



**EASTGATE I**  
**a Planned Community**

**AMENDMENT AND RESTATEMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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**EASTGATE I**  
*a Planned Community*

AMENDMENT AND RESTATEMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Eastgate I Homeowners' Association, Inc., a Colorado corporation, executes this Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions on July 14, 2006.

**RECITALS**

The Declaration of Covenants, Conditions and Restrictions of Eastgate I, a Planned Community (herein "Declaration"), was executed on May 18, 2005, and was recorded May 20, 2005, as Reception No. 2689729 in the real estate records of Boulder County, Colorado.

Eastgate I Homeowners' Association, Inc., amends and restates the Declaration of Covenants, Conditions and Restrictions of Eastgate I, a Planned Community, pursuant to the authority in the Colorado Common Interest Ownership Act, 38-33.3-101 et seq.

**STATEMENT OF PURPOSE**

A. Declarant is the Developer of certain real property in Boulder County, Colorado more particularly described in **Exhibit A** (the "Property") attached hereto and fully incorporated herein.

B. The Declarant establishes this Declaration for this new residential planned community for the following purposes:

- To create a planned community with Common Areas for the benefit of the community and its Owners;
- To provide for the preservation and maintenance of tile Common Areas;
- To provide a guide for development that will preserve certain values while allowing change when appropriate;
- To allow for self governing of the Property by its Owners;
- To provide for the addition of other lands within Eastgate to the community; and



- To create a common interest community that conforms to the Colorado Common Interest Ownership Act.

**ARTICLE I  
DECLARATION AND DEFINITIONS**

**Section 1.01 Declaration**

The Declarant, who is the Owner of all the properly described in the Plat, hereby submits the Plat and the Declaration and this Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions (herein "Restatement") for establishment of a planned community under the Colorado Common Interest Ownership Act. The Declarant hereby declares that Eastgate I shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements of the Declaration and this Restatement, which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having right, title or interest in all or any part of Eastgate I.

**Section 1.02 Definitions**

(a) "**Act**" refers to the Colorado Common interest Ownership Act as set forth in Colorado Revised Statutes § 38-33.3-101 et. seq., the statute which governs the development and operation of this planned community. Each capitalized term not otherwise defined in this Declaration or the Restatement or in the Plat shall have the meaning specified or used in the Act.

- (b) "**Assessments**" is the collective term for the following charges:
- "**General Assessment**" is the amount allocated among all Members to meet the Association's annual budgeted expenses, as described in Section 6.03 hereof.
  - "**Individual Lot Assessment**" is a charge made to a particular Owner for charges relating only to that Lot, as provided in Section 6.05 hereof.
  - "**Limited Common Element Assessment**" is the amount allocated to certain Lots because of the proximity of such Lots to Autocourts, in accordance with the provisions of Section 6.06 hereof.
  - "**Special Assessment**" may be charged to each Lot for capital improvements or emergency expenses, in accordance with the provisions of Section 6.04 hereof.

(c) "**Association**" is the Eastgate I Homeowners' Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The Association, whose members are the Owners, is responsible for maintaining Eastgate I and enforcing the Declaration and this Restatement.



(d) **"Building"** shall mean any vertical structure, including but not limited to, buildings, sheds, walls, fences, light poles, and parking structures.

(e) **"Bylaws"** are the Bylaws of the Association.

(f) **"Change of Existing State"** shall mean and include, but without limitation;

(i) The construction or expansion of any Building, structure or other improvement, including the utility facilities, upon any Lot;

(ii) The destruction by voluntary action or the abandonment of any building, structure or other improvement upon the Lot;

(iii) The excavation, filling or similar disturbance of the surface land;

(iv) The landscaping or planting of trees, shrubs, lawns or plants or the clearing, marring, defacing or damaging of trees, shrubs or other growing things upon any Lot; and

(v) Any change or alteration of any improvement upon any Lot, including without limitation, any change of color, texture or exterior appearance of any previously approved Change in Existing State.

(g) (Not used.)

(h) **"Common Area"** is all real and personal property, including but not limited to easements, rights-of-way, common elements as defined in the Act, limited common elements as defined in the Act, and Outlots shown on the Plat, which the Association owns, leases or otherwise holds possessory or use rights in or for the common use and enjoyment of the Owners.

(i) **"Declarant"** shall mean and refer to Eastgate Development, LLC, a Colorado limited liability company, or such other person or entity that purchases all or a portion of the Property in more than one parcel if such person or entity assumes the obligations of Declarant under the Declaration and this Restatement and is designated successor Declarant in an instrument recorded in the real estate records of Boulder County, Colorado.

(j) **"Declaration"** is the Declaration of Covenants, Conditions and Restrictions for Eastgate I and, where the context requires, this Restatement.

(k) **"Design Guidelines"** are the Eastgate I Design Guidelines.



- (l) **"Developer"** shall mean and refer to Eastgate Development LLC, a Colorado limited liability company and its successors and assigns.
- (m) **"Development"** shall mean and refer to Eastgate I and all improvements thereof.
- (n) **"Dwelling"** means the residence constructed on each Lot within Eastgate I and any replacement thereof, and where the context requires, shall include the Lot upon which such Dwelling is constructed.
- (o) **"Executive Board"** is the Executive Board of the Association.
- (p) **"Improvements"** shall mean any construction or facilities existing or to be constructed on the land included in Eastgate I, including but not limited to buildings, paving, fences, sidewalks, utility wires, pipes, light poles, and structures.
- (q) A **"Lot"** is the smallest parcel of land that may be separately conveyed and is equivalent to a "unit" under the Act. Ordinarily, Lots are designated as numbered, separately identifiable parcels on the recorded subdivision plat of Eastgate I. However, the Declarant may redefine Lots prior to sale to third parties by combining Lots or portions of Lots and adjusting the boundary of a Lot.
- (r) **"Member."** Each Owner is a Member of the Association, as provided in Article IV of the Declaration.
- (s) **"Owner"** is the Owner of record, whether one or more persons or entities, of the fee simple title to any Lot. Owners shall not include those having such interest merely as security for the performance of an obligation.
- (t) The **"Plat"** means and refers to the Plat of Eastgate, First Filing, which was recorded on May 17, 2005, in the real estate records of Boulder County, Colorado, as Reception Number 2688519.
- (u) **"Eastgate I"** is the real property known and described as Eastgate, First Filing, County of Boulder, State of Colorado, as described on the first page of the Declaration, plus any additional property added by Supplemental Declaration, and as particularly described on **Exhibit A** hereto. Eastgate I is a planned community under the Act.

The following definitions are added by this Restatement.

- (v) An **"Autocourt"** is an access way that provides vehicle and pedestrian access from public streets in the Development to two or more individual private lots within the Development that do not front upon a public street. Autocourts are Outlots on the Plat and are Common Areas as defined by the Declaration and this Restatement.



(w) A "**Builder**" is an Owner, other than the Declarant, who purchases a Lot without a Dwelling constructed upon it, with the intent of constructing a Dwelling upon the Lot and reselling the Lot and Dwelling in the normal course of business.

(x) An "**Outlot**" is a parcel of land in the Development that will be owned by the Association and that exists for the benefit of some or all of the Owners, and which will be either a common element or a limited common element under this Restatement.

(y) A "**Resident Purchaser**" is the Owner, other than the Declarant, who first purchases a Lot with a Dwelling that has been issued a certificate of occupancy by the City of Longmont. Resident Purchaser includes all such Owners regardless of whether or not such Owner intends to occupy the completed Dwelling as his/her/its primary residence. A Builder is not a Resident Purchaser.

(z) "**Restatement**" is this Amendment and Restatement of Declaration of Covenants, Conditions, and Restrictions of Eastgate 1, and, where the context requires, the Declaration.

(aa) The "**Unimproved Area of a Lot**" is that area of a Lot not improved with the residence dwelling, driveway, walkways, patios or decks.

**ARTICLE II  
NAME, DESCRIPTION OF REAL ESTATE AND LOTS**

**Section 2.01 Name**

The name of the project is Eastgate I and the project is a Planned Community pursuant to the Act.

**Section 2.02 Association**

The name of the Association is Eastgate I Homeowners' Association. Inc.

**Section 2.03 Real Estate**

Eastgate I is located in Boulder County, Colorado. The real estate of Eastgate I is described in **Exhibit A**.

**Section 2.04 Number, Identification, Boundaries, and Subdivision of Lots**

The number of Lots in Eastgate I is 99. The identification number of each Lot is shown on the Plat. The boundaries of each Lot are located as shown on the Plat. The subdivision of Lots within Eastgate I is prohibited.

**Section 2.05 Master Association.**

(a) Eastgate I is one filing of a planned, large mixed-use development upon approximately 91 acres of land located in Boulder County, Colorado, on the southwest





corner of the intersection of East 17<sup>th</sup> Avenue, in the City of Longmont, and County Line Road, which is the boundary between Boulder County, Colorado, and Weld County, Colorado. The entire large development is known as "Eastgate." Eastgate I is the first filing of Eastgate.

(b) Eastgate will be a planned community under the Act, and may include all or a portion of the real estate described in **Exhibit B**, which is entitled as such, attached hereto, and incorporated herein by reference. Such planned community will be operated and controlled by a homeowners association that will be a master association because it will own certain parcels of land in Eastgate that exist for the benefit of all the landowners of Eastgate. The members of such master association will be all landowners in Eastgate. Such master association, as an association under the Act, will have authority to assess common expense assessments for the maintenance of real estate owned by the association, along with all other powers and authority granted by the Act.

(c) All Lots in Eastgate I will be subject to and included within the Eastgate planned community. All Lots in Eastgate I, and the Owners thereof, will be subject to, and will be obligated to pay, common expense assessments to the Eastgate master association. Such assessments will be and are in addition to assessments owed or owing to the Association. All Owners will be members of the Eastgate master association. All Owners, as owners of Lots in Eastgate I, will equally pay and be equally responsible for not more than one-third (1/3) of any and all assessments made by such master association.

(d) The Declaration and this Restatement and the Plat establish certain parcels of land in Eastgate I as "Outlots." Such Outlots are parcels of land that exist for the common use and benefit of some or all of the Owners of Eastgate I, and as such, will be owned by the Association after transfer to the Association by the Declarant as provided herein. Upon the creation of the Eastgate master association, and as provided by the Declaration and this Restatement and the future declaration of the Eastgate planned community, certain Outlots that are initially part of Eastgate I will be transferred by the Association to the Eastgate master association. Such Outlots that will be so transferred are identified on **Exhibit C**, which is entitled as such, attached hereto, and incorporated herein by reference. With the transfer of the Outlots listed on Exhibit C to the Eastgate master association the cost of preservation and maintenance of such Outlots will also pass from the Association to Eastgate master association.

(e) Owners are given notice that, at a point of time in the future, which is not certain at the time of recording this Restatement, the Owners will be subject to paying, and shall be obligated to pay, common expense assessments to the Association and common expense assessments to the Eastgate master association, as respectively provided by the Declaration and this Restatement and by the declaration of Eastgate.



**ARTICLE III  
THE COMMON AREAS**

**Section 3.01 General Common Elements**

The General Common Elements of Eastgate I are all Common Areas as defined in the Declaration, as indicated on the Plat, or as defined in the Act

**Section 3.02 Limited Common Elements**

In addition to the portions described in Sections 38-33.3-202 (l) (b) and (d) of the Act, all Autocourts are, under the Act, Limited Common Elements of Eastgate I. The Autocourts are allocated to Lots of the Development as stated in **Exhibit D**, which is entitled as such, attached hereto, and incorporated herein by reference.

Maintenance, repair and replacement of any Limited Common Elements shall be the responsibility of the Owner or Owners of the Lot or Lots to which such Limited Common Elements are allocated. If Limited Common Elements are allocated to more than one Lot, all associated expenses shall be shared equally by the Owners of such Lots. The Association may make Limited Common Element assessments, pursuant to section 6.06 hereof, as necessary to meet the expenses of the limited common elements. In addition to any other rights or powers conferred upon the Association by the Declaration or this Restatement or the Act, in the event that such Owners fail to maintain, repair or replace such Limited Common Elements, the Association may, in its sole discretion, take any action it deems necessary to maintain, repair or replace such Limited Common Elements and charge the cost of such maintenance, repairs or replacement to the Owners as a Special Assessment.

**ARTICLE IV  
THE ASSOCIATION**

**Section 4.01 Authority**

The Association, through its Executive Board, shall manage the business affairs of Eastgate I as provided in the Declaration and this Restatement so as to further the interests of the residents of the Development and Members of the Association. The Association shall be governed by its Bylaws, amended from time to time.

**Section 4.02 Powers**

(a) The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of Eastgate I.

(b) The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of the Lot Owners of Lots to which at least fifty-one per cent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.



**Section 4.03 Membership**

Every record Owner of a Lot subject to the Declaration and this Restatement shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Where more than one person holds interest in any Lot, all such persons shall be Members.

**Section 4.04 Voting Rights**

The Association shall have one class of voting membership. Owners shall be entitled to one vote for each Lot owned.

**Section 4.05 Developer Control of the Association**

The Association shall be established by the Declarant before any Lots or homes are sold. Subject to the provision of Section 4.06 hereof, there is a "Period of Declarant Control" during which Period the Declarant may appoint and remove any officer of the Association or any member of the Executive Board. The Period of Declarant Control is a length of time expiring no later than ten years after the recording of the Declaration. Regardless of such expiration, the Period of Declarant Control shall terminate no later than (a) sixty (60) days after the conveyance of seventy-five per cent (75%) of the Lots to Owners other than the Declarant; (b) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business to Owners other than the Declarant; or (c) two years after any right to add new Lots was last exercised.

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

**Section 4.06 Election by Owners**

Not later than sixty (60) days after conveyance of twenty-five per cent (25%) of the Lots to Owners other than Declarant, at least one member but not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Owners other than the Declarant.

Not later than sixty (60) days after conveyance of fifty per cent (50%) of the Lots to Owners other than Declarant, not less than thirty-three and one-third per cent (33-1/3%) of the members of the Executive Board must be elected by Owners other than the Declarant.

Not later than the termination of the Period of Declarant Control as set forth in Section 4.05 hereof, the Owners shall elect an Executive Board consisting of three members, at least a majority of whom must be Owners other than the Declarant.



**Section 4.07      *Delivery of Documents by Declarant***

Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver without charge to the Executive Board all property of the Owners and of the Association relating to Eastgate I held by or controlled by the Declarant, including, without limitation, the following items:

(i) The original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;

(ii) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the period of Declarant control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;

(iii) The Association funds or control thereof;

(iv) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties;

(v) A copy, for the nonexclusive use by the Association, of any plans and specifications used in the construction of the improvements in the common interest community;

(vi) All insurance policies then in force, in which the Owners, the Association, or its directors and officers are named as insured persons;

(vii) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common interest community;

(viii) Any other permits issued by governmental bodies applicable to the common interest community and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;



(ix) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(x) A roster of Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(xi) Employment contracts in which the Association is a contracting party; and

(xii) Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services, including but not limited to all utility accounts.

**Section 4.08 Delivery of Common Areas by Declarant.**

Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall convey, without charge, to the Association in its name all Common Areas, including all Outlots, by special warranty deed.

**ARTICLE V  
ASSOCIATION BUDGET**

**Section 5.01 Fiscal Year**

The fiscal year of the Association shall begin January 1 of each year and end on December 31 of that year, unless the Executive Board selects a different fiscal year.

**Section 5.02 Preparation and Approval of Annual Budget**

(a) **Initial Budget.** The Declarant shall determine the budget for the fiscal year in which a Lot is first conveyed to an Owner other than the Declarant. Subsequent budgets shall be prepared by the Executive Board and approved by the Association as provided below.

(b) **Subsequent Years.** Beginning with the year in which a Lot is first conveyed to an Owner other than the Declarant and each year thereafter, at least two months before the end of the fiscal year, the Executive Board shall adopt a budget for the coming year and set the annual General Assessments at a level sufficient to meet the budget. Within ninety days after adoption of such budget, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Executive Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Executive Board will be deemed approved by the Owners in the absence of a veto at the noticed meeting by a majority of all Owners, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the



Executive Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Executive Board is not vetoed by the Owners.

**Section 5.03 Budget Items**

The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required by the Declaration or this Restatement or properly approved in accordance with the Declaration or Restatement. The budget may also include reasonable amounts, as determined by the Executive Board, for working capital for the Association and for reserves. If the Common Area is taxed separately from the Lots, the Association shall include such taxes as part of the budget. The Association or, if applicable, the Declarant, shall obtain liability insurance and shall pay for liability insurance, local taxes (if any), and the continuing maintenance of common open space and areas, recreational facilities, and all other community facilities (if any). Fees for professional management of the Association, accounting services, legal counsel and other professional services may also be included in the budget.

**Section 5.04 Reserves**

The Association may build up and maintain reserves for working capital, contingencies and replacement, which shall be included in the budget and collected as part of the annual General Assessment. Extraordinary expenses not originally included in the annual budget that may become necessary during the year shall be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority vote of the Members. If the reserves are inadequate for any reason, including nonpayment of any Member's assessment, the Board may at any time levy an emergency assessment in accordance with the provisions of section 6.04 hereof. If there is an excess of reserves at the end of the fiscal year and the Executive Board so determines, the excess may be returned on a prorata basis to all Members who are current in payment of all assessments due the Association, or may be used to reduce the following year's assessments, at the Executive Board's discretion.

**Section 5.05 Effect of Failure to Prepare or Adopt Budget**

The Executive Board's failure or delay in preparing or adopting the annual budget for any fiscal year, or review of the budget under Section 5.02 shall not waive or release a Member's obligation to pay General Assessments whenever the amount of such assessments is finally determined. In the absence of an annual Association budget each member shall continue to pay the assessment at the rate established for the previous fiscal period until notified otherwise.

**Section 5.06 Capital Improvements**

Any substantial capital improvement to tile Common Area approved by the Executive Board must be ratified by a majority of the Members. If the substantial capital



improvement is approved by the Members, the Executive Board shall determine whether it shall be paid from General Assessments or by Special Assessment. A capital improvement shall be considered substantial if the cost to the Association of the improvement is more than six percent (6%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than ten percent (10%) of the Association's annual budget. However, any repair or replacement of existing improvements shall not be considered a capital improvement. Approval of the Architectural Control Committee is required for all capital improvements. This paragraph shall not limit the right of the Declarant to make improvements to the Common Area.

**Section 5.07 Accounts**

Reserves shall be kept separate from other Association funds, either in a single account for all reserves or separated by purpose. All other sums collected by the Executive Board with respect to Assessments and charges of all types may be commingled in a single fund.

**ARTICLE VI  
ASSESSMENTS**

**Section 6.01 Assessments**

The Declarant, for each Lot owned within the property submitted to this Declaration or Supplemental Declaration to Eastgate, hereby covenants, and each Owner of any Lot by acceptance of a deed or other transfer instrument, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for expenses included in the budget,
- (b) Special Assessments for the purposes provided in the Declaration and this Restatement,
- (c) Individual Lot Assessments for any charges particular to that Lot, and
- (d) Limited Common Element Assessments for any charges particular to a Limited Common Element;

together with a late fee and interest, as established by the Executive Board, and cost of collection when delinquent, including reasonable attorneys' fees whether or not suit is brought. Upon default in the payment of any one or more installments, the Executive Board may accelerate the entire balance of such Assessment, which shall be declared due and payable in full.



**Section 6.02 Allocation of Common Expenses**

Common Expenses shall be allocated equally among the Lots ("Allocation of Interests").

**Section 6.03 General Assessments**

(a) **Establishment by Executive Board.** The Executive Board shall set the date or dates such assessments become due and may provide for collection of assessments annually or in monthly, quarterly or semiannual installments.

(b) **Date of Commencement.** The annual General Assessments shall begin upon the first day of a calendar month following the date of conveyance of the first Lot to an Owner other than the Declarant. The initial Assessment on any Lot subject to assessment shall be collected at the time title is conveyed to such Owner. During the initial calendar year of ownership, each Owner shall be responsible for the prorata share of the annual General or Special Assessment charged to each Lot, prorated to the month of closing.

(c) **Amount.**

(i) The amount of the General Assessments upon each Lot shall initially be not less than Thirty-Five Dollars (\$35.00) per month. Thereafter, General Assessments shall be determined by the Executive Board, and may be increased as required to meet the common expenses and annual budget of the Association.

(ii) Upon completion of installation of landscaping by the Builder on a Lot, as required by this Restatement, the General Assessments upon such Lot shall increase to not less than One Hundred Twenty-Five Dollars (\$125.00) per month. The obligation for payment of increased General Assessments is based upon completion of Builder installed landscaping and the increased costs of maintenance thereof, and therefore the obligation for increased General Assessments may occur before or after actual conveyance of a Lot by a Builder to a Resident Purchaser.

(d) **Declarant Responsibility for Common Expenses Shortfall.**

Until the end of the Period of Declarant Control, the Declarant shall be responsible to pay directly, or to reimburse to the Association, any and all failure of the General Assessments collected by the Association to meet the common expenses of the Association. The determination of any such shortfall shall be made by the Executive Board of the Association not less than calendar quarterly, unless required more frequently by the necessity of timely payment of common expenses by the Association. The Executive Board shall immediately notify the Declarant of any such shortfall, after which the Declarant shall directly pay such expenses or reimburse the Association, as is appropriate, in a timely manner so as to not reflect negatively upon the credit and payment procedures of the Association. The obligation of the Declarant to cover any shortfall in General Assessments covering the common expenses of the Association shall not include any obligation to create or contribute to reserve or contingency accounts of the Association.





**Section 6.04 Special Assessments**

In addition to the General Assessment, the Executive Board may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four succeeding years as follows:

(a) **Capital Improvements.** Any substantial capital improvement which has been approved in accordance with the Declaration, this Restatement, the Bylaw, Rules & Regulations ("Capital Improvements") or any capital improvement not required to be approved by the Members may be paid by Special Assessment.

(b) **Emergency Assessment.** By a two-thirds (2/3) vote of the Executive Board, the Executive Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense which the Declaration or this Restatement or the law requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

**Section 6.05 Individual Lot Assessment**

The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot, for expenses approved by the Association, or any other charges designated in this Declaration as an Individual Lot Assessment.

**Section 6.06 Limited Common Element Assessment**

The Association may levy at any time a Limited Common Element Assessment against those Lots to which the expenses of an Autocourt are allocated in **Exhibit D**, which is entitled as such, attached hereto, and incorporated herein by reference, for the purpose of defraying, in whole or in part, the cost of any special services to such particular Autocourt, for expenses of an Autocourt approved by the Association, or for any other charges designated in this Declaration as a Limited Common Element Assessment.

**Section 6.07 Capital Contribution**

At the closing and transfer of title of each Lot to the first Owner other than the Declarant, and at the closing and transfer of title of each Lot to every Owner subsequent to the first Owner other than the Declarant, the purchasing Owner shall contribute to the Association \$250.00 or such greater amount as required by the Declarant by contract. This contribution shall be used by the Association for the purpose of initial and nonrecurring capital expenses of the Association and for providing initial working capital for the Association, and shall not be considered as a pre-payment of assessments.

**Section 6.08 Effect of Non Payment of Assessment; Remedies**

(a) **Personal Obligation.** All Assessments, together with any late fee, interest and cost of collection when delinquent, including a reasonable attorneys' fees



whether or not suit is brought (collectively the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) **Creation of Lien.** The Assessment Charge shall also be charged on the land and shall be a continuing lien upon the Lot against which the Assessment Charge is made, which may be enforced upon recording of a claim of lien ("Notice of Lien"). Such lien shall be superior to all other liens excepting liens and encumbrances recorded before the Declaration, the lien of a first mortgagee upon a Lot which was recorded before the date on which the assessment sought to be enforced became delinquent, and liens for real estate taxes and other governmental assessments or charges against a Lot, provided however, that such lien shall have priority over such a lien of a first mortgagee to the extent provided by the Act. This lien, in favor of the Association, shall secure the Assessment Charge which is then due and which may accrue subsequent to the recording of the Notice of Lien and prior to entry of final judgment of foreclosure. Any subsequent Owner of the Lot shall be deemed to have notice of the Assessment Charge on the Lot, whether or not a Notice of Lien has been filed.

(c) **Perfection and Notice of Lien.** Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. The Executive Board may prepare, and record in the county in which the Lot is located, a Notice of Lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the cost thereof shall be considered an Assessment Charge.

(d) **Suit for Payment; Foreclosure of Lien.** The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, or may foreclose the lien in a manner similar to a mortgage lien, or both. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

**Section 6.09 Other Remedies**

The Association shall have the right to assess fines and suspend the voting rights and right to use of the Common Area by an Owner for any period during which any Assessment against his Lot remains unpaid.

**Section 6.10 Status Request**

The Association, or its designated management agent, shall furnish to an Owner, his designee, the holder of a security interest on a Lot, or its designee, upon written request, delivered personally or by certified mail, first-class postage prepaid, return



receipt requested, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against a Lot. Such statement shall be furnished within fourteen calendar days after receipt to the request and is binding upon the Association, the Executive Board, and every Lot owner. If no statement is furnished to the Owner or security interest holder, or a designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request. The Association may assess a fee for providing such written statement in response to a status request.

**Section 6.11 Examination of Books and Records**

(a) **Examination of Books and Records by Owner.** All financial and other records of the Association shall be reasonable available for examination by an Owner or its authorized agent. Copies of such records are available to an Owner pursuant to the provisions of Colorado law and any policies and procedures adopted by the Association or its Executive Board. The Association may assess a fee for providing photocopies of the financial and other records of the Association.

(b) **Examination of Books and Records by First Mortgagee.** A first mortgagee upon a Lot may request financial and other records of the Association from the Association or its designated management agent. Copies of such records are available to such first mortgagee pursuant to the provisions of Colorado law and any policies and procedures adopted by the Association or its Executive Board. The Association may assess a fee for providing photocopies of the financial and other records of the Association.

**Section 6.12 Notice of Meetings**

Any first mortgagee of a Lot, upon written request, shall be entitled to written notice of all Association meetings and be permitted to send a representative to such meetings.

**Section 6.13 Mortgagee as Proxy**

Each Owner shall have the right to irrevocably constitute and appoint the beneficiary of a trust deed as his true and lawful attorney to cast his vote in this Association at any and all meetings of the Association and to vest in the beneficiary any and all rights, privileges and powers that he has as Owner under the Articles of Incorporation and Bylaws of the Association or by virtue of the recorded Declaration or Restatement. Such proxy shall become effective upon the filing of notice by the beneficiary with the Secretary of the Association at such time or times as tile beneficiary shall deem its security in jeopardy by reasons of failure, neglect or refusal of the Association, the managing agent or the Owners to carry out their duties as set forth in the Declaration or this Restatement. A release of the beneficiary's deed of trust shall operate to revoke such proxy. Nothing herein shall be construed to relieve an Owner as mortgagor of his duties and obligations as an Owner or to impose upon the beneficiary of the deed of trust the duties and obligations pf an Owner.



**Section 6.14 Payment of Assessments by Mortgagees**

Mortgagees of a Lot may, jointly or singlely, pay taxes, Assessments or other charges that are in default and that may or have become a charge against any Lot.

**ARTICLE VII  
ARCHITECTURAL CONTROL AND DESIGN REVIEW**

**Section 7.01 Architectural Control Committee.**

The Architectural Control Committee shall consist of three or more persons, not to exceed five persons appointed by the Declarant, its successors or assigns. The Declarant, its successors or assigns shall have the absolute right to remove and appoint members of the Architectural Control Committee at any time. The members of the Architectural Control Committee shall, as long as the restrictions, covenants, and conditions herein set forth are in force and effect, perform the duties imposed on it as herein set forth. At any time while the restrictions, covenants, and conditions herein set forth remain in force and effect, the Declarant, its successors or assigns, may relinquish its powers to determine the number and members of the Architectural Control Committee to the Association. Such relinquishment may be accomplished by recording a declaration of such relinquishment in the land records of Boulder County, Colorado, and, if not sooner relinquished as provided above, such relinquishment shall automatically occur on December 31, 2015, without the necessity of any formal action or recording.

From and after such relinquishment, the number and members of the Architectural Control Committee shall be determined by the Executive Board of the Association. Neither the members of the Architectural Control Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant, however, the Executive Board, by a two-thirds (2/3) vote, may provide for the waiver of dues owed by the Architectural Control Committee Members for such time as they remain members of the committee.

Each member of the Architectural Control Committee shall have one (1) vote to be cast on any issue brought before the Committee for action. The quorum required for any action of the Architectural Control Committee shall be a simple majority of the members of the Architectural Control Committee. Assent of a simple majority of votes of the Committee members attending any meeting of the Architectural Control Committee shall constitute approval of any Committee action.

**Section 7.02 Powers of the Architectural Control Committee**

So long as the Covenants, Conditions, and Restrictions herein set forth are in force and effect, the Architectural Control Committee shall have the following powers and privileges:

- (a) The Architectural Control Committee shall have such powers, privileges and immunities as are set forth in the Declaration and this Restatement and shall,



additionally, have the power to adopt, from time to time, rules and regulations for the conduct and exercise of its business and rules and regulations for the conduct and exercise of its powers, privileges and immunities which shall not be in conflict with these Covenants.

(b) The Architectural Control Committee shall have sole authority to approve or disapprove any Change in Existing State.

(c) The Architectural Control Committee shall have the power to adopt or amend Design Guidelines providing such adoptions or amendments do not conflict with the Declaration and this Restatement or the quality and character of the Development.

(d) The Architectural Control Committee shall have the power to delegate the responsibility for reviewing any application submitted to the Architectural Control Committee to a professional architect, landscape architect, engineer or other professional person who is qualified to pass on the issues raised in the application. The Architectural Control Committee shall also have the power to require that the applicant pay the fees reasonably incurred by the Architectural Control Committee in retaining such professional to review the application submitted.

(e) The approval by the Architectural Control Committee of any proposal or plan and specifications for any work to be done on a Lot shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans, specifications, drawings, or other matters subsequently or additionally submitted for approval by the same Owner or by any other Owner.

**Section 7.03 Approval Required**

The approval of the Architectural Control Committee shall be required for any Change in Existing State and no work shall be commenced to effect any Change in Existing State until the Architectural Control Committee shall approve the change. Every statement in the Declaration and this Restatement providing for or requiring the approval of the Architectural Control Committee shall be read to mean that such approval is obtained in advance and in writing. No proposed Change in Existing State shall be deemed to have been approved by the Architectural Control Committee unless such approval is in writing; provided, however, that such approval shall be deemed granted if the Architectural Control Committee fails to approve or disapprove any such proposed Change in Existing State or to make written request for additional requirements or additional information within thirty (30) days after a full and complete description of the proposed Change in Existing State has been furnished, together with a specific request for such approval. Every request for approval of a Change of Existing State shall contain plans and specifications in such form and with such information as may be required by the Architectural Control Committee. The Architectural Control Committee may only issue two separate written requests for additional requirements or additional information upon a request for a Change of Existing State, and each such written



request shall extend the Architectural Control Committee's time for approval or disapproval of the Owner's request for an additional twenty (20) days following the receipt of information by the Architectural Control Committee of information that satisfies its written request for additional requirements or additional information.

**Section 7.04 Design Guidelines**

The Architectural Control Committee shall furnish to any Owner the Eastgate Design Guidelines, dated May 3, 2004 and as may be amended from time to time, which set forth the general purposes of the Architectural Control Committee in reviewing proposed Changes in Existing State, basic building and landscaping restrictions and requirements, architectural review procedures and requirements, and regulations pertaining to construction.

**Section 7.05 Fee**

Each Owner may be required to pay a fee to the Architectural Control Committee as a condition to approval of any Change in Existing State to cover costs and expenses in reviewing and commenting on proposals for any Change in Existing State. The amount of such fees shall be established by the Architectural Control Committee and shall be set forth in the Design Guidelines.

**Section 7.06 Completion of Work After Approval**

After approval by the Architectural Control Committee of any proposed Change in Existing State, such a Change in Existing State shall be accomplished promptly and diligently and in complete conformity with the description of the change and with any plans and specifications therefor given to the Architectural Control Committee. Failure to accomplish a Change in Existing State within six (6) months after the date of such approval or to complete the proposed Change strictly in accordance with the description thereof and the plans and specifications therefore shall operate automatically to revoke the approval of the Change in Existing State and, upon the demand by the Architectural Control Committee, the subject Lot shall be restored as nearly as possible to the state existing prior to any work in connection with the proposed Change. The Architectural Control Committee shall have the right and authority to record a notice reflecting that any Change in Existing State has not been approved or that any approval granted therefore has been revoked in accordance with this Article VII.

**Section 7.07 Violations**

If there is any Change in Existing State of any Lot otherwise than in accordance with plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such Change in Existing State shall be deemed to have been undertaken in violation of this Article and without Approval required herein, and upon written notice from the Architectural Control Committee any such Change in Existing State upon any Lot in violation hereof shall be removed or altered so as to extinguish such violation or violations.



**Section 7.08 Lien Right**

If fifteen (15) days after the notice of such violation in regard to Change in Existing State the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, or at any time thereafter said Owner fails to diligently remove or terminate said violation, and upon approval of two-thirds (2/3) of the votes on the Executive Board of the Association, the Association shall have the right, but not the obligation, through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violation. The cost to correct such violation ("Violation Cost") shall be a binding personal obligation of such Owner. The Violation Cost shall include all costs of collection, including engineering fees, architectural fees, attorney's fees, or other professional fees incurred by the Association in connection with said violation. If the Violation Cost is not paid within ten (10) days after the date of billing, the Violation Cost shall bear interest at the rate of eighteen percent (18%) per annum. The Association is hereby granted a lien against the Owner's Lot for the costs to collect any such Violation or Violations together with interest thereon and costs of collecting same which lien shall be superior to all other liens excepting any tax lien, any first mortgage (including Deed of Trust) recorded prior to the recording of the lien provided for herein, any lien resulting from delinquency or non-payment of required assessments and any non-payment of default charges. Said lien shall be properly recorded in the land records of Boulder County, Colorado. Said lien may be foreclosed upon as provided by the laws of the state of Colorado for foreclosure of mortgages on real property.

**Section 7.09 Right of Inspection**

Any agent or employee of the Declarant, the Association and/or Architectural Control Committee may at any reasonable time or times enter upon and inspect any Lot or any Change in Existing State thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or Change in Existing State are in compliance with the provisions hereof; and neither the Architectural Control Committee or the Association, nor any such agent or employee shall be deemed to have committed trespass or other wrongful act by reason of such entry or inspection.

**Section 7.10 No Liability**

No Member of the Architectural Control Committee, the Declarant, or any agent or employee thereof shall be liable for any loss, damage or injury rising out of or in connection with the performance of the duties of the Architectural Control Committee under the Declaration and this Restatement, unless such action constitutes willful misconduct or bad faith on the part of such party. Review and consideration of any application submitted to the Architectural Control Committee shall be pursuant to the Declaration and this Restatement and any approval granted shall not be considered approval of the structural safety or integrity of the improvements to be constructed or conformance of such improvements with building codes, zoning resolutions, subdivision regulations, or any other governmental rules or regulations applicable to the Property.

**Section 7.11 Authority of Executive Board**

(a) **Final Authority.** From and after the actual recording of a declaration of relinquishment by the Declarant, its successors or assigns, relinquishing its powers to determine the number and members of the Architectural Control Committee, as provided for by section 7.01 hereof, or from and after December 31, 2015, is no such recording of a declaration of relinquishment has previously occurred, the Executive Board of the Association shall have final and absolute authority over all aspects and action of the Architectural Control Committee, including but not limited to, the following:

- The number of members of the Architectural Control Committee, which shall be not less than three nor more than five members.
- The actual membership of the Architectural Control Committee.
- All committee actions of the Architectural Control Committee whether such actions are an approval or a denial of a request for a Change in Existing State.

(b) **Right of Appeal to Executive Board.** During the time that the Executive Board of the Association shall have final authority as established in section 7.11(a) hereof, there shall exist in an Owner the right to appeal to the Executive Board any decision by the Architectural Control Committee upon such Owner's request for a Change of Existing State or for any other approval or action by the Architectural Control Committee. Such right of appeal shall be a right to have the decision(s) by the Architectural Control Committee with which the Owner disagrees heard by the Executive Board in a regular or special meeting of the Executive Board, at which a quorum of directors is present.

(c) **Procedures for Appeal to Executive Board.** An appeal of a decision or action of the Architectural Control Committee to the Executive Board of the Association may only be undertaken in the following manner. The Owner(s) who are affected by a decision or action of the Architectural Control Committee must appeal within ten (10) calendar days of the later of either the actual decision by the Architectural Control Committee in a meeting of the committee or the mailing of the written decision of the Architectural Control Committee to the affected Owner(s) at his/her/their mailing address maintained in the records of the Association, by postage pre-paid United States first-class mail. Such appeal shall occur by the affected Owner(s), or one of them, delivering to the president of the Executive Board of the Association or to the office of the Association's management agent/company, by personal delivery or postage pre-paid United States first-class mail, a written statement addressed to the Association which states concisely the action(s), omission(s), or decision(s) of the Architectural Control Committee with which the affected Owner(s) disagree and desire to have the Executive Board of the Association review.

(d) **Process for Deciding an Appeal.** Upon receipt of a proper appeal of an action or decision of the Architectural Control Committee, the Executive Board of the Association shall place such appeal on the agenda of a regular or special





meeting of the Executive Board of the Association that shall be scheduled to occur within thirty (30) days of the date of receipt of the written appeal for an Owner. At such meeting when the appeal will be heard, the president of the Executive Board of the Association shall determine the amount of time allocated for such appeal hearing, and the time allocated to each of the appealing party and the to present information to the Executive Board. The order of receipt of information by the Executive Board shall be that the Architectural Control Committee shall advise the Executive Board of the original request presented to the Architectural Control Committee and its decision thereon, followed by presentation by the appealing Owner(s), followed by response by the Architectural Control Committee to the information presented by the appealing Owner(s). An appealing Owner shall have the right to be represented by legal counsel, or to be accompanied by other professionals with expertise in the subject matter of the appeal. After completion of the appeal hearing the Executive Board of the Association shall decide the appeal as part of the meeting at which the appeal hearing occurred, unless the Executive Board determines on the record of such meeting that additional times is necessary to gather more factual information about the appeal or to gather additional professional opinions regarding the subject matter of the appeal. In the event the Executive Board determines such additional time is necessary, the Executive Board shall make its final decision upon the appeal by written decision mailed to the affected Owner(s) at his/her/their mailing address maintained in the records of the Association, by postage pre-paid United States first-class mail. Such decision of the Executive Board shall be the final decision of the Association upon the issues presented in the appeal. The decision of the Executive Board of the Association shall be by formal vote of the directors who were present for all of the appeal hearing before the Board, at a regular or special meeting of the Executive Board of the Association. The Executive Board shall have the authority to approve without comment the action or decision of the Architectural Control Committee, or to modify or adjust the action or decision of the Architectural Control Committee in any manner. In the event the Executive Board desires to return the issue(s) of the appeal to the Architectural Control Committee for further consideration, such return to the Architectural Control Committee may only occur if the affected Owner(s) agree to such return to the Architectural Control Committee, and to the timing for further consideration of such issue(s) by the Architectural Control Committee, which the Executive Board shall establish in its meeting when its decision upon the appeal is announced.

**(e) Executive Board Authority to Call Up Issue for Consideration.**

In the event the Executive Board of the Association determines that an issue or issues presented to the Architectural Control Committee in a request by an Owner for a Change of Existing State is of significance to the Development and all of the Owners in the Development, the Executive Board may indicate, by written direction to the Architectural Control Committee and the requesting Owner(s), that all further consideration of a request for a Change of Existing State made to the Architectural Control Committee shall be undertaken by the Executive Board of the Association. In such consideration the Executive Board shall have the authority to proceed as the



Architectural Control Committee for the purpose of consideration of the request for Change of Existing State, or may hold such meetings, presentations, hearings, or other processes as it desires.

**ARTICLE VIII  
LAND USE AND OTHER RESTRICTIONS**

**Section 8.01 General Land Use and Control**

(a) **Application.** All Lots and Common Areas shall be held, used, enjoyed, transferred, sold, conveyed, leased and occupied subject to the limitations and restrictions identified and contained in the Declaration, this Restatement, and the Design Guidelines of Eastgate I.

(b) **Possession and Residential Use.** Each Owner shall be entitled to the exclusive ownership and possession of his or her Lot. All of the Lots in the Development are located in a "PUD-MU Residential" zoning district. Such PUD-MU Residential zoning district allows use of the Lots as, by way of example but not limitation, single family private residences, multi-family private residences, home office use, small retail use, bed and breakfast use, and family care facilities, all as more specifically permitted or restricted by the City of Longmont Land Development Code. Subject to the Development and Special Declarant Rights reserved by the Declarant in Article X, Section 9.02(a) hereof, no Lot shall be used for any purpose other than those allowed by the City of Longmont Land Development Code, provided, however, that uses other than permitted in a PUD-MU Residential zoning district may be permitted upon one or more Lots by the City of Longmont Land Development Code, as more fully stated in section 8.01(d) hereof.

(c) **Control by Ordinances and Documents.** All use of the land and the Lots within the Development is subject to and may be controlled by any or all of the following documents, and by the ordinances under which such documents were authorized, as they now exist, or as they may hereafter be created, adopted or amended:

- The Longmont Area Comprehensive Plan adopted by the City of Longmont,
- The City of Longmont Land Development Code,
- The Declaration,
- This Restatement,
- The Plat,
- Any Concept Plan for Eastgate adopted or approved by the City of Longmont,
- The Final, and any other, Development Plan for Eastgate I adopted or approved by the City of Longmont,
- The Eastgate I Design Guidelines, and
- The Bylaws.



The Plans, Codes, Plat, and other documents identified in this section 8.01(c), the ordinances of the City of Longmont that authorize and control such Plans, Codes, Plat and such other documents, may allow, in PUD-MU Residential zoning, upon application and approval, for the use of Lots for purposes other than single-family residential purposes.

**Section 8.02 Dwelling Size, Height and Setback.**

(a) **Dwelling Size.** Each Dwelling constructed on a Lot shall comprise a minimum of 850 square feet for a single story dwelling and 1200 square feet for a multi-story dwelling, (with the first story of any multi-story dwelling above ground level to comprise a minimum of 700 square feet) with such minimum square footage to be exclusive of any garages, patios, basements or accessory buildings. The Architectural Control Committee shall have the right to modify the minimum square foot requirements for good cause shown.

(b) **Height and Setback.** All improvements will be set back from the boundaries of the Lot as provided in the setback limitations set forth on the Plat or in the City of Longmont Land Development Code. In the event of a conflict between the Plat and the City of Longmont Land Development Code, the stricter of the two shall apply unless the Plat was expressly intended to supersede the zoning code requirements. In the event that a variance is requested from the City of Longmont of any of the aforesaid setback or height limitations, a like variance must also be obtained from the Architectural Control Committee before such improvements may be constructed on a Lot.

(c) **Orientation of Improvements.** The Architectural Control Committee shall have the right to designate the orientation of any improvements constructed on a Lot, subject to the restrictions on the Plat and in the City of Longmont Land Development Code.

**Section 8.03 General Land Use Restrictions.**

(a) **Home Business or Occupation.** Use of a residence shall include the right to use of the Lot for a home business or home occupation as long as such occupation (i) is allowed by the City of Longmont Land Development Code and the City of Longmont Municipal Code, (ii) employs no outside employees, and (iii) complies with all signage, parking, transportation, noise and nuisance provisions of the City of Longmont Land Development Code and the City of Longmont Municipal Code. Uses described as "child day care" or "child care," (whether licensed or unlicensed) are expressly prohibited except upon the advance written approval of the Architectural Control Committee.



(b) **Fencing.** In order to preserve the natural quality and aesthetic appearance of the Property, fencing or plantings simulating fencing on any Lot shall be permitted only after approval of the Architectural Control Committee of the type, color, material and design thereof to insure that such fencing or planting will be in keeping with the character of the Property. In no case shall any such fencing or planting be allowed to protrude into the front yard as defined in section 8.05 (c) (1) hereof. The Architectural Control Committee shall have the right to prohibit fencing on any corner Lot and shall have the right to adopt uniform fencing standards for the Property. Security fencing in connection with any swimming pool or in connection with any recreation facilities must likewise have the prior approval of the Architectural Control Committee and comply with the City of Longmont Land Development Code and the City of Longmont Municipal Code.

(c) **Clotheslines & Play Equipment.** Because of the limited size of the Unimproved Area of a Lot, clotheslines or equipment intended for children's recreational use, such as swing sets and slides, basketball hoops, trampolines, and soccer and hockey nets are not permitted in the Development.

(d) **Elevated Tanks.** No elevated tanks, barrels or appurtenances of any kind shall be erected, placed or permitted upon any part of a Lot. Any tank used in connection with any dwelling (e.g., for storage of gas, oil or water) and any type of refrigeration or heating apparatus must be located underground or concealed by appropriate fencing or screening to be approved by the Architectural Control Committee.

(e) **Utility Transmission Lines.** All electric, telephone, television, cable, radio and other utility lines shall be placed underground when extended from the street or Lot lines to any dwelling or other improvement on a Lot. Above ground utility appurtenances, such as electrical transformers, utility meters, etc., shall be screened using means approved by the Architectural Control Committee. Mechanical equipment, including but not limited to air-conditioners & heating equipment, shall be installed in a manner so as to not adversely affect the character of the Lot or adjacent Lots. In no case shall such equipment be installed forward of the front façade of the Building. All exterior equipment shall be screened by vegetation or approved fencing.

(f) **Vacant Lots.** All vacant Lots shall be maintained in a clean condition with all weeds and grass thereon regularly trimmed, and with such property free at all times of trash and rubbish. Vacant Lots may not be used for storage or parking of any kind without the prior written approval of the Architectural Control Committee.

(g) **Hazardous Activities.** No activities shall be conducted on any Lot or Common Area and no Changes of Existing State shall be made to any Lot or Common Area that are or might be unsafe or hazardous to any person or property. In addition,



no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed exterior or interior fireplace.

(h) **Temporary Structures.** No trailer, mobile home, tent, shack, shed, or other building, improvement or structure shall be placed upon any property, except that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained by Declarant or by an Owner with the prior approval of the Architectural Control Committee.

(i) **Antennas.** No satellite dish with a diameter in excess of twenty-four inches (24"), exterior radio or television antenna, aerial, or other type of radio or television receiving system shall be erected or maintained on any Lot. With the prior written approval of the Architectural Control Committee, a 24-inch dish may be inconspicuously mounted below the roofline of a Dwelling. The Association may construct such Antennas for the common use of the Owners.

(j) **Transmitters.** No electronic or radio transmitter of any kind other than garage door openers, cellular (wireless) phones and pagers, and household wireless networks shall be located or operated in or on any Dwelling or on any Lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee may, at any time and without the necessity of amending this Declaration, adopt a rule that modifies this restriction to accommodate changing technology.

(k) **Nuisances.** No noise or other nuisance shall be permitted to exist or operate upon any Lot or upon the Common Area so as to be, in the opinion of the Architectural Control Committee, offensive or detrimental to any other property or its occupants. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof, in the opinion of the Architectural Control Committee, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

(l) **Unsightly Articles.** No unsightly article shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, mobile homes, recreation vehicles, graders, trucks other than pickups used solely for the private and non-business use of the residents of a dwelling, boats, tractors, campers, wagons, buses, sleighs, motor scooters, snowmobiles, snow removal equipment, garden and maintenance equipment, and all commercial and business vehicles shall be kept at all times, except when in actual use, in the garage with the garage door closed, except in the event of any conflict between this section 8.03(l) and any laws of the state of



Colorado and resolutions and ordinances of any governmental entity having jurisdiction over the Development regarding the parking or keeping of certain identified types of motor vehicles, including but not limited to emergency service vehicles, such as police, fire and ambulance vehicles, the provisions of such laws, resolutions and ordinances shall control. No lumber, grass, plant waste, shrub or tree clippings, metals, building materials or scrap shall be kept, stored or allowed to accumulate on any property.

(m) **Signs and Flags.** Unless specifically allowed by the following provisions of this section 8.03(m), and as further allowed and controlled by the rules and regulations of the Architectural Control Committee and the Association, all flags, banners, ribbons, and signs that are displayed upon a Lot, or upon or from any structure upon a Lot, must be approved in writing in advance by the Architectural Control Committee, or comply with written rules and regulations of the Architectural Control Committee and the Association.

(1) American Flags. American flags may be properly displayed as allowed by Colorado law and the resolutions and ordinances of any other governmental entity having jurisdiction over the Development.

(2) Political or Election Signs. Political or election signs urging support for or against any election candidate or election issue may be displayed as allowed by Colorado law and the resolutions and ordinances of any other governmental entity having jurisdiction over the Development.

(3) Real Estate for Sale Signs. A sign indicating a Lot and improvements are for sale may be displayed during the period of active selling activities. Such signs shall be no larger than the size routinely used by licensed real estate agents in and about the City of Longmont for advising a residential lot and improvements are for sale. Such signs may not be artificially illuminated except by light falling from permanent lighting fixtures such as streetlights and front wall lights on a Dwelling.

(4) Miscellaneous Signs. Signs for miscellaneous or specific purposes, including but not limited to, signs upon a residential dwelling stating a greeting such as "Welcome" or the name(s) of Owner(s), "No Solicitation" signs, and garage sale signs, are permitted if not of an unusual size when compared to similar signs in and about the Development, and if the sign is for a particular short term purpose, the sign is displayed only as reasonable for such purpose. All such signs are subject to the rules and regulations of the Architectural Control Committee and the Association.

(5) Declarant Signs. Signs and flags used for selling, administration and directional purposes by Declarant during the development of Eastgate I will be permitted.



(n) **Pets.** No domestic animals or fowl totaling more than three (3) generally recognized house or yard pets shall be maintained on any Lot. If any Owner chooses to keep house or yard pets, said Owner shall at all times have them under his or her control, whether within the Owner's Lot or in any other location within the Development. Animals shall not be permitted to roam at will, and, at the option of the Association, steps may be taken to control any animals not under the immediate control of their Owners, including the right to impound animals not under such control and charge fees to their Owners for their return. Raising or keeping any livestock such as horses, cows, pigs, sheep, goats, or poultry is expressly prohibited by City Ordinance and by the Declaration and this Restatement.

(o) **Dog Houses/Dog Runs.** Because of the limited size of the Unimproved Area of a Lot, dog houses, dog shelters, and dog runs are not permitted in the Development.

(p) **Vegetable Gardens.** Vegetable gardens are prohibited except in screened backyard areas and may be subject to approval by the Architectural Control Committee as required by the Design Guidelines.

(q) **Maintenance and Repair of Dwellings and Improvements.** Dwellings or Improvements upon any Lot shall not be permitted to fall into disrepair, and shall at all times be kept in good condition and repair and adequately painted or otherwise finished. All fences within the Property shall be kept in good condition and shall be repaired, stained and/or painted as needed. All such stains and paints must be approved by the Architectural Control Committee. Materials which are customarily left unfinished are permitted so long as, in the opinion of the Architectural Control Committee, they are kept in good repair and condition.

(r) **Reconstruction of Improvements.** Any Dwelling or Improvement which may be destroyed in whole or in part by fire, hail, windstorm or any other cause or act of God, shall, within thirty (30) days and at the expense of the Owner of such Dwelling or Improvement, be rebuilt or all debris removed so as not to render the Property or any portion thereof, in the opinion of the Architectural Control Committee, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

(s) **Garage Sales.** No garage, patio, porch or lawn sale shall be held on any Lot, except that the Owner of any Lot may conduct such a sale once in every calendar year, and then only if the items sold are only his/her own furniture and furnishings, not acquired for purposes of resale, provided, however, that the Owners of more than one Lot in the Development may act together so as to hold a single such sale on a Lot owned by one of such Owners, and that such sale shall be the one sale allowed each calendar year for each such Lot Owner(s) involved. Such sale shall be held at such time and in such manner as not to disturb any other resident of the Development; and if such sale is held in full compliance with all applicable governmental



ordinances, statutes, and resolutions, and Association rules and regulations. The Architectural Control Committee must approve in advance any exception to these provisions.

(t) **New Construction.** All Dwellings shall be of new construction and no existing Dwelling shall be moved onto any Lot. No other Building (including but not limited to playhouses and storage sheds) may be moved onto a Lot without the prior written approval of the Architectural Control Committee.

(u) **Storage of Building Materials.** No building materials shall be stored on any Lot except temporarily during continuous construction of an approved Change in Existing State.

(v) **Swimming Pools/Hot Tubs.** Any outdoor swimming pools, spas, hot tubs, Jacuzzis, or other similar facilities shall be screened from view of adjacent lots and rights-of-way by screening materials and methods approved by the Architectural Control Committee.

(w) **Show Homes Prohibited.** Except as provided in Article X, no Owner or other person may utilize any Lot or Dwelling constructed thereon for the purposes of a Show Home without the consent of the Architectural Control Committee. The term "Show Home" shall mean and refer to a home used for the purposes of sale of similar homes constructed or to be constructed in residential developments other than Eastgate I or other homes within the Development.

(x) **Exterior Lighting; Light "Pollution".** The Association shall provide and maintain street lamps throughout the Project. Exterior lighting on any Lot or Dwelling shall not be directed in such a manner as to create an annoyance to adjoining properties. In no case shall the light source or bulb be visible off the Lot. Illumination of roofs or features on roofs is prohibited without the express written approval of the Architectural Control Committee. The Architectural Control Committee may waive the restrictions of this subsection for holidays or other occasions.

(y) **Retaining Walls.** Any retaining walls must be approved by the Architectural Control Committee. The applicant is encouraged to use materials that are compatible with the Dwelling construction (wood painted or stained to match the house, brick or stone to match the house, etc.). Retaining walls that divert water onto other properties or otherwise substantially alter existing drainage patterns are prohibited.

(z) **Site Grading.** Drainage and grading of the neighborhood has been approved by the City of Longmont and may not be altered without the prior written approval of the Architectural Control Committee. No new grading shall be approved which diverts water onto other properties or otherwise substantially alters existing drainage patterns. Care must be taken to keep water away from foundations.





Downspouts shall discharge onto splash blocks or other devices to prevent saturation of soils at foundations. Irrigation of plant material shall be kept away from the foundation. Patios, lawn areas, shrub beds, and other similar vegetation areas shall be sloped away from foundations to prevent retention of water.

(aa) **Combining of Lots.** Two or more adjoining Lots which are under the same ownership may be combined and developed as one Lot subject to the prior written consent of the Architectural Control Committee. Such combining of lots must also comply with all rules, regulations and ordinances of the City of Longmont.

**Section 8.04 Vehicle Storage and Parking**

(a) **Parking.** Owners' street vehicles, including but not limited to autos, pickups, and motorcycles, must be parked in the garage with the garage door closed, on the garage apron or on the street immediately adjacent to the Owners' Lot.

(b) **Garages.** Garage doors shall be kept closed at all times when not in use.

(c) **No Additional Vehicle Storage.** Trucks, trailers, mobile homes, truck campers, self-contained recreational vehicles, boats and commercial vehicles shall not be kept, placed or maintained upon any Lot, road, street, driveway or on the Common Area in such a manner that such vehicle or boat is visible from neighboring Lots, Common Areas or streets, except to prepare them for use or for storage after use, such activities to not exceed seventy-two (72) consecutive hours.

In the event of any conflict between this section 8.04(c) and any laws of the state of Colorado and resolutions and ordinances of any governmental entity having jurisdiction over the Development regarding the parking or keeping of certain identified types of motor vehicles, including but not limited to emergency service vehicles, such as police, fire and ambulance vehicles, the provisions of such laws, resolutions and ordinances shall control.

The provisions of this section 8.04(c) shall not apply to equipment, temporary construction shelters or facilities maintained during and used exclusively in connection with an approved Change in Existing State.

(d) **Guest Parking.** Temporary and guest parking is provided along the curb; it may be prohibited from time to time by the Association to allow for snowplowing or street maintenance. Commercial vehicles engaged in the delivery or pick-up of goods or services shall be exempted from the provisions of this subsection.



(e) **Vehicle Construction and Maintenance.** No trailer, vehicle or boat shall be constructed, maintained or reconstructed on any Lot in such a manner that the activity is visible from neighboring Lots, Common Areas or streets.

**Section 8.05 Landscaping and Maintenance**

(a) **Installation and Maintenance of Landscaping.**

A portion of the Unimproved Area of a Lot will be landscaped by the Builder of the Dwelling on each Lot pursuant to and consistent with the provisions of section 8.05(d) hereof. Such portion as is to be installed by the Builder will be maintained by the Association pursuant to and consistent with the provisions of section 8.05(f) hereof. The remaining portion of the Unimproved Area of a Lot that is not to be landscaped by the Builder shall be landscaped by the Resident Purchaser pursuant to and consistent with the provisions of section 8.05(e) hereof. Such portion as is to be installed by the Resident Purchaser will be maintained by the Owner pursuant to and consistent with the provisions of section 8.05(g) hereof.

(b) **Determination of Orientation of Dwelling and Yard Locations.**

For each Lot, when requested by each respective Builder, the Architectural Control Committee shall determine for each Lot, the following:

- the orientation of the Dwelling to be constructed upon such Lot,
- the location which is the "front side" and "front yard" of such Lot, and
- the location, measurements, and size of the portion of the side yards of such Lot that will contain Builder installed landscaping.

Such determinations shall be made on a lot-by-lot basis, upon consideration of all relevant factors, including but not limited to, the following:

- The orientation of the subject Lot to a public street, an alley or an Autocourt.
- The nature of access to such Lot from public street(s) directly or via an alley or Autocourt.
- The individual characteristics of such Lot, including size, boundary measurements, location within the Development, proximity to other Lots, and proximity to Common Areas.
- The nature and orientation of existing Dwellings located upon any Lots with a common boundary to the subject Lot, or upon any Lots that share an Autocourt with the subject Lot.

(c) **Required Builder Installed Landscaping.**

The Builder shall install landscaping, pursuant to section 8.05(d) hereof and the Eastgate I Design Guidelines, upon the entire front yard of a Lot and upon a portion of the side yards of a Lot, which such locations shall be determined by the Architectural Control Committee pursuant to section 8.05(b) hereof. The front yard of a Lot is typically that area encompassed by the following:

- a line that runs through the two corners of the side of the Dwelling on the Lot that is nearest the front side of the Lot,



- the side of the street sidewalk, or street curb is no sidewalk, nearest the Dwelling, and
  - the side boundaries of the Lot;
- but the final determination of the front yard location is in the sole authority of the Architectural Control Committee.

**(d) Installation by Builder.**

(1) The landscaping required to be installed by a Builder shall be installed within three (3) months of the date of conveyance of the Lot by the Builder to the Residential Purchaser, provided, however, the Architectural Control Committee shall have the authority to grant, for good cause, a delay of required landscaping installation until the first month of the next growing season, as solely determined by the Architectural Control Committee.

(2) The front yard of each Lot shall be planted or have sod installed so that at least thirty per cent (30%) of the front yard is turf grass in accordance with an approved landscape plan. The remaining approximately seventy per cent (70%) of the front yard of each Lot shall be landscaped utilizing living plants, ground cover, bushes, shrubs and trees, and non-living durable landscape materials, including but not limited to, mulch, bark, rocks and stone, as well as separation and retention materials, including but not limited to, edging, stone barriers and walls, and retention walls.

(3) In order to maximize drainage of the side yards, the side yards of each Lot shall be landscaped using a combination of rock and stone.

(4) All of the landscaping installed by a Builder shall include both an underground irrigation system to irrigate all turf grass and a drip system to irrigate all living plantings. The nature, size, and location of such irrigation systems shall be part of the landscaping plan that must be approved by the Architectural Control Committee prior to landscaping installation. Such irrigation systems must connect to, and must be consistent and compatible with, the master irrigation water source system that serves all Builder installed landscaping in the Development.

**(e) Installation by Resident Purchaser.**

(1) Within three (3) months of the date of conveyance of the Lot by the Builder to the Residential Purchaser, the Resident Purchaser shall landscape all of the Unimproved Area of the Owner's Lot in the manner required for the seventy per cent (70%) of a front yard, as provided by section 8.05 (d) (2) hereof, except that side yards between Dwellings must be landscaped pursuant to section 8.05 (d) (3) hereof, and pursuant to an approved landscaping plan pursuant to section 8.05(h) hereof. The Architectural Control Committee shall have the authority to grant, for good cause, a delay of required landscaping installation until the first month of the next growing season, as solely determined by the Architectural Control Committee.



(2) To the extent two adjacent Lots are conveyed to Resident Purchasers, regarding which there is a recorded Declaration and Grant of Use Easement establishing the use of a portion of the side yard of one Lot by the adjacent Owner, and the three (3) month time periods for installation of landscaping by such Resident Purchasers overlap for as little as one day, the Architectural Control Committee may grant delays of the required time for Resident Purchaser installation of landscaping both Lots so as to allow such adjacent Resident Purchasers to jointly install such landscaping upon the area of the Use Easement and the adjacent side yard of the Owner who is the beneficiary of the Use Easement ,

(f) **Maintenance by Association.** All front yards and all side yards installed by Builders shall be maintained by the Association in a neat, attractive, and well-kept condition, which shall include, without limitation, lawns routinely mowed; hedges, shrubs, and trees pruned and trimmed; adequate watering; replacement of dead, diseased or unsightly materials; removal of weeds and debris, and maintenance and repair of the irrigation system(s) serving such landscaping.

(g) **Maintenance by Owner.**

(1) All landscaping installed by a Resident Purchaser on a Lot shall be maintained by the Owner of the Lot in a neat, attractive, and well-kept condition, which shall include, without limitation, lawns routinely mowed; hedges, shrubs, and trees pruned and trimmed; adequate watering; replacement of dead, diseased or unsightly materials; and removal of weeds and debris. The Architectural Control Committee shall retain the right to require that trees or shrubs on a Lot be located or trimmed so as to preserve or enhance the view from other Lots within the immediate vicinity.

(2) Notwithstanding the existence of the Builder installed/ Association maintained landscaping upon a Lot, and the proximity of such landscaping to the Dwelling of an Owner upon a Lot, and the interest of the Owner in maintaining such Builder installed/ Association maintained landscaping, an Owner does not have any authority to, and an Owner shall not, take any action to maintain or seek to maintain the Builder installed/ Association maintained landscaping, without the prior approval and agreement of the Architectural Control Committee. In the event an Owner shall seek or attempt to maintain the Builder installed/ Association maintained landscaping upon his/her Lot, and in doing so should cause damage to any item or material of such landscaping, the Association may recover the value of such damage from such Owner. The value of such damage shall presumptively be the cost of materials and labor to replace such damaged elements of the landscaping. Such value may be recovered by the Association by assessing such value upon the account of an Owner.

(h) **Prior Approval by Architectural Control Committee.**

(1) All installation of landscaping by a Builder or by a Resident Purchaser, and all modification of landscaping to be maintained by an Owner shall be undertaken and installed in accordance with landscaping plans submitted to and



approved in advance in writing by the Architectural Control Committee. Such landscaping plans shall be reasonable drawn to scale and shall set forth the location of landscaping, the type of landscape materials, and shall be in accord with the requirements of this Declaration, the Design Guidelines of Eastgate I, and any Rules and Regulations adopted by the Association.

(2) Notwithstanding the requirement of prior approval of this section 8.05(h), without requesting or obtaining such prior approval from the Architectural Control Committee, a Builder or an Owner may replace any dead, diseased, or damaged landscaping item or material, including by way of example but not limitation, turf and other grasses, plants, bushes, shrubs, trees, mulch, bark, river and other rock, stones, edging, and separation or retention materials, with a "like-kind" item. The standard of "like-kind" means replacement with a living planting or other material that is exact in nature with the item or material being replaced. By way of example but not limitation, like-kind replacement means replacement of turf grass with turf grass, replacement of a day lily with a day lily, replacement of a burning bush with a burning bush, replacement of an empire ash tree with an empire ash tree, replacement of one-half inch red river rock with one-half inch red river rock, replacement of two-inch bark with two-inch bark, and replacement of metal edging with metal edging. A variation in size of a replacement living plant or tree is acceptable and does not require prior Architectural Control Committee approval. Any deviation from replacement with a like-kind item or material requires the prior written approval of the Architectural Control Committee.

**ARTICLE IX  
AGE RESTRICTION / OCCUPANCY OF DWELLINGS**

Article IX of the Declaration is deleted in its entirety by this Restatement.

**ARTICLE X  
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

**Section 10.01 Development Rights**

Developer reserves the right to add real estate to Eastgate I, create additional Lots, Common Elements or Limited Common Elements, subdivide lots, and withdraw real estate from Eastgate I. Developer's right to add real estate shall apply solely to that real estate described in the attached **Exhibit B.**"

**Section 10.02 Construction Easement**

Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Lots, in Common Elements, in Limited Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or the holder of a security interest in any



Lot. Declarant has such an easement through the Common Elements and Limited Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in the Declaration and this Restatement. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Development not designated as reserved for future development in this Declaration or in the Plat for the purpose of furnishing utility and other services to buildings and improvements to be constructed on any of the Development reserved for future development and/or other real estate owned by Declarant. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements and Limited Common Elements not occupied by an improvement containing Lots.

**Section 10.03 Termination of Development Rights**

The Development Rights reserved to Declarant, for itself, its successors and assigns, shall expire in accordance with the provisions of section 10.07 hereof unless they are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Development Rights by Declarant as provided by the Act.

**Section 10.04 Interference With Development Rights**

Neither the Association nor any Owner may take any action or adopt any Rule or Regulation that will interfere with or diminish any Development Rights reserved by this Article without the prior written consent of the Declarant. In the event of any controversy, dispute, or litigation involving exercise of the reserved Development Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Development Rights allowed by the Act.

**Section 10.05 Transfer of Development Rights**

Any Development Rights created or reserved under this Article for the benefit of Declarant may be transferred to any successor Declarant by an instrument describing the rights transferred, executed by Declarant and recorded in the land records of Boulder County, Colorado.

**Section 10.06 Special Declarant Rights**

Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights") Declarant's Special Declarant Rights include the following:

- (a) Completion of Improvements. The right to complete improvements indicated on the Plat.
- (b) Exercise of Development Rights. The right to exercise any Development Right reserved in Article X of this Declaration.



(c) Sales Management and Marketing. The right to maintain sales offices, management offices, signs advertising the Development and models within Lots and in the Common Elements.

(d) Construction Easements. The right to access, cross and otherwise use the Common Elements for the purpose of making improvements within the Development.

(e) Merger. The right to merge or consolidate the Development with another project of the same form of ownership.

(f) Control of Association and Board. The right to appoint and remove officers of the Association and members of the Executive Board during the period of Declarant Control.

(g) Amendment of Declaration. The right to amend the Declaration and this Restatement in connection with the exercise of any Development Rights as permitted by tile Act, or to correct any clerical, typographical or technical error.

(h) Amendment of Plat. The right to amend the Plat in connection with the exercise of any Development Rights as permitted by the Act or to correct any clerical, typographical or technical error.

(i) Signs. The right to maintain signs on the Common Elements and on Lots owned by the Declarant, advertising of the Development and the availability of Lots or homes for sale and for lease.

(j) Dedications. The right from time to time to establish, by dedication or otherwise, and to vacate utility and other easements upon the Common Elements and Limited Common Elements for purposes including but not limited to streets, paths, walkways, skyways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues and conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of the Owners within the Development.

(k) Use Agreements. The right to enter into, establish, execute, amend and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Development, for the benefit of the Owners or the Association.

(l) Easement Rights. The right to cross and otherwise use the Common Elements and Limited Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations under this Declaration or the Act.



(m) Sales Office. The right to use or permit the use of all or part of a Lot as a sales or property management office for the benefit of Declarant, Owners or tenants within the Development.

(n) Other Rights. The right to exercise any additional reserved rights created by any other provision of the Declaration and this Restatement, including but not limited to rights created or reserved in this Article.

**Section 10.07 Limitations on Special Declarant Rights**

Unless sooner terminated by an amendment to the Declaration and this Restatement executed by the Declarant, any Special Declarant Rights may be exercised by the Declarant anywhere on the Development (a) so long as the Declarant holds any Development Rights, owns any Lot or holds a security interest in any Lot, or (b) for ten (10) years after the date of recording the Declaration, whichever eventuality grants to Declarant the longest possible period for exercise of Special Declarant Rights-

**Section 10.08 Interference with Special Declarant Rights**

Neither the Association nor any Owner may take any action or adopt any Rule or Regulation that will interfere with or diminish any Special Declarant Rights without the prior written consent of the Declarant. In the event any controversy, dispute or litigation involving exercise of the reserved Special Declarant Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Special Declarant Rights allowed by the Act.

**Section 10.09 Rights Transferable**

Any Special Declarant Right created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

**ARTICLE XI  
EASEMENTS**

**Section 11.01 Members' Easements of Enjoyment**

Every Member shall have a right and easement of enjoyment in and to the Common Areas, and every Member who is the Owner of a Lot identified in **Exhibit D** as a Lot to which an Autocourt is allocated shall have a right and easement of enjoyment in and to such Limited Common Element Autocourt, and such easements shall be appurtenant to and shall pass with the title to every such Lot. However, no right or easement of enjoyment shall arise in any portion of the Common Areas until that portion of said Common Area has been conveyed to the Association and the deed conveying the same has been recorded in the land records of Boulder County, Colorado.

The rights and easements of enjoyment created hereby shall be subject to the following:





(a) All easements, reservations, restrictions, covenants and agreements of record affecting the Development as of the date and time of the recording of this document; and

(b) The right of the Association to prescribe reasonable rules and regulations governing use of the Property and the Common Area and Limited Common Elements and providing rules for use by Members, Members' families, tenants, tenants' families and guests; and

(c) The right of the Association to limit the number of guests of Members; and

(d) The right of the Declarant and the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the Common Area, or parts thereof. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admissions and other fees as a condition to continued enjoyment by the Members until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association, and all rights of the Members hereunder shall be fully restored; and

(e) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure; and

(f) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member or his family, tenant, tenant's family or guests for any period during which any Assessment on the Member remains unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(g) The right of the Association to charge Members, Members' families, tenants and guests reasonable admission and other fees for the use of the Common Areas; and

(h) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by not less than sixty-seven per cent (67%) of the votes allocated to all Lots. Such dedication or transfer, and all procedures necessary to accomplish such a dedication or transfer, shall be in accordance with Colorado law; and

(i) The right of the Declarant (or its assigns, employees and contractors) to enter upon the Common Areas and install, construct, maintain, repair, replace and operate drainage facilities; and



(j) The right of the Association to enter upon Lots to maintain, repair and replace landscaping and all elements thereof, pursuant to section 8.05(f) hereof.

**Section 11.02 Title to Common Areas; Additions to Common Areas**

The Declarant covenants for itself, its successors and assigns that Declarant will convey fee simple title to the Common Areas to the Association, free and clear of all encumbrances and liens on or before one year following the end of the Declarant Control Period, by special warranty deed.

The Declarant, or the Declarant's assigns, may convey additional property to the Association, which property shall be accepted by the Association and held as part of the Common Areas; provided, however, that the Association shall not be required to accept the conveyance of any such additional property unless the said additional property is located within the Development and, unless at the time of conveyance of the said additional property, said property is improved and landscaped to meet the requirements, if any, of the governmental authorities having jurisdiction or the Executive Board of the Association shall have obtained assurances satisfactory to it that such work will be accomplished.

The Executive Board may at any time accept the conveyance of additional properties that do not meet the foregoing standards if the Executive Board determines that such action would be beneficial to the Members.

The Association agrees to accept the Common Areas as conveyed and to operate, maintain and repair all structures, landscaping, paths and related facilities and amenities now or hereafter constructed, installed or planted thereon, using its powers of assessment granted herein to raise funds with which to do so. Specifically, the Association shall be responsible for the following:

(a) The operation, maintenance and repair of any structures, signs, landscaping and related facilities and amenities now or hereafter constructed, installed or planted upon the Common Areas; and

(b) The operation, maintenance and repair of any structures, facilities, landscaping and appurtenances thereto (including, specifically, drainage or storm sewer facilities, and inlet or outlet structures therefor) constructed or installed in or on the Common Areas, and in or on easements attaching or appurtenant thereto.

(c) The acquisition and maintenance of the liability insurance described and provided for in the Declaration and this Restatement.



**Section 11.03 Delegation of Use**

Any Member may delegate, in accordance with the Declaration and this Restatement, his rights of enjoyment to the Common Areas to the members of his family, his tenants, or contract purchasers who reside on his Lot.

**Section 11.04 Charges Against Common Areas**

Mortgagees, jointly or singularly, may pay over-due premiums on hazard insurance policies or secure new hazard insurance coverage on a lapse of a policy for such Common Areas and may also pay taxes and other charges which are in default or which may have become a charge against such Common Areas. A first mortgagee making such payments shall be owed immediate reimbursement therefore from the Association.

**Section 11.05 Use Easement**

To allow for more efficient and beneficial use of the relatively narrow sideyards between many adjacent Lots in the Development, the Declarant, or its assignee, may create and establish an easement for the use of one Lot over and upon a portion of the sideyard of an adjacent Lot. Such easement shall be established by a "Declaration and Grant of Use Easement," essentially in the form of **Exhibit E**, which is marked as such, attached hereto, and incorporated herein by reference. Such easement will provide to one Lot and its Owner(s), as the "Benefited Lot," the use of a portion of the sideyard of an adjacent Lot, known as the "Burdened Lot." Such easement would be a perpetual easement that runs with and is appurtenant to the Benefited Lot, and is a burden upon the Burdened Lot.

**ARTICLE XII  
GENERAL PROVISIONS**

**Section 12.01 Duration**

The Covenants, Conditions and Restrictions of the Declaration and of this Restatement shall run with the land, and shall inure to the benefit of the Association and the Owner of any Lot subject to the Declaration and this Restatement, their respective legal representatives, heir, successors, and assigns, in perpetuity until the Declaration and this Restatement is terminated in accordance with Section 12.03 below.

**Section 12.02 Amendments**

These Covenants and Restrictions may be amended by an instrument executed on behalf of the Association by the President and attested by the Secretary; provided that, any amendment shall have the assent of sixty-seven percent (67%) of the votes allocated to all Lots at a meeting of the membership of the Association called and occurring pursuant to the provisions of Colorado law, the Declaration, this Restatement, and the Bylaws of the Association. Any amendment must be properly recorded in the land records of Boulder County, Colorado.



**Section 12.03 Termination**

Except in the case of a taking of all the Lots by condemnation, the Development may be terminated only by agreement of the Owners to which at least sixty-seven per cent (67%) of the votes in the Association are allocated, as more fully set forth in §38- 33.3-218 of the Act.

The proceeds of any sale of the real estate together with assets of the Association shall be held by the Association as trustee for the Owners and holders of liens upon the Lots as their interests may appear, as more fully set forth in §38-33.3-218 of the Act.

**Section 12.04 Enforcement**

The Association, any Owner, Architectural Control Committee and/or the Declarant, may enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of the Declaration and this Restatement, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation, or to obtain such other relief as may be available. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 12.05 Notices**

Any notice required to be sent to any Member or Owner under the provisions of the Declaration and this Restatement shall be deemed to have been properly sent when mailed, post-paid, to the last known address of the person who appeared as a Member or Owner on the roster of the Association at the time of such mailing.

**Section 12.06 Attorneys' Fees and Costs**

If any action is brought in a court of law or put into arbitration as to the enforcement, interpretation, or construction of any of these Covenants, Conditions and Restrictions, the prevailing party in such action shall be entitled to recovery of engineering fees, architectural fees, attorney's fees, or other professional fees as well as all costs incurred in the prosecution or defense of such action, except as otherwise allowed or limited by laws of the state of Colorado.

**Section 12.07 Binding Effect**

The benefits and duties herein accrued to or imposed upon the Declarant shall be binding upon and inure to the benefit of the Declarant and its successors and assigns.

**Section 12.08 Power to Assign and Delegate**

Declarant shall have the right and power to assign and delegate to any person or entity its successors and assigns, at any time and from time to time, all or part of any of the rights, powers, authorities, title, interest, and duties contained in the Declaration and this Restatement.



**Section 12.09 Merger**

Upon a merger or consolidation of the Association with another Association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may by operation of law, be added to the Property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidation association shall administer the covenants and restrictions established by the Declaration and this Restatement together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants, established by the Declaration and this Restatement, except as hereinafter provided.

**Section 12.10 Zoning and Specific Restrictions**

The restrictions contained in the Declaration and this Restatement shall not be taken as permitting any action prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict between the provisions of the Declaration and this Restatement and restrictive provisions of such laws, rules, regulations, deeds, and/or leases, the most restrictive provision or provisions shall apply.

**Section 12.11 (Deleted)**

**Section 12.12 Severability**

If any provision of the Declaration or this Restatement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions hereof shall remain fully enforceable, and the Declaration and this Restatement shall be interpreted in all respects as if such provision were omitted.

**Section 12.13 No Waiver**

No provision contained in the Declaration and this Restatement shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

**Section 12.14 Arbitration**

Any dispute arising under the Declaration and this Restatement which cannot be resolved by the parties shall be submitted to binding arbitration in Longmont, Colorado. The parties to such dispute shall agree upon a single arbitrator who shall be an experienced professional property manager of a homeowners' association. In the event the parties are unable to agree upon an arbitrator within 30 days after written notice, the presiding judge of the Boulder County District Court shall appoint an arbitrator qualified as set forth above upon application of a party. The arbitrator shall be required to follow substantive law in reaching a decision under this section. The prevailing party may file



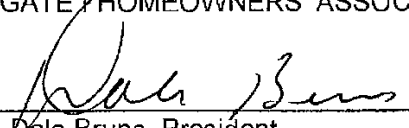
such award with the Clerk of the District Court of Boulder County who shall enter judgment thereon, and if such award requires the payment of money, execution shall issue on such judgment. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorney's fees.

**Section 12.15 Governing Law**

The Declaration and this Restatement shall be construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the undersigned does hereby make this Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate 1 and has caused this Amendment and Restatement to be executed as of the day and year first above written.

EASTGATE I HOMEOWNERS' ASSOCIATION, INC.

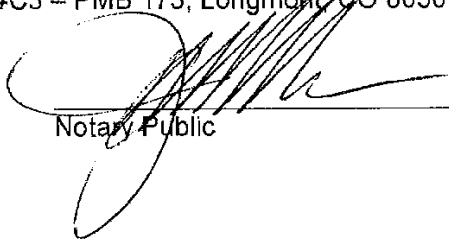
By   
Dale Bruns, President

STATE OF COLORADO)  
County of Boulder ) ss.

The foregoing instrument was acknowledged before me in Boulder County, Colorado, on July 14, 2006, by Dale Bruns as President of Eastgate I Homeowners' Association, Inc., a Colorado non-profit corporation .

My commission expires September 23, 2006.  
My business address is 1600 Hover Road #C3 -- PMB 173, Longmont, CO 80501.



  
Notary Public

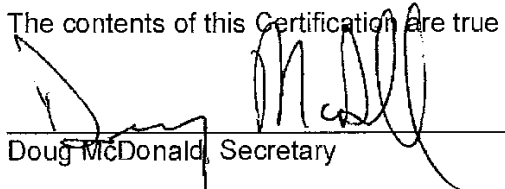


CERTIFICATION

Doug McDonald, being first duly sworn upon his oath, states as follows:

1. He is the Secretary of Eastgate I Homeowners' Association, Inc., a Colorado non-profit corporation.
2. That upon the date of execution of the Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate I the owners of all of the Lots of Eastgate I, and all of the members of Eastgate I Homeowners' Association, Inc., are:
  - Eastgate Development, LLC, a Colorado limited liability company,
  - Ithaca Development, LLC, a Colorado limited liability company,
  - Terra et Arte, LLC, a Colorado limited liability company,
  - Michael L. Van Abel and Judy L. Van Abel, individuals, and
  - MaureenBill, LLC, a New York limited liability company.
3. All of such members separately executed a Consent of Members of Eastgate I Homeowners' Association, Inc., Special Consent, in which all of such members unanimously reflected their separate desire to amend the provisions of the Declaration of Covenants, Conditions and Restrictions for Eastgate I, and ratified, adopted and approved, as all of the members of Eastgate I Homeowners' Association, Inc., the Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate I.
4. Such Consent of Members and the recorded original of the Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate I are maintained in the records of Eastgate I Homeowners' Association, Inc.

The contents of this Certification are true and correct.

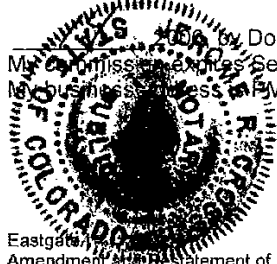
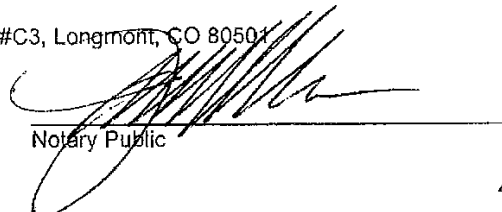


Doug McDonald, Secretary

STATE OF COLORADO)  
County of Boulder ) ss.

The foregoing instrument was acknowledged before me in Boulder County, Colorado, on July

by Doug McDonald as Secretary of Eastgate I Homeowners' Association, Inc.  
My Commission Expires September 23, 2006.  
My Office Address is PMB 173 - 1600 Hover Road #C3, Longmont, CO 80501

Notary Public



**2794141**

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**EXHIBIT A**  
Page 1 of 1

To Eastgate I Amendment and Restatement of  
Declaration of Covenants, Conditions and Restrictions

Legal Description of Eastgate I

A certain parcel of land located in the NE ¼ of Section 36, Township 3 North, Range 69 West, of the Sixth Principal Meridian, Boulder County, Colorado, as more particularly described as Eastgate I, First Filing, pursuant to the Plat thereof, recorded in the real estate records of Boulder County, Colorado.





EXHIBIT B

TO EASTGATE I AMENDMENT AND RESTATEMENT OF  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

---

LEGAL DESCRIPTION OF PROPERTY THAT MAY BE ADDED TO PROJECT

---

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36 WHENCE THE NORTH QUARTER CORNER BEARS SOUTH 88°10'21" WEST 2658.19 FEET, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION; THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 36 SOUTH 00°01'22" WEST 591.29 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH RIGHT OF WAY OF 17<sup>TH</sup> AVENUE AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID EAST LINE, SOUTH 00°01'22" WEST 1930.56 FEET; THENCE SOUTH 88°17'28" WEST 312.00 FEET; THENCE SOUTH 00°01'22" WEST 140.00 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36; THENCE ALONG SAID SOUTH LINE, SOUTH 88°17'28" WEST 950.53 FEET; THENCE NORTH 33°54'53" WEST 112.58 FEET; THENCE NORTH 46°54'20" WEST 187.07 FEET; THENCE NORTH 51°30'13" WEST 176.23 FEET; THENCE NORTH 26°32'52" WEST 129.20 FEET; THENCE NORTH 00°15'49" WEST 122.14 FEET; THENCE NORTH 01°58'42" EAST 150.06 FEET; THENCE NORTH 01°56'31" EAST 413.90 FEET; THENCE NORTH 12°24'39" WEST 404.68 FEET; THENCE NORTH 23°01'35" WEST 53.27 FEET; THENCE NORTH 44°56'58" WEST 301.83 FEET; THENCE NORTH 38°01'45" WEST 416.46 FEET; THENCE NORTH 30°22'34" WEST 512.65 FEET TO THE SOUTH RIGHT OF WAY LINE OF 17<sup>TH</sup> AVENUE; THENCE ALONG SAID RIGHT OF WAY, NORTH 88°10'21" EAST 364.62 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 895.00 FEET, A CENTRAL ANGLE OF 28°01'46", CHORD OF SAID ARC BEARS SOUTH 77°48'46" EAST 433.49 FEET) A DISTANCE OF 437.84 FEET; THENCE SOUTH 63°47'53" EAST 606.50 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 1015.00 FEET, A CENTRAL ANGLE OF 26°10'45", CHORD OF SAID ARC BEARS SOUTH 76°53'16" EAST 459.74 FEET) A DISTANCE OF 463.77 FEET; THENCE SOUTH 89°58'38" EAST 696.01 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL OF LAND CONTAINS 91.028 ACRES, MORE OR LESS.



**2794141**

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**EXHIBIT C**

Page 1 of 1

To Eastgate I Amendment and Restatement of  
Declaration of Covenants, Conditions and Restrictions

Outlots to be Transferred from Eastgate I Association to Eastgate Master Association

Outlots described as:

Outlots A, B, F, K, P, Q, R, S, T, and U,  
Eastgate, First Filing,  
County of Boulder, State of Colorado.



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**EXHIBIT D**

Page 1 of 1

To Eastgate I Amendment and Restatement of  
Declaration of Covenants, Conditions and Restrictions

Allocation of Autocourt Limited Common Elements to Lots of the Development

Outlot C is allocated equally to Block 1, Lots 16, 17, 18, and 19.

Outlot G is allocated equally to Block 1, Lots 24, 25, and 34.

Outlot H is allocated equally to Block 1, Lots 26, 27, and 33.

Outlot J is allocated equally to Block 1, Lots 28, 29, and 32.

Outlot L is allocated equally to Block 4, Lots 4, 5, 6, 7, and 8.

Outlot M is allocated equally to Block 4, Lots 13, 14, and 15.

Outlot N is allocated equally to Block 4, Lots 17, 18, 19, and 20.

Outlot O is allocated equally to Block 4, Lots 21, 22, 23, and 24.

**EASTGATE I**  
*a Planned Community*

FIRST AMENDMENT TO  
AMENDMENT AND RESTATEMENT OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Eastgate I Homeowners' Association, Inc., a Colorado corporation, executes this First Amendment to Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions on May 11, 2012 (the "First Amendment").

**RECITALS**

The Declaration of Covenants, Conditions and Restrictions of Eastgate I, a Planned Community was executed on May 18, 2005, and was recorded May 20, 2005, as Reception No. 2689729 in the real estate records of Boulder County, Colorado; and was amended and restated by that certain Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions, executed on July 14, 2006, and recorded on July 28, 2006, as Reception No. 2794141 in the real estate records of Boulder County, Colorado (together, the "Declaration").


Eastgate I Homeowners' Association, Inc. hereby amends the Declaration of Eastgate I, a Planned Community, pursuant to the Declaration and to the authority in the Colorado Common Interest Ownership Act, 38-33.3-101 et seq.

Declarant referred to in the Declaration no longer has the right to appoint and remove officers and members of the Executive Board as provided in Section 4.05(c) of the Declaration because more than two years have passed since any new Lots have been added to the Declaration and therefore the Period of Declarant Control has expired. However, Declarant retains certain Special Declarant Rights and Development Rights as specified in the Declaration.

The Declaration provides for and allows this First Amendment to the Declaration under Section 12.02 of the Declaration with the assent of 67% of the votes allocated to all Lots at a meeting of the membership.

The undersigned being the President and Secretary of the Association, hereby certify that at least sixty-seven percent (67%) of the votes allocated to all of the Lots have consented and agreed to this First Amendment in accordance with the Declaration and in accordance with the Colorado Common Interest Ownership Act.

All capitalized terms in this First Amendment shall have the meaning set forth in the Declaration unless otherwise defined in this First Amendment.

  
Land Title  
GUARANTEE COMPANY  
(05820844.DOCX;1) 70328079

## AMENDMENTS

### ARTICLE I DECLARATION AND DEFINITIONS

Section 1.02 of Article I of the Declaration is hereby amended as follows:

**Section 1.02 Definitions** Subsections (b), (j), (t), (u) and (v) are hereby amended and restated as follows:

- (b) **"Assessments"** is the collective term for the following charges:
- **"General Assessment"** is the amount allocated among Members to meet the Association's annual budgeted expenses, as described in Section 6.03 hereof.
  - **"Individual Lot Assessment"** is a charge made to a particular Owner for charges relating only to that Lot, including front yard maintenance, as provided in Section 6.05 hereof.
  - **"Limited Common Element Assessment"** is the amount allocated to certain Lots because of the proximity of such Lots to Limited Common Elements, in accordance with the provisions of Section 6.06 hereof.
  - **"Special Assessment"** may be charged to each Lot for capital improvements or emergency expenses, in accordance with the provisions of Section 6.04 hereof.
- (j) **"Declaration"** is the Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate I and, as amended thereafter.
- (t) The **"Plat"** means and refers to the Plat of Eastgate, First Filing, which was recorded on May 17, 2005, in the real estate records of Boulder County, Colorado, as Reception Number 2688519, together with any subsequent Plats recorded for Eastgate of additional property described on Exhibit B hereto.
- (u) **"Eastgate I"** is the real property known and described as Eastgate, First Filing, County of Boulder, State of Colorado, as described on Exhibit A to the Declaration, together with any additional Filings of property described on Exhibit B hereto added by Supplemental Declaration. Eastgate I is a planned community under the Act.
- (v) An **"Autocourt"** is an access way that provides vehicle and pedestrian access from public streets in the Development to two or more individual private lots within the Development that have garages that front upon such access way rather than upon a public street. Autocourts are Outlots on the Plat and are Common Areas as defined by the Declaration and this First Amendment.

The following definition is added by this First Amendment:

(bb) A "**Special Declarant**" is Declarant or a Builder who is not a Resident Purchaser and acquires more than one Lot and is designated as a Special Declarant or assigned Special Declarant or Development Rights by an instrument recorded in the real estate records of Boulder County, Colorado.

(cc) A "**Front Yard Maintenance Lot**" is a Lot containing Builder-installed/Association-maintained landscaping located within Eastgate First Filing (as described on Exhibit A) and any future Lot outside of Eastgate First Filing annexed to the Declaration, upon which the Declarant or Builder determines, with the consent of the Executive Board, that front yard landscaping will be maintained by the Association.

## ARTICLE II NAME, DESCRIPTION OF REAL ESTATE AND LOTS

Sections 2.03, 2.04 and 2.05 of Article II of the Declaration are hereby amended and restated in their entirety as follows:

### ***Section 2.03 Real Estate***

Eastgate I is located in Boulder County, Colorado. The real estate of Eastgate I is described in Exhibit A, together with any additional property described on Exhibit B hereto added by Supplemental Declaration.

### ***Section 2.04 Number, Identification, Boundaries, and Subdivision of Lots***

The maximum number of Lots in Eastgate I shall be 350, the identification number of each Lot is shown on the Plat. The boundaries of each Lot are located as shown on the Plat. The subdivision of Lots within Eastgate I is prohibited.

### ***Section 2.05 Association***

(a) Eastgate I consists of filings of a planned, large mixed-use development upon approximately 91 acres of land located in Boulder County, Colorado, on the southwest corner of the intersection of East 17th Avenue, in the City of Longmont, and County Line Road, which is the boundary between Boulder County, Colorado, and Weld County, Colorado. The entire large development is known as "Eastgate I."

(b) Eastgate I will be a planned community under the Act, and may include all or a portion of the real estate described in Exhibit B attached hereto, and incorporated herein by reference. Such planned community will be operated and controlled by the Association.

(c) The Declaration and the Plat establish certain parcels of land in Eastgate I as "Outlots." Such Outlots are parcels of land that exist for the common use and benefit of some or all of the Owners of Eastgate I, and as such, will be owned by the Association after transfer to the Association by the Declarant as provided herein.

### **ARTICLE III THE COMMON AREAS**

Section 3.02 of Article III is hereby amended and restated in its entirety as follows:

#### ***Section 3.02 Limited Common Elements***

Any improvements on the Property described in C.R.S. § 38-33.3-202 (l) (b) and (d) of the Act shall be considered Limited Common Elements. The Autocourts are not Limited Common Elements, and Exhibit D to the Declaration is hereby deleted in its entirety. The Autocourts shall be considered General Common Elements and expenses concerning the maintenance, repair, and replacement of the Autocourts shall be common expenses included as part of the General Assessments as set forth in Section 6.03.

Maintenance, repair and replacement of any Limited Common Elements shall be the responsibility of the Owner or Owners of the Lot or Lots to which such Limited Common Elements are allocated. If Limited Common Elements are allocated to more than one Lot, all associated expenses shall be shared equally by the Owners of such Lots. At the Association's discretion, the Association may elect to maintain, repair, replace, or insure certain Limited Common Elements and in connection therewith the Association may impose Limited Common Element assessments, pursuant to Section 6.06 hereof, as necessary to meet the expenses of maintaining, repairing, replacing, or insuring the Limited Common Elements. In addition to any other rights or powers conferred upon the Association by this Declaration or the Act, in the event that such Owners fail to maintain, repair or replace such Limited Common Elements, the Association may, in its sole discretion, take any action it deems necessary to maintain, repair or replace such Limited Common Elements and charge the cost of such maintenance, repairs or replacement to the Owners as an Individual Lot Assessment.

### **ARTICLE IV THE ASSOCIATION**

Sections 4.04 4.08 of Article IV of the Declaration are hereby amended and restated in their entirety as follows:

#### ***Section 4.04 VOTING RIGHTS***

Owners shall be entitled to one vote for each Lot owned provided the obligation to pay General Assessments for the Lot has commenced pursuant to Section 6.03. No vote shall be allocated or cast in connection with the ownership of a Lot or Lots for which the obligation to pay General Assessments for such Lot or Lots has not yet commenced. However, during any period in which an Owner shall be in default in the payment of any Assessments, including interest, fines, late fees, attorney fees and costs, levied by the

Association, the voting rights of the Owner shall be deemed suspended by the Executive Board, without notice or hearing, until the Assessment has been paid. In addition, the Executive Board may suspend voting rights, after providing notice and opportunity for a hearing, in the event the Executive Board determines that an Owner is in violation of any other obligation contained within the Association's governing documents.

***Section 4.08 Delivery of Common Areas by Declarant.***

Within sixty (60) days after the date this First Amendment is recorded in the real property records for Boulder County, Colorado, the Declarant shall convey, without charge, to the Association in its name all Common Areas within Eastgate First Filing, including all Outlots described on Exhibit C attached hereto, by special warranty deed. Notwithstanding any provision contained in this Declaration to the contrary, the Association's obligation to accept any Common Areas or other real property from the Declarant is contingent upon the Declarant's receipt of written acceptance from the Association's Executive Board as provided in Section 11.02.

**ARTICLE V  
ASSOCIATION BUDGET**

Subsection 5.02(b) and Sections 5.03, 5.04 and 5.06 of Article V are hereby amended and restated in their entirety as follows:

***Section 5.02 Preparation and Approval of Annual Budget***

(b) **Subsequent Years.** At least two months before the end of every fiscal year, the Executive Board shall adopt a budget for the coming year and set the annual General Assessments at a level sufficient to meet the budget. Within ninety days after adoption of such budget, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Executive Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Executive Board will be deemed approved by the Owners in the absence of a veto at the noticed meeting by a majority of all Owners entitled to vote pursuant to Section 4.04, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Executive Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Executive Board is not vetoed by the Owners.



**Section 5.04 Reserves**

The Association may build up and maintain reserves for working capital, contingencies and replacement, which shall be included in the budget and collected as part of the annual General Assessment. If the reserves are inadequate for any reason, including nonpayment of any Member's assessment, the Executive Board may at any time levy an emergency assessment as a Special Assessment in accordance with the provisions of Section 6.04 hereof. If there is an excess of reserves at the end of the fiscal year and the Executive Board so determines, the excess may be returned on a prorata basis to all Members who are current in payment of all assessments due the Association, or may be used to reduce the following year's assessments, at the Executive Board's discretion.

**Section 5.06 Capital Improvements**

Any substantial capital improvement to the Common Area must be approved by the Executive Board, and the Executive Board shall determine whether it shall be paid from General Assessments or by Special Assessment. A capital improvement shall be considered substantial if the cost to the Association of the improvement is more than six percent (6%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than ten percent (10%) of the Association's annual budget. However, any repair or replacement of existing improvements shall not be considered a capital improvement. Approval of the Architectural Control Committee shall not be required for capital improvements made by the Association to the Common Area.

**ARTICLE VI  
ASSESSMENTS**

Sections 6.02, 6.03, 6.05 and 6.06 of Article VI are hereby amended and restated in their entirety as follows:

**Section 6.02 Allocation of Assessments**

General Assessments and Special Assessments shall be allocated equally among the Lots subject to General Assessments. Limited Common Element Assessments and Individual Lot Assessments shall be allocated as set forth in Sections 6.05 and 6.06.

**Section 6.03 General Assessments**

- (a) **Establishment by Executive Board.** The Executive Board shall set the date or dates such assessments become due and may provide for collection of assessments annually or in monthly, quarterly or semiannual installments.
- (b) **Date of Commencement.** The obligations for the payment of General Assessments for any Lot that was not previously obligated to pay General Assessments

pursuant to the requirements set forth in the Declaration prior to the date of this First Amendment shall begin upon the first day of a calendar month following the earlier of: (i) the date a certificate of occupancy is issued by the City of Longmont for a Dwelling constructed on the Lot; or (ii) the date the City of Longmont issues a construction acceptance letter for the Lot or such other document that allows the commencement of the construction of a Dwelling on a Lot. Lots for which the obligation to pay General Assessments had commenced pursuant to the requirements set forth in the Declaration prior to the date of this First Amendment shall continue to be obligated to pay General Assessments.

(c) **Amount.**

(i) General Assessments shall be determined by the Executive Board as required to meet the common expenses and annual budget of the Association.

***Section 6.05 Individual Lot Assessment***

The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot, for expenses approved by the Association, or any other charges designated in this Declaration as an Individual Lot Assessment. Special services shall include, but not be limited to, front yard landscape maintenance for the Lots described on Exhibit A attached hereto (the Lots contained within Eastgate, First Filing), and for any Front Yard Maintenance Lots (as defined in Section 8.05(g)(2)) within additional property described on Exhibit B attached hereto for which the Declarant or the Executive Board determines shall receive front yard landscaping or other special services.

***Section 6.06 Limited Common Element Assessment***

The Association may levy at any time a Limited Common Element Assessment against those Lots to which the expenses of the Limited Common Element are allocated as determined by the Executive Board, for the purpose of defraying, in whole or in part, the cost of any special services to such particular Limited Common Element, for such expenses approved by the Association, or for any other charges designated in this Declaration as a Limited Common Element Assessment.

**ARTICLE VII  
ARCHITECTURAL CONTROL AND DESIGN REVIEW**

Sections 7.01, 7.02(b) and (c), and 7.03 of Article VII are hereby amended and restated in their entirety as follows:

***Section 7.01 Architectural Control Committee.***

Initially, the Architectural Control Committee shall consist of three or more persons, not to exceed five persons appointed by the Declarant, its successors or assigns. The

Declarant, its successors or assigns shall have the absolute right to remove and appoint members of the Architectural Control Committee at any time until relinquishment of such rights as provided below. The members of the Architectural Control Committee shall, as long as the restrictions, covenants, and conditions herein set forth are in force and effect, perform the duties imposed on it as herein set forth. The Declarant, its successors or assigns, may relinquish its powers to determine the number and members of the Architectural Control Committee to the Association by recording a declaration of such relinquishment in the land records of Boulder County, Colorado, and, if not sooner relinquished by recorded declaration as provided above, such relinquishment shall automatically occur the earlier of: (a) the annexation of the real property described on Exhibit B hereto and the sale of all Lots to a Resident Purchaser or (b) December 31, 2015, without the necessity of any formal action or recording. From and after such relinquishment, the number and members of the Architectural Control Committee shall be determined by the Executive Board of the Association and the Executive Board may perform the duties of the Architectural Control Committee at any time an Architectural Control Committee does not exist. Neither the members of the Architectural Control Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this Declaration. Each member of the Architectural Control Committee shall have one (1) vote to be cast on any issue brought before the Architectural Control Committee for action. The quorum required for any action of the Architectural Control Committee shall be a simple majority of the members of the Architectural Control Committee. Assent of a simple majority of votes of the Architectural Control Committee members attending any meeting of the Architectural Control Committee shall constitute approval of any Architectural Control Committee action.

#### ***Section 7.02 Powers of the Architectural Control Committee***

(b) The Executive Board (or the Architectural Control Committee if appointed by the Executive Board) shall have sole authority to approve or disapprove any Change in Existing State by a Resident Purchaser or Owner who subsequently acquires their Lot or Lots from a Resident Purchaser.

(c) The Declarant shall have the sole power to adopt or amend Design Guidelines as to a Change of Existing State by Declarant or a Builder with respect to Lots that have not yet been initially conveyed to a Resident Purchaser, providing such adoption or amendments do not conflict with the Declaration or the quality or character of the Development. The Executive Board (or the Architectural Control Committee if appointed by the Executive Board) shall have the sole power to adopt or amend Design Guidelines as to a Change in Existing State by a Resident Purchaser or Owner who subsequently acquires their Lot or Lots from a Resident Purchaser, providing such adoptions or amendments do not conflict with the Declaration or the quality or character of the Development.

#### ***Section 7.03 Approval Required***

Notwithstanding anything to the contrary herein, the approval of the Executive Board (or the Architectural Control Committee, if and only if, it has been appointed by the Executive Board) shall be required for any Change in Existing State by a Resident Purchaser and Owners who subsequently acquire their Lot or Lots from a Resident Purchaser. Neither the Declarant, nor the Architectural Control Committee while it is appointed by Declarant, shall approve any Change in Existing State by a Resident Purchaser or Owner who subsequently acquires their Lot or Lots from a Resident Purchaser. The approval of the Architectural Control Committee or Executive Board is not required for a Change in Existing State by the Declarant or a Builder with respect to Lots that have not yet been initially conveyed to a Resident Purchaser.

With respect to a Change in Existing State requiring the consent of the Executive Board (or the Architectural Control Committee if appointed by the Executive Board) no work shall be commenced to effect any Change in Existing State until the Executive Board (or the Architectural Control Committee if appointed by the Executive Board) shall approve the change. Every statement in the Declaration and this Restatement providing for or requiring the approval of the Architectural Control Committee shall be read to mean that such approval is obtained in advance and in writing. No proposed Change in Existing State shall be deemed to have been approved by the Executive Board (or Architectural Control Committee if appointed by the Executive Board) unless such approval is in writing; provided, however, that such approval shall be deemed granted if the Executive Board or such Architectural Control Committee fails to approve or disapprove any such proposed Change in Existing State or to make written request for additional requirements or additional information within thirty (30) days after a full and complete description of the proposed Change in Existing State has been furnished, together with a specific request for such approval. Every request for approval of a Change of Existing State shall contain plans and specifications in such form and with such information as may be required by the Executive Board or such Architectural Control Committee. The Executive Board or such Architectural Control Committee may issue written requests for additional requirements or additional information upon a request for a Change of Existing State, and each such written request shall extend the Executive Board or such Architectural Control Committee's time for approval or disapproval of the Owner's request for an additional twenty (20) days following the receipt of information by the Executive Board or such Architectural Control Committee of information that satisfies its written request for additional requirements or additional information.

## ARTICLE VIII LAND USE AND OTHER RESTRICTIONS

Sections 8.03 and 8.05 of Article VIII are hereby amended as follows:

**Section 8.03 General Land Use Restrictions** Subsection (c) is hereby deleted and Subsections (e) and (i) are hereby amended and restated as follows:

(e) **Utility Transmission Lines.** All electric, telephone, television, cable, radio and other utility lines shall be placed underground when extended from the street or Lot lines to any dwelling or other improvement on a Lot. Above ground utility appurtenances, such as electrical transformers, utility meters, etc., shall be screened for aesthetics using reasonable means approved by the Architectural Control Committee. Mechanical equipment, including but not limited to air-conditioners and heating equipment, shall be installed in a manner so as to not adversely affect the aesthetic character of the Lot or adjacent Lots to the extent reasonably possible in accordance with the Act. All exterior equipment shall be reasonably screened by vegetation or approved fencing for aesthetics.

(i) **Antennas, Utilities, Transmitters, and Renewable Energy Devices.** The Executive Board or the Architectural Control Committee may adopt rules and regulations, consistent with the Act and applicable state or federal laws and regulations, regarding the installation of satellite dishes, exterior aerials, antennas of any kind, and any renewable energy devices. Notwithstanding any provision in the Declaration to the contrary, the Association may not effectively prohibit renewable energy generation devices or the installation or use of any energy efficient measures, provided that the Executive Board or the Architectural Control Committee may adopt reasonable aesthetic rules and regulations concerning dimensions, placement or external appearance of such devices or measures. The Association may construct such antennas for the common use of the Owners.

**Section 8.05 Landscaping and Maintenance** Subsections (f) and (g) are hereby amended and restated as follows:

(f) **Maintenance by Association.** All front yards and all side yards (defined as the area on the side of a Dwelling on a Lot in front of the wing return fence, or in the case of no wing return fence, the yard area from the front corner of the Dwelling extending a maximum of six (6) feet or less depending on the lot configuration towards the rear of the Dwelling) installed by Builders on the Lots located in Eastgate First Filing (and such other Front Yard Maintenance Lots as described in Section 8.05(g)(2)) shall be maintained by the Association in a neat, attractive, and well-kept condition, which shall include, without limitation, lawns routinely mowed; hedges, shrubs, and trees pruned and trimmed; adequate watering; removal of dead materials with replacement thereof in such instances as the Executive Board determines, in its sole discretion, necessary to comply with minimum landscape requirements imposed by the City of Longmont or for aesthetics; removal of weeds and debris; and maintenance and repair of the irrigation system(s) serving such landscaping.

(g) **Maintenance by Owner.**

(1) All landscaping installed by a Resident Purchaser on a Lot within Eastgate First Filing as described on Exhibit A, and any landscaping installed by Builder, Declarant or Resident Purchaser on Lots that are not Front Yard Maintenance Lots (as described below), shall be maintained by the Owner of the Lot in a neat, attractive, and

well-kept condition, which shall include, without limitation, lawns routinely mowed; hedges, shrubs, and trees pruned and trimmed; adequate watering; removal and replacement of dead, diseased or unsightly materials; and removal of weeds and debris. The Executive Board shall have the right to require that trees or shrubs on a Lot be removed or trimmed if in violation of City of Longmont.

(2) Expenses associated with maintaining the Front Yard Maintenance Lots shall be charged to the Owners of such Lots in the form of Individual Lot Assessments. Notwithstanding the existence of such Builder-installed/Association-maintained landscaping upon a Front Yard Maintenance Lot and the proximity of such landscaping to the Dwelling of an Owner upon a Front Yard Maintenance Lot, and the interest of the Owner in maintaining such Builder-installed/Association-maintained landscaping, an Owner does not have any authority to, and an Owner shall not, take any action to maintain or seek to maintain such Builder-installed/Association-maintained landscaping, without the prior approval and agreement of the Architectural Control Committee. In the event an Owner shall seek or attempt to maintain the Builder-installed/Association-maintained landscaping upon his/her Front Yard Maintenance Lot, and in doing so should cause damage to any item or material of such landscaping, the Association may recover the value of such damage from such Owner. The value of such damage shall presumptively be the cost of materials and labor to replace such damaged elements of the landscaping. Such value may be recovered by the Association by assessing such value as an Individual Lot Assessment against such Owner.

## **ARTICLE X DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

Section 10.06 of Article X is hereby amended as follows and Section 10.07 is hereby amended and restated in its entirety as follows:

**Section 10.06 Special Declarant Rights** Subsection (o) is hereby added as an additional Subsection to Section 10.06 as follows:

(o) Supplemental Declarations. The right to record Supplemental Declarations without the consent of the Association to add all or portions of additional real property described on Exhibit B to the Declaration into Eastgate I.

### **Section 10.07      *Limitations on Special Declarant Rights***

As of the date of this First Amendment, the Declarant's Special Declarant Rights have expired and terminated. Notwithstanding such expiration and termination, the Special Declarant Rights set forth in Sections 10.06(a), 10.06(c), 10.06(d), 10.06(i), 10.06(l), 10.06(m), and 10.06(o) are hereby reinstated and extended and may be exercised by the Declarant, or a Builder who is designated as a Special Declarant or assigned Special Declarant or Development Rights by the Declarant, until the earlier of: (a) the

annexation of the real property described on Exhibit B hereto and the sale of all Lots to a Resident Purchaser; or (b) December 31, 2025.

## **ARTICLE XI EASEMENTS**

Section 11.02 of Article XI is hereby amended and restated in its entirety as follows:

### ***Section 11.02 Title to Common Areas; Additions to Common Areas***

The Declarant has conveyed fee simple title to the Common Areas within the Eastgate First Filing described on Exhibit A to the Association, free and clear of all encumbrances and liens on or before the date of the recording of this First Amendment in the real property records for Boulder County, Colorado, by special warranty deed. Pursuant to Section 10.06(o), the Declarant, or the Declarant's assigns, may convey additional property to the Association, which property shall be accepted by the Association and held as part of the Common Area; provided, however, that the Association shall not be required to accept the conveyance of any such additional property unless: (i) the said additional property is improved and landscaped to meet the requirements, if any, of the governmental authorities having jurisdiction, or the Executive Board shall have obtained assurances satisfactory to it that such work will be accomplished; (ii) the additional property and any improvements are constructed in a good and workmanlike manner in accordance with applicable code; (iii) the Executive Board has been provided with an opportunity to have the additional property inspected to confirm that the additional property and improvements are in a condition reasonably acceptable to the Association; and (iv) the Executive Board has executed a written acceptance accepting the additional property. The Executive Board may at any time accept the conveyance of additional properties that do not meet the foregoing standards if the Executive Board determines that such action would be beneficial to the Members. The Association shall be responsible for the following with respect to the original Common Areas and any such additional property, once accepted:

(a) The operation, maintenance and repair of any structures, signs, landscaping and related facilities and amenities now or hereafter constructed, installed or planted upon the Common Areas; and


(b) The operation, maintenance and repair of any structures, facilities, landscaping and appurtenances thereto (including, specifically, drainage or storm sewer facilities, and inlet or outlet structures therefor) constructed or installed in or on the Common Areas, and in or on easements attaching or appurtenant thereto.

(c) The acquisition and maintenance of the liability and property insurance described and provided for in the Declaration and this First Amendment.

Except as amended by this First Amendment, the Declaration shall be and remain in full force and effect without modification.

IN WITNESS WHEREOF, the undersigned does hereby make this First Amendment to Amendment and Restatement of Declaration of Covenants, Conditions and Restrictions for Eastgate I and has caused this First Amendment to be executed as of the day and year first above written.

EASTGATE HOMEOWNERS' ASSOCIATION, INC.

By:   
Name: Gene A. Schnabel  
Its: President

By:   
Name: Charles T. Cooper Jr.  
Its: Secretary





CERTIFICATION

Charles T. Cooper Jr. being first duly sworn upon his oath, states as follows:

1. The undersigned is the Secretary of Eastgate I Homeowners' Association, Inc., a Colorado non-profit corporation.
2. Members holding a minimum of 67% of the votes allocated to all Lots voted in favor of the adoption of this First Amendment to Amendment and Restatement of Declaration of Covenants, Conditions, and Restrictions for Eastgate I at a duly called and property noticed meeting of the membership.

The contents of this Certificate are true and correct.

  
\_\_\_\_\_  
Charles T. Cooper Jr., Secretary

Date: May 22, 2012

**EXHIBIT A**  
**Page 1 of 1**

**To Eastgate I First Amendment to Amendment and Restatement of  
Declaration of Covenants, Conditions and Restrictions**

Legal Description of Eastgate I:

A certain parcel of land located in the NE 1/4 of Section 36, Township 3 North, Range 69 West, of the Sixth Principal Meridian, Boulder County, Colorado, as more particularly described as Eastgate I, First Filing, pursuant to the Plat thereof, recorded in the real estate records of Boulder County, Colorado.

**EXHIBIT B**  
**Page 1 of 1**

**To Eastgate I First Amendment to Amendment and Restatement of Declaration of  
Covenants, Conditions, and Restrictions**

Legal description of property that may be added to Development:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 36 WHENCE THE NORTH QUARTER CORNER BEARS SOUTH 88°10'21" WEST 2658.19 FEET, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION; THENCE ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 36 SOUTH 00°01'22" WEST 591.29 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH RIGHT OF WAY OF 17TH AVENUE AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID EAST LINE, SOUTH 00°01'22" WEST 1930.56 FEET; THENCE SOUTH 88°17'28" WEST 312.00 FEET; THENCE SOUTH 00°01'22" WEST 140.00 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36; THENCE ALONG SAID SOUTH LINE, SOUTH 88°17'28" WEST 950.53 FEET; THENCE NORTH 33°54'53" WEST 112.58 FEET; THENCE NORTH 46°54'20" WEST 187.07 FEET; THENCE NORTH 51°30'13" WEST 176.23 FEET; THENCE NORTH 26°32'52" WEST 129.20 FEET; THENCE NORTH 00°15'49" WEST 122.14 FEET; THENCE NORTH 01°58'42" EAST 150.06 FEET; THENCE NORTH 01°56'31" EAST 413.90 FEET; THENCE NORTH 12°24'39" WEST 404.68 FEET; THENCE NORTH 23°01'35" WEST 53.27 FEET; THENCE NORTH 44°56'58" WEST 301.83 FEET; THENCE NORTH 38°01'45" WEST 416.46 FEET; THENCE NORTH 30°22'34" WEST 512.65 FEET TO THE SOUTH RIGHT OF WAY LINE OF 17TH AVENUE; THENCE ALONG SAID RIGHT OF WAY, NORTH 88°10'21" EAST 364.62 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 895.00 FEET, A CENTRAL ANGLE OF 28°01'46", CHORD OF SAID ARC BEARS SOUTH 77°48'46" EAST 433.49 FEET) A DISTANCE OF 437.84 FEET; THENCE SOUTH 63°47'53" EAST 606.50 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 1015.00 FEET, A CENTRAL ANGLE OF 26°10'45", CHORD OF SAID ARC BEARS SOUTH 76°53'16" EAST 459.74 FEET) A DISTANCE OF 463.77 FEET; THENCE SOUTH 89°58'38" EAST 696.01 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL OF LAND CONTAINS 91.028 ACRES, MORE OR LESS.

**EXHIBIT C**  
**Page 1 of 1**

**To Eastgate I First Amendment to Amendment and Restatement of  
Declaration of Covenants, Conditions and Restrictions**

Common Area Outlots Transferred to Eastgate I Association within Eastgate, First Filing:

Outlots described as:

Outlots A, B, F, K, P, Q, R, S, T, and U,  
Eastgate, First Filing, Boulder County, Colorado.

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