



# ONE REPORT

To: SPRINGS HOMES INC

Date Ordered: 10-12-2017

Attn: BROOKE MITCHELL

Order Number 727823

Fax:

Phone: 719-388-4000

Address: 5945 GRAPEVINE DR COLORADO SPRINGS, CO 80923

County: EL PASO

### LEGAL DESCRIPTION

LOT 33, SUNDOWN SUBDIVISION FILING NO. 18, COUNTY OF EL PASO, STATE OF COLORADO.

### OWNERSHIP & ENCUMBRANCES

Certification Date: 10-05-2017

OWNERSHIP: WILLIAM A. HAMILTON AND KRISTA C. HAMILTON

<u>Doc Type</u>	<u>Doc Fee</u>	<u>Date</u>	<u>Reference#</u>
WARRANTY DEED	NA	06-01-2010	51108

### ENCUMBRANCES AND OTHER DOCUMENTS

<u>Item</u>	<u>Payable To</u>	<u>Amount</u>	<u>Date</u>	<u>Reference#</u>
DEED OF TRUST	MORTGAGE SOLUTIONS OF COLORADO	\$228,000.00	02-01-17	12881
JUDGMENT	CACH LLC	\$9,160.32	12-03-14	111054
COVENANTS/RESTRIC			03-07-96	27425

Cust Ref#

By: MARY HANISKO  
Land Title  
Property Resource Specialist  
Email: oe@ltgc.com  
Phone: 303-850-4190  
Fax: 303-393-4827

This ONE REPORT is based on a limited search of the county real property records and is intended for informational purposes only. The ONE REPORT does not constitute any form of warranty or guarantee of title or title insurance, and should not be used by the recipient of the ONE REPORT as the basis for making any legal, investment or business decisions. The recipient of the ONE REPORT should consult legal, tax and other advisors before making any such decisions. The liability of Land Title Guarantee Company is strictly limited to (1) the recipient of the ONE REPORT, and no other person, and (2) the amount paid for the ONE REPORT.



Prepared For:  
**SPRINGS HOMES INC**  
**BROOKE MITCHELL**

**Reference:** 5945 GRAPEVINE DR COLORADO SPRINGS, CO  
80923

**Attached are the additional documents you requested:**

<u>Doc Type</u>	<u>Recorded</u>	<u>Reception#/BookPage</u>
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MARY HANISKO  
**Land Title**  
**Property Resource Specialist**  
**Email:** mhanisko@ltgc.com  
**Phone:** 303-850-4193  
**Fax:** 303-393-4827

ADD .DOCS 727823

# INVOICE



Land Title Guarantee Company  
5975 Greenwood Plaza Blvd Suite 125  
Greenwood Village, CO 80111  
719-634-4821

Tax ID: 84-0572036

**INVOICE NO. CSP-29022**

SPRINGS HOMES INC  
Attn: BROOKE MITCHELL  
5262 N NEVADA AVE #130  
PMB 483  
COLORADO SPRINGS, CO 80918

### Reference

Your reference Number : O & E Report  
Our Order Number : 727823  
Our Customer Number : 63083  
Invoice Requested By : Brooke Mitchell  
Invoice (Process) Date : October 12, 2017  
Transaction Invoiced By : Web Services  
Email Address : invoicing@ltgc.com

Property Address: 5945 GRAPEVINE DR

Owner: William A. Hamilton And Krista C. Hamilton

### - CHARGES -

Service:	O & E Report	\$7.00
Ref:	O & E Report-727823	
Addr:	5945 GRAPEVINE DR	
Party:	WILLIAM A. HAMILTON AND K	
Total Amount Invoiced:		\$7.00
Less Payment(s):		\$0.00
Balance Due:		\$7.00

**Payment due upon receipt**  
*Please Reference Invoice No. on Payment*  
Please make check payable and send to:  
Land Title Guarantee Company  
5975 Greenwood Plaza Blvd Suite 125  
Greenwood Village, CO 80111



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TBD REPORT - This report is neither a commitment to insure, nor an abstract of title. This product may not conform to the written standard and practices of our underwriters and the Company reserves the right to set further requirements and/or exceptions should a full title commitment be ordered in the future. The liability of the Company shall not exceed the charge paid by the applicant for this report, nor shall the Company be held liable to any party other than the applicant for this report.

PROPERTY REPORT - This Report is based on a limited search of the county real property records and provides the name(s) of the vested owner(s), the legal description, tax information (taken from information provided by the county treasurer on its website) and encumbrances, which, for the purposes of this report, means deed of trust and mortgages, and liens recorded against the property and the owner(s) in the records of the clerk and recorder for the county in which the subject property is located. This Report does not constitute any form of warranty or guarantee of title or title insurance. The liability of Land Title Guarantee Company is strictly limited to (1) the recipient of the Report, and no other person, and (2) the amount paid for the Report.

OPEN DEED REPORT - The Open Deed Report does not include a search of the names of the property owner(s). This report is for informational purposes only and does not constitute any form of title guarantee nor insurance. The liability of this company shall not exceed the charge paid by the applicant for this report, nor shall the company be held liable to any party other than the applicant for this report.



217012881 2/1/2017 12:49 PM  
PGS 18 \$98.00 DF \$0.00  
Electronically Recorded Official Records El Paso County CO  
Chuck Broeman, Clerk and Recorder  
TD1000 N

WHEN RECORDED, MAIL TO:  
MORTGAGE SOLUTIONS OF COLORADO, LLC  
5455 N UNION BLVD  
COLORADO SPRINGS, COLORADO 80918  
This instrument was prepared by:  
MORTGAGE SOLUTIONS OF COLORADO, LLC  
5455 N UNION BLVD  
COLORADO SPRINGS, COLORADO 80918  
719-447-0325

Loan Number: 121748R5

(Space Above This Line For Recording Data)

## DEED OF TRUST

VA Case Number: 393961144846

MIN: 100322140001217481  
SIS Telephone #: (888) 679-MERS

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.**

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated January 26, 2017, together with all Riders to this document.
- (B) "Borrower" is WILLIAM A. HAMILTON AND KRISTA C. HAMILTON. Borrower is the trustor under this Security Instrument.
- (C) "Lender" is MORTGAGE SOLUTIONS OF COLORADO, LLC, organized and existing under the laws of COLORADO. Lender's address is 5455 N UNION BLVD, COLORADO SPRINGS, COLORADO 80918.
- (D) "Trustee" is the Public Trustee of EL PASO County, Colorado.
- (E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
- (F) "Note" means the promissory note signed by Borrower and dated January 26, 2017. The Note states that Borrower owes Lender TWO HUNDRED TWENTY-EIGHT THOUSAND AND NO/100 Dollars (U.S. \$228,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than February 1, 2047.
- (G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.



162774



(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider                         | <input type="checkbox"/> Second Home Rider   |
| <input type="checkbox"/> Balloon Rider         | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input checked="" type="checkbox"/> VA Rider |
| <input type="checkbox"/> 1-4 Family Rider      | <input type="checkbox"/> Biweekly Payment Rider                    |  |
| <input type="checkbox"/> Other [Specify]       |  |  |

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 *et seq.*) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**TRANSFER OF RIGHTS IN THE PROPERTY**

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower, in consideration of the debt and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of EL PASO:

**LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF**

Parcel ID Number: 63132-03-019

which currently has the address of 5945 GRAPEVINE DRIVE  
 COLORADO SPRINGS, COLORADO 80923,

("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests

*[Handwritten Signature]*



granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

**BORROWER COVENANTS** that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record and liens for taxes for the current year not yet due and payable.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10.

*[Handwritten initials]*





These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that



Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the



taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.



Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has – if any – with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.



All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or



clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.



**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Lender shall mail a copy of the notice to Borrower as provided in Section 15. Trustee shall record a copy of the notice in the county in which the Property is located. Trustee shall publish a notice of sale for the time and in the manner provided by Applicable Law and shall mail copies of the notice of sale in the manner prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's certificate describing the Property and the time the purchaser will be entitled to Trustee's deed. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.



23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall request that Trustee release this Security Instrument and shall produce for Trustee, duly cancelled, all notes evidencing debts secured by this Security Instrument. Trustee shall release this Security Instrument without further inquiry or liability. Borrower shall pay any recordation costs and the statutory Trustee's fees.

24. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

\_\_\_\_\_  
-Witness  
  
\_\_\_\_\_  
(Seal)  
WILLIAM A HAMILTON  
-Borrower

\_\_\_\_\_  
-Witness  
  
\_\_\_\_\_  
(Seal)  
KRISTA C HAMILTON  
-Borrower

STATE OF COLORADO, EL PASO County ss:

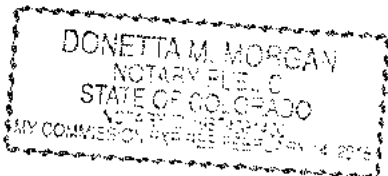
The foregoing instrument was acknowledged before me this 26 day of Jan 2017 by WILLIAM A HAMILTON and KRISTA C HAMILTON.

Witness my hand and official seal.

My Commission Expires: 2/14/18  
(Seal)

\_\_\_\_\_  
Notary Public

Loan originator (organization): MORTGAGE SOLUTIONS OF COLORADO, LLC; NMLS #: 61602  
Loan originator (individual): JEREMY WAYNE HARDWICK; NMLS #: 232099





**EXHIBIT "A"  
LEGAL DESCRIPTION**

File No.: 162774

LOT 33, SUNDOWN SUBDIVISION FILING NO. 18, IN THE CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO.

Loan Number: 121748R5

MIN: 100322140001217481  
Case No.: 393961144846

### PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 26th day of January, 2017, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the Borrower") to secure Borrower's Note to MORTGAGE SOLUTIONS OF COLORADO, LLC (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

**5945 GRAPEVINE DRIVE  
COLORADO SPRINGS, COLORADO 80923**  
(Property Address)

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in

#### Covenants, Conditions and Restrictions of Record

(the "Declaration"). The Property is a part of a planned unit development known as

**SUNDOWN**  
(Name of Planned Unit Development)

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

MULTISTATE PUD RIDER - Single Family -  
Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3150 1/01

Page 1 of 3

IDS, Inc.

Borrower(s) Initials



**PUD COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. PUD Obligations.** Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

**B. Property Insurance.** So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

**C. Public Liability Insurance.** Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

**D. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

*[Handwritten initials]*



**E. Lender's Prior Consent.** Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

**F. Remedies.** If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this PUD Rider.

  
\_\_\_\_\_  
WILLIAM A HAMILTON (Seal)  
-Borrower

  
\_\_\_\_\_  
KRISTA C HAMILTON (Seal)  
-Borrower



Loan Number: 121748R5

MIN: 100322140001217481  
VA Number: 393961144846

**VA GUARANTEED LOAN AND  
ASSUMPTION POLICY RIDER**

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE  
APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS  
OR ITS AUTHORIZED AGENT.**

THIS V.A. GUARANTEED LOAN AND ASSUMPTION POLICY RIDER is made this 26th day of January, 2017, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Deed to Secure Debt (herein "Security Instrument") dated of even date herewith, given by the undersigned (herein "Borrower") to secure Borrower's Note to

**MORTGAGE SOLUTIONS OF COLORADO, LLC**

(herein "Lender")

and covering the Property described in the Security Instrument and located at

**5945 GRAPEVINE DRIVE  
COLORADO SPRINGS, COLORADO 80923**  
(Property Address)

**V.A. GUARANTEED LOAN COVENANT:** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

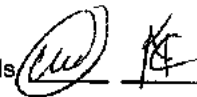
If the indebtedness secured hereby be guaranteed or insured under Title 38, United States Code, such Title and Regulations issued thereunder and in effect on the date hereof shall govern the rights, duties and liabilities of Borrower and Lender. Any provisions of the Security Instrument or other instruments executed in connection with said indebtedness which are inconsistent with said Title or Regulations, including, but not limited to, the provision for payment of any sum in connection with prepayment of the secured indebtedness and the provision that the Lender may accelerate payment of the secured indebtedness pursuant to Covenant

**VA Guaranteed Loan & Assumption Policy Rider**

Page 1 of 3

IDS, Inc.

Borrower(s) Initials





18 of the Security Instrument, are hereby amended or negated to the extent necessary to conform such instruments to said Title or Regulations.

**LATE CHARGE:** At Lender's option, Borrower will pay a "late charge" not exceeding FOUR per centum (4.000%) of the overdue payment of principal and interest when paid more than FIFTEEN (15) days after the due date thereof to cover the extra expense involved in handling delinquent payments, but such "late charge" shall not be payable out of the proceeds of any sale made to satisfy the indebtedness secured hereby, unless such proceeds are sufficient to discharge the entire indebtedness and all proper costs and expenses secured hereby.

**GUARANTY:** Should the Department of Veterans Affairs fail or refuse to issue its guaranty in full amount within 60 days from the date that this loan would normally become eligible for such guaranty committed upon by the Department of Veterans Affairs under the provisions of Title 38 of the U.S. Code "Veterans Benefits," the Mortgagee may declare the indebtedness hereby secured at once due and payable and may foreclose immediately or may exercise any other rights hereunder or take any other proper action as by law provided.

**TRANSFER OF THE PROPERTY:** This loan may be declared immediately due and payable upon transfer of the property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established pursuant to Section 3714 of Chapter 37, Title 38, United States Code.

An authorized transfer ("assumption") of the property shall also be subject to additional covenants and agreements as set forth below:

(a) **ASSUMPTION FUNDING FEE:** A fee equal to one-half of 1 percent (.50%) of the unpaid principal balance of this loan as of the date of transfer of the property shall be payable at the time of transfer to the loan holder or its authorized agent, as trustee for the Department of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729 (c).

(b) **ASSUMPTION PROCESSING CHARGE:** Upon application for approval to allow assumption of this loan, a processing fee may be charged by the loan holder or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which Section 3714 of Chapter 37, Title 38, United States Code applies.

(c) **ASSUMPTION INDEMNITY LIABILITY:** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan. The assumer further agrees to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

*[Handwritten initials]*



IN WITNESS WHEREOF, Borrower(s) has executed this VAGuaranteed Loan And Assumption Policy Rider.

  
\_\_\_\_\_  
**WILLIAM A HAMILTON** (Seal)  
--Borrower

  
\_\_\_\_\_  
**KRISTA C HAMILTON** (Seal)  
--Borrower



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Electronically Recorded Official Records El Paso County CO  
Wayne W. Williams Clerk and Recorder  
TD1000 N

COUNTY COURT, EL PASO COUNTY, COLORADO

Court Address:

PO Box 2980

270 S. Tejon

Colorado Springs, CO 80901-0000

Case Number: 14C -047006

Div.: CVL

Plaintiff: CACH LLC

Defendant: HAMILTON, WILLIAM

**TRANSCRIPT OF JUDGMENT**

Original Judgment Amount: \$9,160.32 Judgment Date: November 12, 2014

Revived Judgment Amount: \$ .00 Judgment Date:

Judgment Status: UNSATISFIED

Additional Remarks:

CVL/D INT AT 8% PER ANNUM

Debtor(s): WILLIAM HAMILTON, 880 BEACON LITE RD, LOT 7, MONUMENT, CO 80132

Creditor(s): CACH LLC, PO BOX 4198, ENGLEWOOD, CO 80155

Balance of Judgment to Date: \$9,160.32

I hereby certify that the above is a true and complete transcript of the judgment in the above-referenced case which is retained in my office.

P. Scott Lowery, P.C.  
Attorney for Plaintiff / Judgment Creditor  
PO BOX 4198  
Englewood, CO 80155

Lynette Cornelius  
Clerk of Court  
COUNTY COURT, EL PASO COUNTY

DATE: November 26, 2014

BY Dr. Lynette D. Cornelius  
Deputy Clerk





096027425

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ARDIS W. SCHMITT  
EL PASO COUNTY CLERK & RECORDER

BOOK  
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DECLARATION OF PROTECTIVE COVENANTS  
OF  
SUNDOWN SUBDIVISION FILING NO. 18  
IN THE CITY OF COLORADO SPRINGS,  
EL PASO COUNTY, COLORADO

THIS DECLARATION OF PROTECTIVE COVENANTS (this "Declaration") is made this 5<sup>th</sup> day of March, 1996, by Development Management, Inc., a Colorado corporation (called "Declarant" in this Declaration).

RECITALS

A. Declarant is the owner in fee simple of residential property (the "Property") in the City of Colorado Springs, described as follows:

Sundown Subdivision, Filing No. 18, in the City of Colorado Springs, El Paso County, Colorado.

B. Declarant desires to place protective covenants, conditions, easements and restrictions on the Property in order to establish, protect and maintain the quality residential environment, character, values and amenities of the Property.

Declarant, for itself and its grantees, successors and assigns, does hereby impose and establish upon the Property, and all of the Property shall hereafter be subject to, all of the following restrictions, covenants, easements and conditions (collectively referred to as the "Protective Covenants"), all of which shall be deemed to run with the land and shall inure to the benefit of and be binding upon Declarant, its grantees, successors and assigns, and all parties having or acquiring any right, title or interest in or to the Property or any part thereof.

1. Land Use, Building Type and Occupancy. All of the Property shall be used for single-family residential purposes only. No business, profession or other activity, whether profit or nonprofit, shall be carried on or conducted within any of the Property. No more than one dwelling shall be permitted on any lot within the Property as originally platted (a "Lot"). No Lot

96-116

shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories in height. All dwellings must include a private garage for not less than two cars. Garages shall be used only for the storage of motor vehicles and accessories, and shall not be converted to living space. No building shall be permitted on any Lot unless such building has been duly constructed thereon and the removal of dwellings or structures from other locations to Lots within the Property shall not be permitted. Detached private garages and accessory buildings may be permitted in accordance with restrictions hereinafter set forth. This residential use restriction shall not prohibit a builder or developer from using a residential-type structure as a construction and/or sales office so long as the builder or developer has a permit for such use from the City of Colorado Springs (the "City"), and is actively marketing and/or constructing homes within the Master Plan Community of Nor'wood.

2. Dwelling, Quality and Size. It is the intention and purpose of these Protective Covenants to assure that all dwellings contain a high quality of workmanship and material. The floor area of dwellings on the Lots, exclusive of one-story open porches and garages, shall be as follows:

- (a) No less than 800 square feet for a ranch-style one-story dwelling;
- (b) No less than 1,000 square feet for a two-story dwelling;
- (c) No less than 1,000 square feet for a bi-level dwelling, of which 700 square feet must be finished; and
- (d) No less than 800 square feet for the two upper levels of a two and one-half story dwelling.

3. Architectural Control. No building, structure, fence, wall, landscaping or any other object or improvement expressly requiring the approval of the ACC (as defined in paragraph 25 below) under the provisions of these Protective

Covenants (all of which are referred to individually as an "Improvement" or collectively as "Improvements") shall be commenced, erected, placed or maintained on any Lot, nor shall any addition, change or alteration thereto be made, until two copies of the construction plans and specifications and a plan showing the location of the Improvement and the topography of the Lot as provided below, and showing the nature, kind, shape, height, materials, location and approximate cost of such structure or landscaping, or the additions, changes or alterations thereto, and the grading plan of the Lot to be built upon, have been submitted to and approved in writing by the ACC, in accordance with paragraph 26. Likewise, the color and material of all roofing, shingles, siding, windows, doors, screens and other items visible from the exterior of the dwelling must be submitted to and approved by the ACC before installation, as to quality of workmanship and materials, harmony of external design with the surrounding area and existing structures and general compatibility with the environment of the Property and nearby Sundown Subdivisions. Concurrently with submission of the plans and specifications, the party submitting them shall submit to the ACC a summary of the plans, stating the square footage of any building, categorized by livable, finished and unfinished square footage, listing the building materials to be used on the exterior walls and roof, describing exterior colors, and certified as true and correct by the party who prepared the summary. The ACC shall have the right to refuse to approve any plans or specifications, including final grade elevations, which are not suitable or desirable in its opinion for aesthetic or other reasons or are not in conformance with specific provisions of these Protective Covenants, as more particularly provided in paragraph 26.

No building partially or completely finished or of a permanent nature and located elsewhere may be moved to or placed upon a Lot or portion of a Lot within the Property. No building, wall, fence or other structure shall be constructed, erected,

moved to or placed on a Lot or portion thereof within the Property unless constructed of new materials.

4. Minimum Setbacks. No building shall be located on any Lot nearer to the front lot line or nearer to the side street line than any minimum building setback lines which may be shown on the recorded plat of the Property. No dwelling shall be located nearer than zero feet to an interior lot line, except that five feet side yards shall be the minimum requirement for other permitted accessory buildings located 35 feet or more from the front building setback line. No dwelling shall be located on any Lot nearer than 15 feet to the rear lot line nor nearer than 15 feet to any side street line. All structures shall have not less than ten feet of area separation. For the purpose of this covenant, eaves, fireplaces, steps and open porches may encroach into a setback area, but this shall not be construed to permit eaves, fireplaces, steps, porches or any other portion of a building on a Lot to encroach upon another Lot.

5. Easements and Utility Right-of-Way. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear seven feet of each Lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which damages or interferes with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easements are on each Lot and all improvements in the easements shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

6. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon to cause annoyance, embarrassment, discomfort, or a nuisance in the neighborhood. No offensive or hazardous activity shall be permitted on any Lot or in any dwelling unit. No annoying lights, sounds or odors shall be permitted to emanate from any

dwelling unit. Refuse piles or other unsightly materials or objects shall not be allowed to be placed or remain in open storage upon Lots or easements.

7. Trucks, Campers and Trailers. No truck, camper, trailer, boat, tractor, commercial vehicle, mobile home, motor home, motorcycle or utility trailer or other tow trailer may be kept on any Lot or elsewhere on the Property unless enclosed in a structure which has been approved by the ACC. For purposes of this restriction, a truck having three-quarter ton manufacturer's rating capacity, commonly known as a pickup truck, shall not be deemed a commercial vehicle. None of these vehicles shall be parked in the street right-of-way, on driveways, or where visible to the surrounding properties or adjacent streets.

8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, excavation or other out-building will be permitted on any Lot, except as may be determined to be necessary during construction and specifically authorized by the ACC prior to installation.

9. Mechanical Work. No stripped down, partially wrecked or junk motor vehicles may be stored on any Lot or elsewhere on the Property, except in an enclosed structure which has been approved by the ACC. No maintenance, servicing, repair, dismantling, or repainting of any vehicle, boat, machine or device may be carried on except in an approved, completed and enclosed structure.

10. Maintenance Equipment. All maintenance equipment shall be stored in an enclosed structure or otherwise adequately screened so as not to be visible from neighboring properties or adjoining streets.

11. Weeds and Insects. All Lots and yards are to be kept free of weeds and harmful insects.

12. Clothesline and Storage. No outdoor clotheslines or poles or other drying facilities will be placed so as to be visible from neighboring properties or any street. No dog runs,

service yards, wood piles or storage areas shall be so located as to be visible from neighboring properties or any street.

13. Towers, Dishes and Antennae. No towers, antennae, satellite dishes or other device for the transmission or reception for radio, television, microwave or other signals that are visible from any site across the street or from any street shall be permitted, unless screened in a manner approved by the ACC.

14. Solar Energy Devices. All solar energy devices erected or installed on any Lot must be designed by a licensed architect, and plans for solar energy devices submitted to the ACC must bear the architect's stamp. All solar energy devices must comply with all requirements imposed by the City.

15. Fences. No non-wood fence may be erected on the Property. The location and quality of fences must be consistent with the rules and regulations as established by the applicable zoning authorities having zoning jurisdiction over any of the Property. No fencing shall be allowed in the minimum building setback areas in front of a residential structure.

16. Oil and Mineral Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. Nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

17. Signs. No signs, billboards, posterboards or advertising structures of any kind shall be erected or maintained on any Lot or Improvement for any purpose whatsoever except for one sign for privacy or identification of not more than one square foot area and one sign of not more than five square feet advertising the Property for sale or rent. No signs will be permitted within or in view of the area maintained by the Nor'wood Special Improvement District (the "District"), without prior approval by the Advisory Board of the District. This

restriction does not apply to any temporary signs erected by builders to market homes within the Property.

18. Livestock. No animals, livestock or poultry of any kind shall be raised, bred or kept upon any Lot, except that dogs, cats or other household pets may be kept in reasonable number, provided that they are not kept, bred or maintained for any commercial purpose.

19. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, ashes, rubbish, grass and shrub clippings, building materials, scrap materials or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be kept concealed from public view, except on the day of collection.

20. Commercial Enterprises. No commercial enterprises shall be conducted or maintained upon in front of, or in connection with any Lots, nor shall any Lot in any way be used for other than strictly single-family residential purposes, except that professional offices may be maintained within the main dwelling upon specific approval by the ACC in each case, subject to City zoning ordinances, which will prevail, should the ACC give its approval. However, this paragraph shall not apply to any sales or construction office located on any Lot which is maintained by a builder during the construction and sales period, and such normal sales or construction office activity shall in no way be impaired by these Protective Covenants.

21. Sight Distance at Intersections. No fence, wall, hedge or shrub which obstructs sight lines shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines. The same restriction contained in the foregoing sentence shall also apply to any Lot not on a corner, within the triangular area formed by the street property line, the line marking edge of a

driveway or alley pavement and the line connecting those two lines at points ten feet from the intersection of those two lines. No tree shall be permitted to remain within the triangular areas described above unless the foliage line of the tree is maintained at sufficient height to prevent obstruction of sight lines.

22. Landscaping. No front yard may contain less than 40 percent grass, and yards must be maintained in an attractive and well-groomed manner. For purposes of computing the 40 percent grass requirement, the front yard shall not include the driveway and sidewalk appurtenant to the yard under consideration. No trees, shrubs or other natural landscaping shall be removed or changed without the express consent of the ACC, which consent shall not be unreasonably withheld when such landscaping would interfere with the construction of a single-family dwelling approved by the ACC, or would interfere with driveways, sidewalks, site requirements or with requirements of the City. Landscaping on each Lot shall be completed in accordance with the plans submitted to the ACC as described in paragraph 26 below, within three months, weather permitting, after substantial completion of the single-family dwelling on the Lot. It is the policy of the ACC to limit the use of gravel, rock or paving as part of the landscaping on each Lot.

23. Changes or Alterations. No changes in color or other exterior appearance of buildings, fences or other structures nor alterations to an improved single-family dwelling, structure, fence, landscaping plan or any other previously approved Improvement shall be made until the proposed changes or alterations have been submitted to and approved by the ACC as provided in paragraph 26 below.

24. Soils, Grading and Maintenance. The soils within the State of Colorado consist of both expansive soils and low-density soils which will adversely affect the integrity of the Residence (defined below) if the Residence and the Lot containing it are not properly maintained. Expansive soils contain clay



minerals which have the characteristic of changing volume with the addition or subtraction of moisture, thereby resulting in swelling and/or shrinking soils, and the addition of moisture to low-density soils causes a realignment of soiled grains thereby resulting in consolidation and/or collapse of the soils.

Declarant intends to sell Lots to individual purchasers, who shall construct or have constructed a single-family residence on each Lot (a "Residence"). The purchaser, or any successor thereof, of a Lot is referred to in this paragraph 24 as an "Owner." Declarant shall require the Owner to have prepared a grading plan for the Owner's Lot or Lots, which plan shall be submitted to the ACC prior to commencement of construction of a Residence, certified and stamped by a registered engineer. Each Lot shall be graded by the Owner in accordance with the approved grading plan. No change in the approved grading plan may be made without the prior written approval of the ACC. Anyone desiring to change the grading plan shall cause to be prepared by a professional engineer, a revised grading plan which must be submitted to the ACC prior to the change of grading. The procedure for approving grading plans shall be the same as the procedure described in paragraph 26 for approval of plans and specifications. Each Residence shall be located on a Lot in such a way as to be compatible with the approved grading plan and not interfere with drainage patterns established by the grading plan. The final drainage patterns established during grading of a Lot are the sole responsibility of the Owner and neither Declarant nor the ACC shall have any liability whatsoever for damage caused by improper grading or drainage on any Lot.

An Owner shall not permit the moisture content of the soil supporting the foundation and supporting the concrete slabs forming a part of the Residence to increase to an extent that would adversely affect the foundation and concrete slabs, and shall not introduce excessive water into the soil surrounding the Residence. An Owner shall maintain the grading and drainage

patterns of the Property established according to the approved grading plan authorized by the ACC.

An Owner shall not impede or hinder in any way the water falling on his Lot from reaching the drainage courses established for the Lot and the Property.

25. Architectural Control Committee. To carry out the administration and enforcement of the provisions of these Protective Covenants, there is hereby formed an Architectural Control Committee (the "ACC"). Declarant shall act as the ACC until it has sold all of the Lots within the Property, or until such earlier time as Declarant elects to appoint a committee to serve as the ACC and assigns the right to act as the ACC to such committee. To create such a committee to act as the ACC, Declarant shall appoint three persons, all of whom shall either be an owner of a Lot or a representative of Declarant, to act as the ACC. The ACC shall exercise the functions assigned to it by these Protective Covenants, including reviewing and approving all plans for Improvements as provided in these Protective Covenants. The ACC shall meet as required to consider and approve or disapprove any proposed change, addition or deletion of these Protective Covenants. The majority of the ACC may designate a representative to act for it. Any member of the ACC may resign at any time. In the event of the death, incapacity or resignation of any member of the ACC after the appointment of a committee by Declarant, the remaining members shall have full authority to appoint a successor. The ACC at its discretion will set a plan review fee to be paid at the time building plans are submitted to the ACC by the person submitting the plans. Neither the members of the ACC, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to these Protective Covenants. However, Declarant or the ACC may hire and pay a manager, an architect, a designer or any other agent to assist it in the review of plans and the enforcement of this Declaration and may pay attorneys' fees in connection with

the interpretation, administration and enforcement of this Declaration.

26. Procedure. Any party desiring to build, erect or install any Improvement, or to alter or change any previously approved or existing Improvement, on any Lot or other portion of the Property, whether an owner of a Lot or a builder (each of whom is hereinafter referred to as "Builder"), shall submit two sets of plans and specifications to the ACC showing the nature, kind, shape, height, materials, floor plans, location, exterior elevations and color scheme for the Improvement by providing paint chips, alterations, grading, drainage, landscaping plans, mailbox design, a cross section showing the height and locations of all structures, the square footage of a dwelling unit by story, and an indication of the amount of square feet within any building that shall be finished and the amount that shall be unfinished. Incomplete submittals shall be returned without review. In addition, Builder shall indicate an address to which approval or disapproval may be mailed. All the named items shall be submitted at least 20 days prior to commencement of construction.

The ACC shall have 14 days in which to indicate its approval or disapproval to the Builder at the address provided to the ACC. In approving or disapproving plans and specifications, the ACC shall have the right to take into consideration, among other things, the specific requirements and provisions of these Protective Covenants; the use and suitability of the proposed building or other Improvement; the materials with which the Improvement is to be built; the quality of workmanship; the topography, size and shape of the Lot upon which the Improvement will be erected; the harmony of the external appearance of the Improvement with its surroundings; and the degree, if any, to which the proposed Improvement will result in interference with views or cause intrusions of sound, light or other effect on neighboring sites beyond those to be reasonably expected in a quality residential area from considerate neighbors. In the

event the ACC fails to give such written notice of approval or disapproval within 14 days after receipt of the items described above, approval shall be deemed granted and specific written approval will not be required. If the ACC gives written notice, it shall do so by indicating its action in a letter accompanying the return of one set of the plans and specifications submitted by Builder. The other set shall be retained by the ACC, along with a record of its action on the plans and specifications, for a period of one year from the date of submittal or completion of construction. Thereafter, the ACC may destroy such plans, specifications and records without any liability being imposed on it thereby.

During the time that Declarant acts as the ACC, all requests for approval, together with required plans and other information, shall be sent to Declarant at 4065 North Sinton Road, Suite 200, Colorado Springs, Colorado 80907, unless Declarant designates a different address. After Declarant has appointed a committee to act as the ACC, all requests for approvals and related information shall be submitted to the address designated by the ACC by instrument recorded in the real property records of El Paso County, Colorado or other reasonable means of notification.

27. No Liability. Neither the Declarant nor the ACC, nor any member or agent thereof, shall be liable in damages to any person or entity submitting plans for approval or requesting a variance, nor to any owner of a Lot or any other portion of the Property, by reason of mistake in judgment, negligence, nonfeasance or any act or omission in connection with the approval, disapproval, or failure to approve or disapprove any plans, specifications or variance. Approval by the ACC shall not mean that plans and specifications are in compliance with the requirements of any local building codes, zoning ordinances or other governmental regulations, and it shall be the responsibility of the Builder to comply with all codes, ordinances and regulations. Any Builder submitting or causing to

be submitted any plans and specifications to the ACC agrees and covenants that he will not bring any action or suit to recover damages against Declarant, the ACC or its members, individually or collectively, or their advisers, employees or agents.

28. Amendments. For as long as Declarant owns any Lot or other portion of the Property, any provision of these Protective Covenants may be waived, amended or terminated at any time by a written instrument referring to these Protective Covenants signed by Declarant and the then current record owners of at least 50 percent of the Lots within the Property, with all signatures notarized, and recorded with the El Paso County Clerk and Recorder. From time to time, any provision of this Declaration may be amended, or deleted, and new provisions may be added to this Declaration, by a written instrument signed by the Owners of at least two-thirds of the Lots within the Property, with all signatures notarized, and recorded with the Clerk and Recorder of El Paso County, Colorado.

29. Effect and Duration of Covenants. The conditions, restrictions, stipulations and agreements contained in these Protective Covenants are to run with the land and shall be for the benefit of and be binding upon each Lot described in this Declaration and each Owner of a Lot or other portion of the Property, and all parties and all persons who have any right, title or interest in any portion of the Property, their respective successors, representatives and assigns. These Protective Covenants shall remain in effect for a period of 25 years from the date this Declaration was recorded in the real property records of El Paso County, Colorado, and thereafter, shall be automatically extended for successive periods of ten years unless an instrument stating that such extension is not desired and signed by the then-record Owners of a majority of the Lots subject to this Declaration (with all signatures notarized) has been recorded with the Clerk and Recorder of El Paso County, Colorado.

30. Enforcement. These Protective Covenants are for the benefit of owners of Lots within the Property, jointly and severally, Declarant and the ACC. If any person shall violate or threaten to violate any of the provisions of these Protective Covenants, Declarant, the ACC or any Owner of any of the Property, or any combination thereof, in addition to all other available remedies, may enforce the provision of these Protective Covenants by instituting such proceedings at law or in equity as may be appropriate to enforce the provisions of these Protective Covenants, including an action for prohibitive or mandatory injunctive relief to prevent or remedy the threatened or existing violation of this Declaration, an action for damages and any and all other available remedies. In the event of any litigation to enforce this Declaration, the prevailing party shall be entitled to recover all costs and attorneys' fees incurred by such party. In the event of any violations, and in addition to any other remedies available, Declarant, the Owners or the ACC shall have the right of entry on the Lot owned by the party in violation, and may cure any deficiency or violation without jeopardy of any claim of trespass, at the expense of the party in violation. Declarant or the ACC may order any work necessary to cure the deficiency or violation.

31. Penalties and Expenses of Enforcement; Liens for Nonpayment. If any person violates any of the provisions of these Protective Covenants or of the rules and regulations promulgated by the ACC pursuant to these Protective Covenants, or cause expenses to Declarant or the ACC as a result of such violations, including the expenses incurred in curing any violation or deficiency, and fails to or refuses to pay such expenses, then such expenses shall be chargeable to the Owner of the Lot on which the work has been done, including interest from the date of billing to the date of payment at the highest rate permitted by law and shall constitute a lien against the Lot, including Improvements thereon, owned by the Owner in violation, which lien shall be superior to all other liens or encumbrances

except (a) tax and special assessment liens in favor of any assessing unit; and (b) all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances, and including additional advances made thereon prior to the creation of such a lien pursuant to this paragraph 31.

To evidence such a lien, Declarant or ACC shall prepare a written notice setting forth the amount of the unpaid indebtedness, the name of the owner of record of the Lot subject to such lien, and the legal description thereof. Such notice shall be signed by Declarant or by a member of the ACC and shall be recorded in the office of the Clerk and Recorder of the County of El Paso, State of Colorado. Such lien shall attach from the date of the failure of payment of such assessment of expenses and, unless paid or otherwise satisfied, may be foreclosed through a Colorado court of competent jurisdiction in accordance with the laws of the State of Colorado applicable to foreclosure of real estate mortgages (not including deeds of trust), or in any other manner permitted by law. In the event of such foreclosure, the owner of the Lot subject to the lien being foreclosed shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice for claim of lien and all attorneys' fees incurred by Declarant or the ACC. Declarant or the ACC shall have the power to bid in the amount of its lien or otherwise bid on the Lot at any foreclosure sale and shall have the right to acquire and hold, lease, mortgage or convey the Lot.

The amount of any such expense as assessed against the Lot shall also be a personal debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for any such unpaid expenses may be maintained without foreclosing or waiving the lien securing the debt, and shall include all costs and expenses thereof, including all attorneys' fees incurred to obtain such judgment.

Any mortgage holder or similar encumbrancer holding a lien on the subject Lot, may pay any unpaid expenses created hereunder with respect to the Lot, and upon such payments such encumbrancer shall have a lien on the Lot for the amounts paid, the lien to be of the same priority as the lien of his respective encumbrance.

32. Severability and Nonwaiver. Invalidation of any provision of these Protective Covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. Failure to insist upon the enforcement of any one or more of the provisions contained in these Protective Covenants shall not constitute a waiver of that provision or of any of the remaining provisions. The express granting of a waiver by Declarant or the ACC shall be applicable only to the specific matter waived, and shall not be deemed a waiver of any provision or requirement of these Protective Covenants.

DECLARANT:

DEVELOPMENT MANAGEMENT, INC.,  
a Colorado corporation

[CORPORATE SEAL]

By [Signature]  
Kent A. Petre, President

STATE OF COLORADO )  
                          ) ss.  
COUNTY OF EL PASO )

The foregoing instrument was acknowledged before me this 5th day of March, 1996 by Kent A. Petre as President of Development Management, Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 6/7/97



[Signature]  
Notary Public