

**FIRST AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
EASEMENTS, RESTRICTIONS, AND COVENANTS
FOR
THE BROWN HOMESTEAD CONDOMINIUM**

THIS FIRST AMENDED AND RESTATED DECLARATION is made and entered into by Brown Homestead Homeowners Association, Inc., a Colorado nonprofit corporation, for convenience hereinafter referred to as the "**Association**,"

WITNESSETH:

WHEREAS, the Association was established pursuant to a Declaration of Condominium Ownership and of Easements, Restrictions and Covenants recorded February 18, 1977, in the Office of the Clerk and Recorder of San Miguel County, State of Colorado ("**Official Records**") in Book 363 at Pages 277-323, at Reception No. 199874, as amended (the "**Original Declaration**"), and according to the Condominium Map of Brown Homestead Condominium, recorded March 8, 1977 in the Official Records at Plat Book 1 at Pages 85-88, as amended (the "**Condominium Maps**"); and

WHEREAS, pursuant to the Original Declaration, as amended, the Condominium Maps, as amended, the Articles of Organization filed with the Colorado Secretary of State, as amended, and the Bylaws, as amended, the Rules and Regulations, as amended, and Responsible Governance Policies, as amended (collectively the Association "**Governing Documents**"), the Association is the governing body for Brown Homestead Condominium, a condominium community (the "**Community**"); and

WHEREAS, pursuant to the Governing Documents, the Association "**Declarant**" (BR Telluride Properties, a Colorado limited partnership) submitted the Association "**Property**," as defined therein, together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto (hereinafter also called the "**Property**") to the provisions of the Condominium Ownership Act of the State of Colorado; and

WHEREAS, the Governing Documents established, for the mutual benefit of all future owners and/or occupants of the Property, or any part thereof, certain easements and rights in, over and upon said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

WHEREAS, the Governing Documents further established that the Unit Owners, Mortgagees, occupants, and all other persons thereafter acquiring any interest in said development shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges, and restrictions thereafter set forth, all of which were declared to be in furtherance of a plan to promote and protect the cooperative aspect of such development and were established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property; and

WHEREAS, because the Original Declaration was amended several times, and because the Unit Owners are further desirous to make some additional amendments, and to simplify and consolidate the governing declaration for the Property, the Association has adopted and

hereby records this First Amended and Restated Declaration (this “**Declaration**”) to supersede and replace the Original Declaration, as amended;

NOW, THEREFORE, the Association, for the purposes above set forth, declares as follows:

1. Definitions. As used herein, unless the context otherwise requires:

(a) "**Act**" means the "Condominium Ownership Act" of the State of Colorado.

(b) "**Declaration**" means this instrument by which the Association amends and restates the Original Declaration which submitted the Property to the provisions of the Act, as hereinafter provided, and such Declaration as from time to time may be amended.

(c) "**Development Area**" means the real estate described in the Original Declaration, as amended.

(d) "**Parcel**" means the parcel or tract of real estate, described in the Original Declaration, as amended, submitted to the provisions of the Act.

(e) "**Property**" means all the land, property and space comprising the Parcel, and all improvements and structures erected, constructed or contained therein or thereon, including the buildings and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the unit owners, submitted to the provisions of the Act.

(f) "**Unit or Condominium Unit**" means an individual air space within the horizontal and vertical boundaries designated on the Plats, and includes:

i. The interior finished surfaces of the exterior walls, ceilings and floors (such as lath, furring, wallboard, plasterboard, plaster, drywall, paneling, wallpaper, paint, carpeting, finished flooring, tiles, and any other materials constituting any part of the finished surfaces thereof); and

ii. All walls and improvements located entirely within a Unit that serve only that Unit.

In interpreting the Plats, the existing physical boundaries of each Unit as constructed shall be presumed to be its boundaries. All other portions of the walls; floors and ceilings are part of the General Common Elements or are Limited Common Elements.

(g) "**Common Elements**" means all of the Property and Buildings thereon, except Units. Common Elements include, but are not limited to General Common Elements and Limited Common Elements.

(h) "**General Common Elements**" means all of the Property and Buildings thereon, except Units and Limited Common Elements. General Common Elements include, but are not limited to:

i. General Common Elements that are depicted on the Plats, including areas noted as "**General Common Elements**," "**Common Elements**," "**G.C.E.**" or "**C.E.**";

ii. The structural components of the Property (except for Decks), including but not limited to the foundations, columns, girders, beams, supports, floors, perimeter and supporting walls, roofs, stairways, and sidewalks;

iii. The yards, gardens, driveways, stairways, parking areas, fire lanes and service roads;

iv. Any chute, flu, duct, wire, gas line, electric line, telephone line, plumbing, utility line, conduit, bearing wall, bearing column, space between walls, space beneath floors, space between ceilings and floors above, attic space (if not Unit space), or other fixture, whether it lies outside or partially within and partially outside the designated boundary of a Unit, that serves more than one Unit or that serves a portion of the General Common Elements;

v. Tanks, pumps, motors, fans, compressors, duds and in general all equipment and apparatus that serves more than one Unit or that serves a portion of the General Common Elements;

vi. Utility rooms and storage areas that serve more than one Unit or that serve a portion of the General Common Elements;

vii. Outside trim and paint of exterior Unit windows and exterior Unit doors (exterior doors to include doors that open onto Decks and common building hallways);

viii. All other parts of a building that are in common use for that building, such as the siding;

ix. Water and sewer service lines up through and including the meter;

x. Utility service lines up through and including the meter, such as for gas, telephone and electric; and

xi. All other parts of the Property installed for the benefit and necessary or convenient use of more than one Unit or a portion of the General Common Elements.

If there is a conflict between whether an Improvement is a General Common Element or a Limited Common Element, then the Improvement shall be deemed a General Common Element, and the Board shall have the authority to make this interpretation, which shall be final and binding on all Owners.

(i) "**Limited Common Elements**" means those portions of the Common Elements that are limited to and reserved for the exclusive use of one Unit or less than all Units. Limited Common Elements include, but are not limited to:

i. Limited Common Elements that are depicted on the Plats, including areas noted as "**Limited Common Elements**," or "**L.C.E.**";

ii. Decks, deck posts, balconies and patios (collectively, "**Decks**");

iii. Shutters, awnings, window boxes, doorsteps, stoops, porches, exterior doors (except exterior trim and paint) and windows (except exterior trim and paint);

iv. Any chute, flu, duct, wire, gas line, electric line, telephone line, plumbing, utility line, conduit, bearing wall, bearing column, space between walls, space beneath floors, space between ceilings and floors above, or other fixture, whether it lies outside or partially within and partially outside the designated boundary of a Unit, that serves only one Unit;

v. Tanks, pumps, motors, fans, compressors, ducts, and in general all equipment and apparatus that serve only one Unit;

vi. Utility rooms or other areas that serve only one Unit; and

vii. All other parts of the Property and not heretofore mentioned, installed for the benefit of only one Unit.

(j) "**Person**" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

(k) "**Unit Owner**" or "**Owner**" means the Person or Persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit. The term "**Owner**" shall include any beneficiary of a trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit or Unit Ownership.

(l) "**Unit Ownership**" shall include the beneficial interest, shares or partnership interest, as the case may be, held by a Unit Owner.

(m) "**Total Unit Owner Vote**" shall mean the total number of votes shall equal the total of the percentage of ownership in the Common Elements applicable to all Units as set forth in Exhibit "A".

(n) "**Unit Owner Vote**" shall mean the percentage ownership in the Common Elements divided by the total of the percentage ownership as set forth in Exhibit "A".

(o) "**Majority**" or "**Majority of the Unit Owners**" means the owners of more than fifty percent (50%), in the aggregate, in interest of the undivided ownership of the Common Elements. Any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided ownership of the Common Elements.

(p) "**Plats**" means the plats of survey of the Property, also referred to as the "**Condominium Maps**" or "**Maps**."

(q) "**Record, Recorded or Recording**" refers to record, recorded or recording in the Office of the Recorder of Deeds in San Miguel County, Colorado.

(r) "**Building**" means the buildings located on the Property and forming part of the Property and containing the Units, as shown by the, surveys of the respective floors.

(s) "**Common Expenses**" means those costs of maintenance, administration and operation of the Association to be shared by all Owners. The Board may in its discretion allocate such expenses to less than all Owners if such expenses are incurred by less than all Owners and the situation would make such allocation more equitable.

(t) “**Manager**” means the professional Association manager, which the Board may but shall not be obligated to retain to manage the Association.

(u) “**Rules and Regulations**” means such rules and regulations as may be adopted by the Board, and updated from time to time, after notice and comment by the Owners.

(v) “**Responsible Governance Policies**” means such responsible governance policies, including those required by law, as may be adopted by the Board, and updated from time to time, after notice and comment by the Owners.

2. Submission of Property to the Act. As set forth above, pursuant to the Governing Documents, the Association Declarant submitted the Association Property, inclusive of all buildings, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in anywise pertaining thereto, to the provisions of the Condominium Ownership Act of the State of Colorado.

3. Plats. The Recorded Plats set forth the measurements, elevations, locations and other data, as required by the Act, with respect to (a) the Parcel and its exterior boundaries; (b) the Building; and (c) each Unit of the Building and its horizontal and vertical dimensions. Each Unit is identified on the Plats by a distinguishing number or other symbol.

4. Units. The legal description of each Unit consists of the identifying number or symbol of such Units as shown on the Recorded Plats. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on the Plats, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

5. Administration and Operation of the Property.

(a) The governing body for all of the Unit Owners for the administration and operation of the Property, as provided in the Act and in this Declaration and in the Bylaws, shall be the Board of Managers, who shall be elected in the manner provided in the Bylaws. The original Board of Managers, as authorized by a majority of the Unit Owners, caused to be incorporated a not-for-profit corporation as provided by the Act, and such corporation (hereinafter referred to as the “**Association**”) has been and shall continue to be the governing body for all of the Unit Owners for the administration and operation of the Property as provided in the Act, this Declaration and in the Bylaws. The Board of Directors of the Association shall continue to constitute the Board of Managers provided for in the Act, and all rights, titles, powers, privileges and obligations vested in or imposed upon the Board of Managers in the Act and in this Declaration and in the Bylaws shall be held or performed by the Association or by the duly elected Members of the Board of Directors thereof and their successors in office. The Bylaws for the Association shall be the First Amended and Restated Bylaws (the “**Bylaws**”), which are Recorded herewith.

Whenever the word “**Board**” is used in this Declaration or in the Bylaws, it shall mean and refer to the Board of Managers (also known as the Board of Directors). The Board shall be elected by the Unit Owners in accordance with the Bylaws. Neither the Board, the Association, nor the Unit Owners shall be deemed to be conducting a business of any kind. All funds collected by the Association shall be held and expended for the purposes designated in the Declaration and Bylaws and (except for such adjustments as the Board may require to reflect delinquent, prepaid and special assessments) shall be deemed to be held for the benefit,

use and account of all the Unit Owners in the percentages set forth on Exhibit "A" attached hereto, and shall be administered in accordance with the provisions of the Declaration and Bylaws. Each Unit Owner shall be a member of the Association so long as such Person shall be a Unit Owner, and such membership shall automatically terminate when such Person ceases to be a Unit Owner. Upon transfer of such Person's ownership interest, the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

(b) Indemnity. The Members of the Board and the Officers thereof and of the Association shall not be liable to the Unit Owners for any mistake of judgment, or any acts or omissions made in good faith as such Board Members or Officers. The Association shall indemnify and hold harmless each of such Board Members and Officers on behalf of the Unit Owners and/or the Association unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any Unit Owner arising out of any contract made by such Board Members or Officers or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as such Owner's percentage interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements. Each agreement made by such Board Members and/or Officers or by the Manager on behalf of the Unit Owners or the Association shall be executed by such Board Members or Officers or the Manager, as the case may be, as agents for the Unit Owners or the Association.

(c) The Association shall indemnify every Board Member and Officer, their respective successors, personal representatives and heirs, against all loss, costs and expenses, including attorneys' fees, reasonably incurred by such Board Member in connection with any action, suit or proceeding to which such Board Member may be made a party by reason of such Board Member being or having been a Board Member or Officer, except as to matters as to which such Board Member shall be finally adjudged in such action, suit or proceeding to be liable of negligence or misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or misconduct in the performance of such person's duty as such Board Member or Officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Board Member or Officer may be entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as Common Expenses; provided, however, that nothing in this Paragraph 5(c) shall be deemed to obligate the Association to indemnify any Unit Owner who is or has been a Board Member or Officer of the Association with respect to any duties or obligations assumed or liabilities incurred by such person as a Unit Owner under and by virtue of the Declaration.

6. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any question of interpretation or application of the provisions of the Declaration or Bylaws, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners.

7. Ownership of the Common Elements. Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in the schedule attached hereto as Exhibit "A" and by this reference made a part hereof as though set forth herein. The aforesaid percentages of ownership interest have been computed and determined in accordance with the Act, and shall remain

constant unless hereafter changed by recorded Amendment to this Declaration pursuant to Paragraph 20 hereof. Said ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership as set forth in Exhibit "A". The ownership of each Unit and of the Unit Owner's corresponding percentage of ownership in the Common Elements shall not be separated.

8. Use of the General Common Elements. Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements) in common with all other Unit Owners, as may be required for the purposes of access and ingress and egress to and use and occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the General Common Elements shall extend to each Unit Owner, and the agents, servants, tenants, family members and invitees of each Unit Owner. Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous to and serving exclusively such Unit Owner. Such rights to use and possess the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act and of this Declaration and the Bylaws herein and the Rules and Regulations of the Board.

The Board shall have the authority to lease or to grant licenses or concessions with respect to parts of the General Common Elements, subject to the provisions of the Declaration and Bylaws.

9. Common Elements. Each Unit Owner shall pay such Owner's proportionate share of the expenses of the administration and operation of the General Common Elements (which expenses are herein sometimes referred to as "**Common Expenses**"), including specifically, but not by way of limitation, the maintenance and repair thereof and any and all replacements and additions thereto. Such proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as such Owner's percentage of ownership in the Common Elements. Payment thereof shall be in such amounts and at such times as determined in the manner provided in the Bylaws. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses or the prorated share of real estate taxes assessed as a whole, as provided in paragraph 11 hereof, when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property. Provided, however, that encumbrances owned or held by any bank, insurance company, or savings and loan association shall be subject as to priority after written notice to said encumbrancer of unpaid Common Expenses only to the lien of all Common Expenses on the encumbered Unit Ownership which become due and payable subsequent to the date said encumbrancer either takes possession of the Unit, accepts a conveyance in the Unit Ownership, or upon appointment of a receiver in any action to foreclose its lien.

10. Separate Mortgages. Each Unit Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on such Owner's respective Unit together with such Owner's respective ownership interest in the Common Elements. The lender shall hereafter be referred to as the "**Mortgagee.**" No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of such Owner's Unit and such Owner's respective ownership interest in the Common Elements.

11. Separate Real Estate Taxes. It is understood that the real estate taxes are to be separately taxed to each Unit Owner for such Owner's Unit and such Owner's corresponding

percentage of ownership in the Common Elements, as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit Owner, but are taxed on the Property as a whole, then each Unit Owner shall pay such Owner's proportionate share thereof in accordance with such Owner's respective percentage of ownership interest in the Common Elements. The Board shall determine the amount due and notify each Unit Owner as to the amount due for the real estate taxes.

12. Insurance.

(a) The Board shall have the authority to and shall obtain insurance for those portions of the Property set forth below against loss or damage by fire and such other hazards for broad form covered causes of loss, and the total coverage must be for the full insurable replacement cost less applicable deductibles, and exclusive of land, excavations, foundations, and other items normally excluded from property policies. Such insurance shall cover the Common Elements. Premiums for such insurance shall be Common Expenses. In addition, the Board may obtain such other insurance in such amounts as the Board may determine to be appropriate and in the best interests of the Association.

Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to the Association, and the Board shall act as trustee for each of the Unit Owners in their respective percentages of ownership interest in the Common Elements as established in the Declaration.

The Board may engage the services of any bank or trust company authorized to do trust business in Colorado to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine consistent with the provisions of the Act and this Declaration. The fees of such corporate trustee shall be Common Expense.

The proceeds of such insurance shall be applied by the Board or by the corporate trustee on behalf of the Board for the reconstruction of the affected Building(s), or shall be otherwise disposed of, in accordance with the provisions of this Declaration and the Act; and the rights of the Mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act with respect to the application of insurance proceeds to reconstruction of the Building(s).

Payment by an insurance company to the Association or to such corporate trustee of the proceeds of any policy, and the receipt of release from the Board of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or any corporate trustee.

To the extent the Association settles claims for damages to real property, the Board shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Board in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

(b) The Board shall also have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Unit Owner, the Association, its Officers, Members of the Board, the Trustee, the Manager, if any, and their respective employees and agents, from liability in connection with the Common Elements and the streets and sidewalks adjoining the Property, and insuring the Officers of the Association and Members of the Board from liability for good faith actions beyond the scope of their respective authorities. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be Common Expenses. The Board shall retain in safekeeping the public liability policies for seven (7) years after the expiration date of the policy.

(c) Each Unit Owner shall be responsible for such Owner's own insurance on each Owner's Unit, the contents of such Owner's own Unit and furnishings and personal property therein, and such Owner's personal property stored elsewhere on the Property, and such Owner's personal liability, in such amounts as may be approved by the Board. Such policies shall name the Association as an additional insured. Each Unit Owner shall, at the request of the Board, provide the Association with certificates of such insurance, which certificates shall state that such insurance cannot be canceled absent thirty (30) days prior written notice to the Association.

(d) All insurance purchased by the Association shall contain a waiver of subrogation clause reading substantially as follows:

"This Company hereby waives its rights of subrogation against any Owner of a Unit of the Condominium, but the Subrogation Clause of this policy otherwise remains unchanged."

13. Maintenance, Repairs and Replacements. Except as provided below for the Limited Common Elements of breezeways, decks and patios, each Unit Owner shall furnish and be responsible for, at such Owner's own expense, all of the maintenance, repairs and replacements of improvements both within such Owner's own Unit and within any Limited Common Elements appurtenant to such Owner's Unit. Owners shall additionally be responsible for promptly removing snow from the decks and patios that are appurtenant to their Units. The Association shall otherwise be responsible for the maintenance, repair and replacement of breezeways, decks and patios as part of the Common Expenses notwithstanding that these are Limited Common Elements.

Except as set forth above, maintenance, repairs and replacements of the Common Elements shall be furnished by the Association as part of the Common Expenses, subject to the Rules and Regulations of the Board; provided that at the discretion of the Board, maintenance, repairs and replacements of the Limited Common Elements may be made by the Board and may be assessed in whole or in part to Unit Owners benefited thereby and, further, at the discretion of the Board, it may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs and replacements, to pay the cost thereof with the funds of the Unit Owners, and to procure and deliver to the Board such lien waivers and contractor's and sub-contractor's sworn statements as may be required to protect the Property from all mechanic's or materialmen's lien claims that may arise therefrom.

If, due to the act or neglect of a Unit Owner, or of a member of such Owner's family or

household pet or of a guest or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by the Association's insurance.

The authorized representatives of the Board or of the Manager for the Association shall be entitled to reasonable access to the interior of the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.

14. Alterations, Additions or Improvements. No alterations of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as Common Expenses alterations, additions and improvements of the Common Elements as made and provided in the Bylaws. Any Unit Owner may make alterations within the Unit of the Unit Owner or any additions or improvements within such Unit without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, or the Property as a result of such Unit alteration, additions or improvements.

15. Decorating. Each Unit Owner shall furnish and be responsible for, at such Owner's own expense, all of the decorating within such Owner's own Unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings, and such Unit Owner shall maintain such interior surfaces in good condition at such Owner's sole expense as may be required from time to time, which said maintenance and use shall be subject to the Rules and Regulations of the Board, and each such Unit Owner shall have the right to decorate such interior surfaces from time to time as such Unit Owner may see fit and at such Owner's sole expense. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decorating of such Units caused by maintenance, repair or replacement work on the Common Elements by the Board, shall be furnished by the Board as part of the Common Expenses. The interior surfaces of all windows forming part of a perimeter wall of a Unit shall be cleaned or washed by each respective Owner or such Owner's contractors, and at the expense of each respective Unit Owner. The exterior surfaces of all windows at the Property shall be cleaned or washed by the Association, and the expenses of such work shall be a Common Expense.

16. Easements.

(a) Encroachments. If now or hereafter, by reason of construction, settlement or otherwise, any portions of the Common Elements shall actually encroach upon any Unit, or if now or hereafter any Unit shall actually encroach upon any portions of the Common Elements, as the Common Elements and Units are shown by the surveys comprising the Plats, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved to the extent of such encroachments so long as the same shall exist.

(b) Patios or Balconies. A valid exclusive easement is hereby declared and

established for the benefit of each Unit Owner, consisting of the right to use and occupy the patio or balcony, if any, adjoining such Owner's Unit; provided, however, that no Unit Owner shall decorate, landscape or adorn such patio or balcony in any manner contrary to such Rules and Regulations as may be established by the Board as hereinafter provided unless such Unit Owner shall first obtain written consent of said Board so to do.

(c) Utility Easements. The telephone company, electric company and all other public or other companies providing utilities serving the property, including Internet service, are hereby granted easements for ingress and egress, and the right to lay, construct, renew, operate and maintain conduits, cables, pipes and wires, and other equipment over, under, upon, into and through the Common Elements (including also the Limited Common Elements) for the purpose of providing the Property with and maintaining utility services.

(d) Easements to Run with Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, Mortgagee and other person having an interest in the Property, or any part or portion hereof.

17. Lease by a Unit Owner. If a lease or renting of any Unit is made by any Unit Owner, or such Owner's agent, regardless of the duration of said lease or renting, the lessee thereunder shall be bound by and be subject to all of the obligations of such Unit Owner with respect to such Unit Ownership as provided in this Declaration and the Bylaws. The Unit Owner making any such lease shall not be relieved thereby from any of such Owner's obligations. Both the lessee and the Unit Owner shall be responsible for any lessee misconduct, including but not limited to reimbursement for damages, fines, attorneys' fees, expert witness fees and costs incurred.

18. Use and Occupancy Restrictions. No part of the Property shall be used for other than housing and the related common purposes for which the Property was designed. Each three (3) bedroom Unit shall be used as a residence for a single family or by a maximum of ten (10) unrelated persons, and each two (2) bedroom Unit shall be used as a residence for a single family or by a maximum of seven (7) unrelated persons, or such other uses permitted by this Declaration and for no other purposes. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit a Unit Owner or other lawful occupant from: (a) maintaining such Owner's personal professional library therein; (b) keeping such Owner's personal business or professional records or accounts therein; or (c) handling such Owner's personal business or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions.

The General Common Elements shall be used only for access, ingress and egress to and from the respective Units by the respective families residing therein and their respective guests, household help and other authorized visitors, and for such other purposes which are incidental to the residential use of the respective Units; provided, however, that any special areas shall be used for the purposes approved by the Board. The use, maintenance and operation of the General Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner. The Board, and its authorized employees and representatives, shall have access to the interior of any Unit as may be necessary for the repair, maintenance, replacement, alteration, care or protection of the Common Elements or any portion thereof.

Nothing herein shall be construed as prohibiting, infringing or in any way restricting the right of any Unit Owner to rent a Unit on a short or long-term basis to persons visiting in the area and who will use the Unit on a transient basis.

19. Liability for Obligations. Notwithstanding anything herein to the contrary, every Unit Owner, by acceptance of a deed or instrument of conveyance of an ownership interest in a Unit, whether or not expressed in any deed or instrument of conveyance, shall be deemed to covenant and agree for such Owner and such Owner's heirs, personal representatives, successors and assigns, that:

(a) All Owners shall have personal liability to the Association for the obligations created by this Declaration, including monetary obligations, that arise out of their Unit Ownership.

(b) All obligations created by this Declaration, including monetary obligations, with respect to a particular Unit, run with the land and burden that particular Unit, and shall continue to burden that particular Unit notwithstanding a change in Unit Ownership. Such obligations shall not be affected or extinguished by a change in Owners.

(c) Every current Owner of a particular Unit shall have joint and several liability with the former Owner of that Unit for all amounts owed to the Association of every kind and nature (including but not limited to regular assessments, special assessments, water and sewer charges, interest, fines, costs of collection, transfer fees, expert witness fees and attorneys' fees) that are unpaid as of the date of the grant or conveyance from the former Unit Owner to the current Unit Owner. The Board may set an interest rate for delinquent accounts, up to the maximum amount allowed by law. This provision applies regardless of the type of conveyance and includes a purchase and sale, a deed-in-lieu of foreclosure, or the sale or redemption of the Unit in a foreclosure by the San Miguel County Public Trustee or Sheriff. These provisions are intended to be without prejudice to a Unit Owner's right to recover any such amounts from the former Owner.

20. Amendment. This Declaration and the Plats may be amended, supplemented, and/or restated upon the written approval of at least sixty-seven percent (67%) of the total Owner Votes. An amendment to the Plats that changes Unit boundaries and/or Unit square footage shall not alter the percentages of ownership set forth in Exhibit "A" absent the unanimous written approval of the Owners. The Association may convey General Common Elements and Limited Common Elements to Unit Owners with the written approval of at least sixty-seven percent (67%) of the total Owner votes.

21. Declaration and Map Amendment Provisions.

(a) When Declaration and/or the Maps are amended, each deed, mortgage or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant and acknowledgement of and consent to such power to said attorney-in fact and shall be deemed to reserve to it the power to shift and reallocate from time to time the percentages of ownership in the Common Elements appurtenant to each Unit to the percentages set forth in each such recorded amended Declaration.

(b) Each and all of the Unit Owners, and their respective Mortgagees, grantees, heirs, administrator's, executors, legal representatives, successors and assigns, by their acceptance of any deed or mortgage or other interest in or with respect to any such Units, shall be deemed to

have expressly agreed, assented and consented to each and all of the provisions of this Declaration, and with respect to the recording of any and all amended Declarations as aforesaid which may amend, adjust and reallocate from time to time their respective percentages of undivided ownership interest in the Common Elements, from time to time as herein above provided.

22. Notices. Notices provided for in the Act, Declaration or Bylaws shall be in writing, and shall be addressed to the Board, the Association, or any Unit Owner, as the case may be. Notices to the Board and/or the Association shall be issued to the Association's principal office and mailing addresses as maintained by the Colorado Secretary of State, with a copy to the Association Registered Agent as set forth therein. Notices to Owners shall be issued to such Owner's address as maintained by the San Miguel County Treasurer's Office. The Board and the Association may designate a different address or addresses for notices to them by giving written notice of such change of address to all Unit Owners at such time. Any Unit Owner may also designate a different address or addresses for notices to such Unit Owner by giving written notice of such Owner's change of address to the Board and the Association. Notices addressed as above shall be deemed delivered when mailed by United States mail or when delivered in person with written acknowledgement of the receipt thereof. Notices shall be copied via E-mail provided an E-mail address is known.

23. Severability. If any provision of the Declaration or any section, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of the Declaration and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

24. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of John Hickenlooper, Governor of Colorado.

25. Rights and Obligations. Each Owner, by acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

26. Miscellaneous.

(a) No covenants, restrictions, conditions, obligations or provisions contained in this Declaration 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 which may occur.

(b) The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class condominium.

27. Eminent Domain.

(a) If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain, the proceeds of the award shall be deposited with a trustee selected by the Association and shall be used and distributed as follows:

If the acquisition reduces the size of a Unit and the remaining part can be made habitable, the Unit shall be made habitable. If the cost of such work exceeds the amount of the award, the additional funds required shall be assessed against the Unit Owner. The balance of the award, if any, shall be distributed to the Unit Owner and to holders of security interests in the Unit, the remittance being payable jointly to the Unit Owner and the holders of security interests. Upon acquisition, the Unit's allocated interests shall be reduced in proportion to the reduction in the size of the Unit; and the portion of allocated interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interests.

If an entire Unit is acquired, or if the acquisition so reduces the size of a Unit that it cannot be made habitable, the market value of the Unit immediately prior to the acquisition shall be paid to the Unit Owner and to each holder of a security interest in the Unit. The remittance shall be payable jointly to the Unit Owner and the holders of security interests. The remaining portion of such Unit, if any, shall become a part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in a manner approved by the Board. Upon acquisition, unless the decree otherwise provides, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking. If the amount of the award for the acquisition is not sufficient to pay the market value of the condemned Unit to the Unit Owner and to place in condition the remaining portion of the acquired Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by assessments against all of the Units which will continue after the changes in the condominium effected by the acquisition. Such assessments shall be made in proportion to the allocated interest of such Units after the changes effected by the acquisition.

If the market value of a Unit prior to the acquisition cannot be determined by agreement between the Unit Owner and the holder of a security interest in the Unit within thirty (30) days after notice by either party, such value shall be determined by two appraisers, one appointed by each party, who shall base their determination upon an average of their appraisals of the Unit and a judgment of specific performance upon the award rendered by the appraisers may be entered in any court of competent jurisdiction.

(b) If part of the Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Unit Owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

(c) The reallocations of allocated interests pursuant to this Paragraph 27 shall be confirmed by an amendment to the Declaration prepared, executed and recorded by the Association.

28. Deed Restrictions (a.k.a. Affordable Housing). There currently exist in the Town of Telluride and the County of San Miguel various programs for the purpose of compensating

owners of real property who deed restrict their property. These programs do three things: 1) increase the number of affordable housing units in the Telluride region, 2) pay monies to the current owner of real property for agreeing to the deed restrictions, and 3) upon the recording of the appropriate documents, the property then becomes deed restricted in many ways, some of which include (but are not limited to) residency requirements of who may own it, how much one can pay for it, and how much one can lease it for, how much one can sell it for, etc. In effect, the real property in question is no longer available on the "open market" (i.e. at market prices). The Association recognizes the need for affordable housing in the Telluride region, the Association recognizes that two of the Units at the Brown Homestead Association are, as of August 28, 2001, already part of the aforementioned deed restricted programs - Units D-3/5, and the participation of these two Unit Owners in the particular affordable housing (i.e. deed restricted) program is accepted and is not being challenged by the Association.

The Association now wishes to affirm that it does not wish to have additional Units participating in the program. Therefore, no right or interest in a Unit, including any lien or encumbrance, may be granted, sold, or conveyed to a public or private entity, agency or authority that requires or permits the Unit to be subject to any restriction or limitation on the amount for which the Unit may be rented or sold. No deed or other instrument of conveyance of a Unit shall contain any restriction or limitation on the amount for which the Unit may be rented or sold. Any encumbrance, grant, sale conveyance or instrument which violates the provisions of this paragraph shall be void and have no legal effect.

Any Unit Owner who so elects to participate in any such program, against the wishes of the Association, recognizes that it then could be liable for any legal actions and fees brought by the Association to render the deed restriction null and void and to therefore bring to Unit back to "open market" status.

29. Transfer Fee. Notwithstanding anything herein to the contrary, there is hereby imposed on all Transfers of Units (as defined below), a transfer fee of five percent (5%) of the Consideration (as defined below), unless the Transfer is subject to an Exemption as set forth below. Such transfer fee is due and payable to the association on the date of the Transfer. Unpaid transfer fees for a particular Unit are a personal obligation of that Unit's Owner and are an Association lien on that Unit.

(a) A "Transfer" is defined as any transfer of an ownership interest in a Unit, whether by deed or any other writing or instrument, and includes:

i. A public trustee confirmation deed, sheriff's deed, or deed-in-lieu of foreclosure.

ii. The conveyance of fifty percent (50%) or more in a corporation, limited liability company, partnership, limited partnership, joint venture, trust or any other association or entity that owns a Unit.

(b) "Consideration" is defined as the actual amount paid in consideration of the Transfer.

(c) The Transfer Fee shall not apply to a Transfer to any of the following "Exemptions" so long as a written exemption request is submitted to the Board prior to the date of Transfer and the Board certifies in writing its approval of the exemption:

i. On the date of Transfer, all amounts owed to the Association of every kind and nature (including but not limited to regular assessments, special assessments, water/sewer charges, interest, fines, costs of collection, and attorneys' fees) are paid in full;

ii. The Consideration is zero;

iii. The Transfer is to a spouse, or to natural or adopted children; or

iv. The Transfer is pursuant to a decree of separation or divorce.

30. Homestead Waiver. Every Unit Owner, by acceptance of a deed or instrument of conveyance of an ownership interest in a Unit, whether or not expressed in any deed or instrument of conveyance, shall be deemed to covenant and agree that such Unit Owner waives the homestead exemption set forth in C.R.S. § 38-41-201, as same may be amended or supplemented, as to all liens of the Association against such Unit, and all such liens of the Association against such Unit shall be superior Owner's claim to a homestead exemption.

31. LCE Patios. As of December 12, 2014, the Owners ratified and approved the enclosure of Limited Common Element patios, and conversion of said enclosed space to Unit, for Units A-1, B-1 and E-2, hereafter to be known as Units A1-R, B1-R, E2-R as more fully described on the recorded Map Amendments Regarding Units A1-R, B1-R and E2-R. The Owners further approves the conveyance of the Limited Common Element patios to the respective Owners of Units A-1, B-1 and E-2, as evidenced by this provision and by the recorded Map Amendments. Said Limited Common areas were thereby granted, conveyed and transferred to the respective Unit owners. Such enclosure of Limited Common Element patios did not change the allocation of percentage interest in the Common Elements set forth in Exhibit "A" attached hereto.

Certification: This First Amended and Restated Declaration was approved by sixty-seven percent (67%) of the Unit Owners.

IN WITNESS WHEREOF, the Association has caused these presents to be signed and sealed this 1st day of April, 2021.

STATE OF COLORADO)
ARIZONA) SS.
COUNTY OF SAN MIGUEL)
MARICOPA

Brown Homestead Homeowners Association, Inc., a Colorado nonprofit corporation

By: [Signature]
Louis Kissling, President

The foregoing was acknowledged before me on April, 2021 [date], by Louis Kissling, President, Brown Homestead Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 9-16-2021

[Signature]
Notary Public

Attest:

[Signature]
Secretary
ADAM MOSIER



4/14/21

[Signature] April 14, 2021
State of Colorado
County of San Miguel

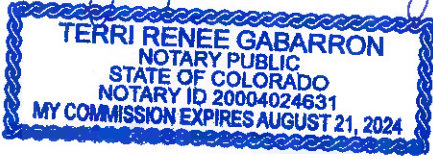


EXHIBIT "A"

<u>UNIT</u>	<u>PERCENTAGE OF INTEREST IN COMMON ELEMENTS</u>
A1	4.26
A2	4.26
A3	5.74
A4	5.74
B1	4.26
B1	4.26
B3	5.74
B4	5.74
C1	4.26
C2	4.26
C3	5.74
C4	5.74
D1	4.26
D2	4.26
D3	5.74
D4	5.74
E1	4.26
E2	4.26
E3	5.74
E4	5.74