful misconduct of one or more Owners or their Permittees, then the Association may specifically assess the full amount of such deductible against such Owners and their Lots as Default Assessments pursuant to Section 9.7. All insurance coverage obtained by the Association shall:

(a) be written with companies authorized to do business in the State of Colorado;

(b) be written in the name of the Association as trustee for the Association and the Members;

(c) be written as a primary policy, not contributing with and not supplemental to the coverage that any Owners, occupants or their mortgagees may carry individually;

(d) include an inflation guard endorsement, as applicable;

(e) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association;

(f) include an endorsement precluding cancellation, invalidation or condition to recovery under the policy on account of any act or omission of any Owner, unless such Owner is acting within the scope of its authority on behalf of the Association; and

(g) include an endorsement requiring at least 30 days' prior written notice to the Association, and to each Owner and mortgagee to whom a certificate of insurance has been issued, of any cancellation, substantial modification or non-renewal.

12.1.3 Other Policy Provisions. In addition, the Association may use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(a) a waiver of subrogation, where applicable, as to any claims against the Board, the officers or employees of the Association, and the Owners and their permittees;

(b) an endorsement excluding Owners' individual policies from consideration as primary insurance;

Section 12.2 **Damage and Destruction.**

12.2.1 **Property Insured by Association.**

(a) Immediately after damage or destruction to all or any part of Weldon Creek covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means the repair or restoration of the damaged property to substantially the condition in which it existed prior to the damage, allowing for changes necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Elements shall be repaired or reconstructed unless: (i) a decision not to repair or reconstruct is made by Members representing at least 67% of the total votes in the Association, (ii) repair or reconstruction would be illegal under any state or local statute governing health and safety; or (iii) the planned community established by this Declaration is terminated pursuant to Section 11.2.

(c) If the damage or destruction to the Common Elements will not be repaired or reconstructed pursuant to Section 12.2.2 and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive landscaped condition.

(d) Any insurance proceeds attributable to damage to Common Elements will be applied to the costs of repair or reconstruction (if any) and then, if any insurance proceeds remain, distributed among all Lots in proportion to their Common Allocations.

(e) If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Association may, without a vote of the Members, levy Special Assessments to cover the shortfall.

(f) Each Lot will continue to be subject to Assessments following any damage to any portion of the Common Elements, without abatement as a result of such damage.

12.2.2 **Property of Owners.** Each Owner covenants and agrees that in the event of damage or destruction to Improvements on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or reconstruct such structures in a manner consistent with the original construction or such other plans and specifications as are approved by the Design Guidelines and the county and pursuant to all other applicable land use regulations. The Owner shall pay any costs of such repair and reconstruction or clearing and maintenance which are not covered by insurance proceeds.

Section 12.3 **Takings.**

12.3.1 Taking of Lots. In the event of a Taking of all or any part of any Lot, the Owner thereof will be solely responsible for negotiating with the condemning authority concerning the award for such Taking and will be entitled to receive such award after the liens of all mortgagees on the affected Lot or portion thereof have been satisfied or otherwise discharged. If only part of a Lot is acquired by a Taking, the Owner of such Lot will be responsible for the restoration of its Lot as necessary to return the Lot to a safe and lawful condition that does not adversely affect the use or enjoyment of the other Lots or Common Elements or detract from the general character or appearance of the Neighborhood.

12.3.2 Taking of Common Elements.

(a) Each Owner shall be entitled to written notice of any Taking of any Common Elements or portion thereof. The Association will be solely responsible for negotiating, and is hereby authorized to negotiate with the condemning authority on behalf of all Owners concerning, the amount of the award for any Taking by which a condemning authority acquires any Common Elements or portion thereof without also acquiring 100% of the Lots, and the acceptance of such award by the Association will be binding on all Owners. Any award made for such Taking shall be payable to the Association as trustee for all Owners and shall be disbursed as set forth in Section 12.3.2. Notwithstanding the foregoing, no Common Elements shall be conveyed in lieu of and under threat of condemnation without the approval of the Board, acting with the approval of Members representing at least 67% of the total votes in the Association.

(b) If the Taking involves a portion of the Common Elements on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining land included in the Common Elements to the extent available, unless within 60 days after such Taking Members representing at least 67% of the total votes in the Association. Any such construction shall be in accordance with plans approved by the Association. If the award made for such Taking is insufficient to cover the costs of restoration or replacement, the Association may, without a vote of the Members, levy Special Assessments to cover the shortfall.

(c) If the Taking does not involve any Improvements on the Common Elements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall become an asset of the Association.

ARTICLE 13
PRINCIPLES OF INTERPRETATION

Section 13.1 Severability. This Second Amended and Restated Declaration, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of these Second Amended and Restated Declaration is determined to be invalid, unenforceable or

prohibited by any court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 13.2 Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.

Section 13.3 Headings. The headings on any section or article are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Second Amended and Restated Declaration.

Section 13.4 Written Notice. All notices required under this Declaration shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery or five days after mailing by certified or registered mail, return receipt required, to the latest address of such Owner on file in the record of the Association at the time of such mailing.

Section 13.5 Limitation of Liability. Neither the Association nor any officer or director, shall be liable to any party for any action or for any failure to take any action with respect to any matter arising by, through or under this Declaration if the action or failure to act was made in good faith. The Association shall indemnify all officers and directors with respect to any action taken in their official capacity as provided in the Articles of Incorporation and Bylaws of the Association.

Section 13.6 Attorneys' Fees. If any legal action is commenced or maintained in court, whether in law or in equity, as to the interpretation, enforcement, construction or the determination of the rights and duties of the parties to this Declaration or any provision of the Association Documents provided herein, the prevailing party in any such action shall be entitled to reasonable attorneys' fees together with all reasonable costs and expenses incurred in such action.

Section 13.7 Applicable Law. The proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association Documents shall be the District Court of the County, unless otherwise chosen by the Association and shall be interpreted, construed and governed by the laws of the State of Colorado.

Section 13.8 Interest. Unless otherwise provided in this Declaration, any sums, amounts or monies due and owing to the Association under the Association Documents shall bear interest at the lesser of the maximum interest rate allowed by law or 18% per year from the date due until paid.

ARTICLE 14 LIMITED DEVELOPMENT RIGHTS

Section 14.1 Inclusion of North Fork Lots (to be known as North Fork Ranches at Weldon Creek).

- a) The property described on Exhibit B, sometimes and/or commonly referred to as North Fork Ranches Subdivision and hereafter to be known as North Fork Ranches at Weldon Creek, may be developed by Declarant, THS Investments, LLC, or Declarant's assigns pursuant to the limited development rights provided for in this Article, into not less

than 15 separate Lots and marketed as North Fork Ranches at Weldon Creek.

- b) The Lots as may be created on the real property described in Exhibit B must be set forth in one or more Plat maps approved by Chaffee County and recorded in the County records. Each such Plat is subject to the covenant agreement and restriction of the Declarant and its assignee or affiliates, that the Plat must, in all respects, comply with the covenants, restrictions and requirements applicable to the Lots described in Exhibit A of this Declaration and as provided for in this Amendment.
- c) Upon the conveyance of a Lot platted on a part of the real property described in attached Exhibit B, by the last day of the fiscal year ending in 2029, to any party not related to Declarant (including Thomas H. Smith or THS Investments, LLC or other affiliates), that Lot is deemed annexed into the Weldon Creek Planned Community.
- d) For any Lots platted on a part of the real property described in attached Exhibit B that have not been conveyed to a party not related to Declarant by the last day of the fiscal year ending in 2029, then on the day following, those Lots are deemed annexed into the Weldon Creek Planned Community.
- e) Upon the deemed annexation as provided for above, each Lot Owner of a Lot within the property described in Exhibit B is then a member of the Association, with all the rights, privileges and obligations allocable to Owners set forth in the terms of this Declaration and is then obligated to pay assessments for the common expense assessments on par with the Lots within the property described in attached Exhibit A, except that such assessment shall be pro-rata for the fiscal year in which the Lot is annexed (for example, if a lot is annexed at the half-way point of that fiscal year, the owner would be assessed half of that year's annual assessments).
- f) By virtue of ownership of a Lot in the property described on Exhibit B, each Owner consents to annexation of that Lot into the Weldon Creek Planned Community, as provided for above. The consent of the holders of any security interest on these Lots are also deemed to have consented to annexation of that Lot into the Weldon Creek Planned Community, as provided for above.
- g) Utilities, pipes, measuring devices, and improvements specifically related to the irrigation of the Lots ("Irrigation Improvements") shall remain the common property of the Lot Owner, water association, or Ditch Company, as the case may be, to which ownership of such Irrigation Improvements is dedicated in the plat.

Section 14.2 Administration of Annexations. To further evidence the annexation of Lots that are part of the property described in attached Exhibit B to the Weldon Creek Planned Community the Association may prepare and record, without further approval of any Owner or holder of a security interest on a Lot, a supplemental declaration (with a list of the Lots then subject to all of the terms of the Declaration) and any desired or required Plat amendments or supplements. The failure of the Association to prepare and record any supplement for a Lot does not affect the annexation of the Lot or the obligations of the Owner of that Lot as established under this Declaration..

Section 14.3 Time Limit for Exercise of Limited Development Rights. The limited development rights set forth in this Article 14 expire 2 days after the automatic annexation period provided for above, unless: (i) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Association may impose on the subsequent exercise of the extended rights; (ii) extended as allowed by law; or (iii) terminated as a result of all Lots a part of the property described in Exhibit B having been timely conveyed to third parties, and as such, annexed.

Certification

The undersigned officers of the Weldon Creek Property Owners Association certify that this Second Amended and Restated Declaration of Protective Covenants of Weldon Creek was duly adopted by the members of the Association as required by the Association's governing documents and Colorado law.

This _____ day of _____, 2021.

Weldon Creek Property Owners Association

By: _____
President

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me by _____, as president of the Association, on this _____ day of _____, 2021.

Notary Public

My commission expires: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me by _____, as _____ of the Association, on this _____ day of _____, 2021.

Notary Public

My commission expires: _____

Exhibit A - the Original “Real Estate” of the Community

WELDON CREEK SUBDIVISION

Per Plat recorded in the records of the Chaffee County Clerk and Recorder on July 8, 2002, as Reception No. 327323

The Real Estate and the Community are subject to the following documents and interests of record:

1. Rights and/obligations created by a Settlement Agreement regarding water and ditch rights recorded on July 15, 2019 at Reception No 4520242. Easements, rights, reservations, restrictions and rights of way as disclosed on the Plat of Weldon Creek Subdivision as recorded in the records of the Chaffee County Clerk and Recorder on July 8, 2002, as Reception No. 327323
3. Plat amendment recorded on October 22, 2002 as Reception No. 329904 (Affects Lots No. 37, 28, 58 and 62 only)
4. Plat amendment recorded on January 28, 2020 as Reception No 456655 (Affects Lot 38 only)
5. Plat amendment recorded on February 10, 2020 as Reception No 456976 (Affects Lot 42 only)
6. Plat amendment recorded on February 20, 2020 as Reception No 457180 (Affects Lot 23 only)
7. The Declaration, including this Amendment
8. Other documents of record

Exhibit "B" – Property subject to Annexation into the Community

LEGAL DESCRIPTION OF NORTH FORK RANCHES AT WELDON CREEK SUBDIVISION

ALL THAT TRACT OF LAND LOCATED IN SECTION 35 & SECTION 36, TOWNSHIP 50 NORTH, RANGE 7 EAST OF THE NEW MEXICO PRINCIPAL MERIDIAN, CHAFFEE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, BEING MARKED BY A 3 1/4" B.L.M. ALUMINUM CAP;

THENCE NORTH 00°58'49" WEST, A DISTANCE OF 174.90 FEET TO A FENCE CORNER ON THE NORTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY NO.50 AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 85°32'55" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 185.28 FEET; THENCE NORTH 89°54'40" WEST, A DISTANCE OF 442.89 FEET;

THENCE SOUTH 78°16'30" WEST, A DISTANCE OF 657.93 FEET; THENCE SOUTH 88°37'50" WEST, A DISTANCE OF 1688.31 FEET;

THENCE SOUTH 88°37'16" WEST, A DISTANCE OF 619.33 FEET TO A POINT OF CURVATURE; THENCE WESTERLY A DISTANCE OF 647.59 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE

RIGHT, HAVING A RADIUS OF 5680.00 FEET, A DELTA ANGLE OF 06°31'57", A CHORD LENGTH OF 647.24 FEET AND A CHORD BEARING OF NORTH 88°08'41" WEST;

THENCE NORTH 84°53'17" WEST, A DISTANCE OF 316.85 FEET;

THENCE NORTH 73°27'11" WEST, A DISTANCE OF 83.38 FEET, FEET TO THE SOUTHEAST CORNER OF SUNSHINE ACRES SUBDIVISION AS RECORDED AT RECEPTION NO. 126817 IN THE OFFICE OF THE CHAFFEE COUNTY CLERK & RECORDER, THIS AND THE PRECEDING 8 COURSES ARE ALONG SAID NORTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY NO. 50;

THENCE NORTH 00°51'12" WEST, A DISTANCE OF 1124.58 TO THE SOUTHERLY BOUNDARY OF WELDON CREEK SUBDIVISION AS RECORDED AT RECEPTION NO. 327323 IN THE OFFICE OF THE CHAFFEE COUNTY CLERK & RECORDER;

THENCE NORTH 54°55'23" EAST, A DISTANCE OF 663.38 FEET;

THENCE NORTHEASTERLY A DISTANCE OF 111.53 FEET ALONG THE ARC OF A NON-TANGENT CURVE DEFLECTING TO THE LEFT, HAVING A RADIUS OF 368.64 FEET AND A DELTA ANGLE OF 17°20'04", A CHORD DISTANCE OF 111.10 FEET AND A CHORD BEARING OF NORTH 07°35'42" EAST TO A POINT OF TANGENCY;

THENCE NORTH 01°04'19" WEST, A DISTANCE OF 111.23 TO A POINT OF CURVATURE;

THENCE NORTHEASTERLY A DISTANCE OF 63.40 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 81.51 FEET AND A DELTA ANGLE OF 44°33'57" TO A POINT OF TANGENCY; THENCE NORTH 43°29'44" EAST, A DISTANCE OF 169.96 FEET TO A POINT OF CURVATURE;

THENCE NORTHEASTERLY A DISTANCE OF 17.10 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE RIGHT, HAVING A RADIUS OF 42.35 FEET AND A DELTA ANGLE OF 23°08'05" TO A POINT OF TANGENCY; THENCE NORTH 66°37'50" EAST, A DISTANCE OF 177.35 FEET TO A POINT OF CURVATURE;

THENCE NORTHEASTERLY A DISTANCE OF 247.06 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT, HAVING A RADIUS OF 193.89 FEET AND A DELTA ANGLE OF 73°00'28" TO A POINT OF TANGENCY; THENCE NORTH 06°22'35" WEST, A DISTANCE OF 100.54 FEET;

THENCE NORTH 55°36'58" EAST, A DISTANCE OF 92.52 FEET;

THENCE SOUTH 62°38'45" EAST, A DISTANCE OF 234.45 FEET TO A POINT OF CURVATURE;

THENCE SOUTHEASTERLY A DISTANCE OF 78.15 FEET ALONG THE ARC OF A CURVE DEFLECTING TO THE LEFT, HAVING A RADIUS OF 122.39 FEET AND A DELTA ANGLE OF 36°35'07" TO A POINT OF TANGENCY;

THENCE NORTH 80°46'13" EAST, A DISTANCE OF 198.08 FEET, TO THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 35, THIS AND THE PRECEDING 12 COURSES ARE ALONG SAID SOUTHERLY BOUNDARY OF WELDON CREEK SUBDIVISION;

THENCE SOUTH 03°12'05" EAST ALONG SAID EAST LINE, A DISTANCE OF 1001.08 FEET TO THE CENTER- SOUTH SIXTEENTH CORNER OF SAID SECTION 35;

THENCE CONTINUING SOUTH 03°12'05" EAST, A DISTANCE OF 90.14 FEET TO THE NORTH LINE OF THE PROPERTY DESCRIBED IN QUIET TITLE DECREE CASE NO. 80CV35 AND RECORDED AT RECEPTION NO. 201479 IN THE RECORDS OF THE CHAFFEE COUNTY CLERK & RECORDER;

THENCE NORTH 89°13'15" EAST, A DISTANCE OF 268.08 FEET TO A FENCE CORNER; THENCE NORTH 89°35'54" EAST, A DISTANCE OF 1329.36 FEET TO A FENCE CORNER; THENCE NORTH 89°49'56" EAST, A DISTANCE OF 1439.41 FEET TO A FENCE CORNER;

THENCE SOUTH 00°25'47" EAST, A DISTANCE OF 1078.39 FEET TO THE POINT OF BEGINNING, THIS AND THE PRECEDING 3 COURSES ARE ALONG SAID QUIET TITLE DECREE CASE NO. 80CV35;

CONTAINING 149.75 ACRES, MORE OF LESS.

SUBJECT TO A 20 FOOT RIGHT-OF-WAY EASEMENT AS RECORDED AT RECEPTION NO. 296248 IN THE OFFICE OF THE CHAFFEE COUNTY CLERK & RECORDER.

ALSO SUBJECT TO A UTILITY AND INGRESS/EGRESS EASEMENT AS SHOWN ON SAID PLAT OF WELDON CREEK SUBDIVISION AS RECORDED AT RECEPTION NO. 327323 IN THE OFFICE OF THE CHAFFEE COUNTY CLERK & RECORDER.

The property that is subject to annexation to the Declaration, to the Real Estate and to the Community is subject to the following documents and interests of record: 1) The Declaration, including this Amendment; and 2) Other documents of record as indicated above.