

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
UNAWEEP HEIGHTS SUBDIVISION**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF UNAWEEP HEIGHTS SUBDIVISION ("Declaration") is made and entered into on October 29, 2003, by UNAWEEP, LLC, hereinafter referred to as the "Declarant."

RECITALS

A. Declarant is the owner of certain real property situated in Mesa County, Colorado, known as UnawEEP Heights Subdivision, according to the plat thereof recorded in Mesa County, Colorado (the "Property").

B. Declarant desires to subject and place upon the property described on Exhibit "A" (the "Property") certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein pursuant to the provisions of the Colorado Common Interest Ownership Act ("Common Interest Act") for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvements, sale and ownership of said property.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
PROPERTY RIGHTS**

Section 1. Owners' Right of Enjoyment. Subject to the provisions of Section 2 of this Article, every Owner shall have a nonexclusive right to enjoy and use the irrigation water delivery system and easements located upon the Property and such right shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Owners' Right. The right of enjoyment created hereby shall be subject to the following:

a. The right of the UnawEEP Heights Homeowners Association, Inc. (the "Association") to promulgate and publish rules and regulations with which each Member shall strictly comply; and

b. The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations; and

c. The right of the Association to close or limit the use of the irrigation water delivery system and easements while maintaining, repairing or making replacements thereto or in the event a Member has had his voting right suspended.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of use to the members of his family, his tenants, or contract purchasers who occupy his Lot.

Section 4. Open Space Tracts. The open space tracts described on the plat of UnawEEP Heights Subdivision, and dedicated to the Association shall be conveyed in fee simple title to the Association by the Declarant upon the recording of the plat. The Association shall have all rights of ownership and shall be responsible for the maintenance of the open space tracts ("Common Area"). The Association shall also be responsible for the maintenance of the landscaping along the boundary of UnawEEP Avenue adjacent to the Property. The UnawEEP Avenue boundary landscaping shall be in compliance with the landscape plan on file with the City of Grand Junction.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS: THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot which is subject to assessment hereunder shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Lot shall be entitled to one vote and the vote for such Lot shall be exercised by the Owner or Owners as they determine. Each Lot containing multi-family living units shall be entitled to one vote for each residential living unit located thereon.

Section 2. Directors of the Association. The affairs of this Association shall be managed by a board of three (3) directors (the "Board") initially. When Declarant relinquishes control of the Board to the Owners pursuant to Section 3 below, the Board shall be managed by at least three (3) directors. Directors shall meet the qualifications described in the Articles of Incorporation and Bylaws of the Association.

Section 3. Management of the Association. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of sixty (60) days after conveyance of 2/3rds of the Lots to Owners other than Declarant, three (3) years after the last conveyance of a Lot by Declarant in the ordinary course of business, or five (5) years after the first sale of a Lot to an Owner other than Declarant. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's control, but in that event Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Board, as described in a recorded instrument executed

by Declarant, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of 1/3rd of the Lots to Owners other than Declarant, at least one member and not less than 1/3rd of the members of the Board will be elected by Owners other than Declarant. Not later than the termination of the period of Declarant's control as provided above, the Owners (including Declarant) shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant and the Board shall elect the officers, with such Board members and officers to take office upon termination of the period of Declarant's control. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver to the Association all property of the Owners and the Association held or controlled by Declarant, including without limitation those items specified in Section 303(9) of the Common Interest Act.

Section 4. Officers of the Association. The officers of this Association shall be as set forth in the Bylaws of the Association.

ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for private road and/or driveway maintenance and improvements if their Lot is served by the private road and/or a common driveway, to be established and collected as hereinafter provided. The annual assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) on demand, and without setoff or deduction. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees. The Board of Directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by one of the Board of Directors or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and lot thereof. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass from them. The Association's lien on a Lot for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United

States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Property and, to the extent not performed by any applicable governmental entity, for the maintenance and construction of the irrigation water and ditch system serving the Property.

Section 3. Maximum Annual Assessment.

a. Until commencement of the second annual assessment period, the maximum annual assessment shall be Three Hundred Dollars (\$300.00) per lot.

b. Effective with commencement of the second and each subsequent Association fiscal year, the maximum annual assessment against each Lot shall be increased effective each Association fiscal year by the greater of: (i) ten percent (10%); or (ii) in conformance with the rise, if any, of the Consumer Price Index published by the U.S. Department of Labor, Washington, D.C., for All Items and Major Group Figures for All Urban Consumers (1967 - 100), for the one (1) year period ending on the last day of October of the prior year. The aforesaid annual increase in the maximum annual assessment shall occur automatically upon the commencement of each Association fiscal year without the necessity of any action being taken with respect thereto by the Association. In the event the aforesaid Consumer Price Index is not published, for whatever reason, then if the increase in the maximum annual assessment is to be computed by reference to the Consumer Price Index, as provided herein, such calculation shall be made by using a substantially comparable index designated by the Board of Directors of the Association.

c. Effective with commencement of the second and each subsequent Association fiscal year, the maximum annual assessment may be increased by a vote of the Members over the amount established by the applications of the provisions of Section 3(b) above for the next succeeding Association fiscal year and at the end of that year, for each succeeding Association fiscal year, provided that any such increase shall have the assent of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 30 days nor more than 60 days in advance of such meeting setting forth the purpose therefor.

d. The Board of Directors of the Association may, at any time and from time to time, after consideration of the projected maintenance costs and the other financial needs of the Association, fix the actual assessment against each Lot at an amount less than the maximum assessment for any Association fiscal year.

Section 4. Rate of Assessment. Annual assessments shall be fixed at a uniform rate for all residential living units and shall be allocated to each such unit on the basis of a fractional share per unit, the numerator of which fraction shall be one and the denominator of which shall be the number of residential living units contained within the Property, and shall be in an amount sufficient to meet the expected needs of the Association.

Section 5. Date of Commencement of Annual Assessments. The initial annual assessment shall commence on the first day of the month following conveyance of the first Lot, and the second and each subsequent annual assessment period shall correspond with the fiscal year of the Association. The annual assessments shall be made due and payable with such frequency and on such dates as determined by the Board, but no more frequently than monthly, provided that the first annual assessment shall be adjusted according to the number of months in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last installment due.

Section 6. Reserve Accounts. The Association shall have the right to maintain adequate reserve fund accounts out of the annual assessments for the repair and replacement of those elements of Association property that must be repaired or replaced on a periodic basis.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Association, and the Association may also assess a monthly late charge thereon. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of his Lot.

Section 8. Lien for Assessments.

a. Under the Common Interest Act, the Association has a statutory lien on a Lot for any assessments levied against that Lot and for fines imposed against its Owner from the time each assessment or fine becomes due. In addition, fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Declaration or the Common Interest Act are enforceable as assessments. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

b. The statutory lien for assessments is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien of a First Mortgage which was recorded before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, the statutory lien for assessments is also prior to the lien of a first mortgage to the extent of an amount equal to the assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six months immediately preceding institution of an action to enforce the statutory lien.

c. The recording of this Declaration constitutes record notice and perfection of the statutory lien. No further recordation of any claim of lien or assessment is required, however,

a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Owner's Lot as a default assessment.

ARTICLE IV EXTERIOR MAINTENANCE

Section 1. General. Except as otherwise provided herein, the maintenance and repair of each Lot, including but not limited to landscaping, the interior and exterior of the structure and improvements constructed thereon, and any fence on the boundary line of a Lot shall be the responsibility of the Owner(s) thereof.

Section 2. Owner's Negligence. Notwithstanding anything to the contrary contained in this Article IV, in the event that the need for maintenance or repair of the Association Property is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair or maintenance shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article III of this Declaration. A determination of the negligence or willful act or omission of any Owner or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE V ALLOWED USES

Section 1. General. All of said lots shall be used only for residential purposes. Parking along the public roads right-of-way shall not be allowed.

Section 2. Driveway. Each driveway shall have a driveway surface constructed of asphalt or concrete.

Section 3. Minimize Size. Each single family residential dwelling shall have minimum dwelling space in the first floor area, exclusive of open porches, patios, basements and garages of not less than 1,800 square feet for ranch style and 1,500 for multi-story dwellings.

Section 4. Temporary Structures. No structure of a temporary nature, such as a tent, garage, trailer house, barn, or other outbuilding or basement shall be used on any lot at any time as a residence, either temporarily or permanently. All structures shall be of new construction built on-site. No mobile, modular or manufactured housing shall be allowed.

Section 5. Re-Subdivision. No lot shall be re-subdivided except for lot line adjustments where no additional lots are created.

Section 6. Trash. No lot shall be used or maintained as a dumping ground for rubbish or storage area for junk. Trash, garbage or other waste must be kept in sanitary containers. All equipment for the storage or disposal of refuse shall be kept in a clean and sanitary condition. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done or placed on any property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others, or which may constitute a health hazard.

Section 7. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except as provided in this paragraph. Dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes. All pets must be controlled and contained so that they do not become a nuisance to the neighborhood and do not run at large or endanger or harass other animals or wildlife. Any uncontained pet must be on a leash under the control of a responsible individual.

Section 8. Screening. All clotheslines, implements, recreational vehicles, motor homes, boats, equipment, service yards, wood piles, storage piles or similar storage items shall be kept screened by adequate vegetation or fencing to conceal them from public and adjoining property or shall be stored wholly within the enclosed garage or accessory building located on the Lot. All screening plans shall be submitted to the ACCO for approval prior to construction.

Section 9. Roofs. Permitted roof coverings shall include: a minimum of 25 years premium asphalt shingles; tile; slate; or built-up roof materials where approved by the ACCO. Hipped roof style and character are encouraged along with a harmonic and integrated roofscape. The maximum roof pitch shall be 10/12.

Section 10. Exterior Materials and Colors. Stains and paints shall be colors of subdued earth tones. No bright or garish colors shall be permitted on the exterior of any structure.

Section 11. Height Restriction. Building height for single-family residential shall not exceed 36 feet. Building height shall be measured from the finished grade of the first floor level to the highest point of the structure except that chimneys, flues, vents or similar structures may extend two (2) feet above the maximum height. All Lot building pads shall not exceed three (3) feet above the highest point of the Lot grade existing prior to construction within the building foundation unless approved by the ACCO.

Section 12. Antennas. No towers or antennas shall be erected on any lot which are higher than three (3) feet above the roof line of the highest structure on the lot. Satellite reception dishes shall be allowed that are less than 24 inches in diameter.

Section 13. Tanks. No elevated or underground tanks of any kind shall be permitted.

Section 14. Lighting. All exterior lights and light standards shall be subject to approval by the ACCO for harmonious development and prevention of lighting nuisances.

Section 15. Hazardous Activities. No activities shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property; and no open fires shall be lighted or permitted on any property (including burning of trash or rubbish) except in a contained barbeque unit while attended and in use for cooking purposes or within a safe and well-designed fireplace.

Section 16. Utilities. All utilities shall be buried underground from their primary source adjacent to the lot line at the owner's sole expense.

Section 17. Drainage. No modifications or alterations shall be made in such manner that will obstruct, divert or otherwise alter the natural water drainage courses and patterns, and no landscaping or changes to the existing terrain shall be made which shall obstruct, divert or otherwise alter such drainage except as approved by ACCO.

Section 18. Landscaping. ACCO shall review for approval all landscaping and site plans. Landscaping plans must be submitted for ACCO approval within one (1) year after home construction is complete, which plans shall include a schedule of completion for not more than one (1) year after approval.

Section 19. Fencing. No fence of any kind shall be taller than six (6) feet and shall be subject to prior approval of the ACCO. Welded wire and open wire rectangular field fencing shall not be permitted. Each lot owner shall be responsible for the maintenance of fencing located on his lot, and each lot owner shall construct a privacy fence on the lot boundary facing the perimeter of the subdivision within one (1) year from the date of purchase of the lot. All fencing requires a fence permit from the City of Grand Junction.

Section 20. Mining. No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

Section 21. Easements. Easements for installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded plat and may be added to by Lot owners.

Section 22. Plants. No owner shall permit any thing or condition to exist upon his Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 23. Noise. No sound shall be emitted on any property which is unreasonably loud or annoying, and no odor shall be emitted on any property which is noxious or offensive to others.

Section 24. Irrigation. Irrigation water shall be made available, seasonally, to each Lot for use thereon. It may be necessary, from time to time, for the Association to develop a schedule so that each Lot Owner may irrigate. The Association shall have the authority to assess the owner or owners of each lot a pro rata share of the cost of operation and maintenance of the said irrigation system, including annual water share assessments. The assessments shall be paid promptly as the same become due, and each assessment shall constitute a lien on the premises against which the same is assessed from the date of such assessment, which shall be subject only to a first lien on each lot, if any there be, and may be enforced as provided by Colorado Law. Such assessments shall accrue to the benefit of and may be enforced jointly and severally by the other property owners in the subdivision or by the Association. No flood irrigation shall be allowed.

ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE

Section 1. Composition of Committee. The Architectural Control Committee ("ACCO") shall consist of three (3) or more persons appointed by the Board of Directors of the Association; provided, however, that until Declarant has conveyed all Lots to Owners other than the Declarant, or until three (3) years after the date of recording of this Declaration in the office of the Clerk and Recorder of Mesa County, Colorado, whichever occurs earliest, Declarant shall appoint the Architectural Control Committee. A majority of the Committee may, from time to time, designate a representative to act for it. Reasonable effort shall be made to have a licensed architect as a Committee member. The power of the Declarant to "appoint", as provided herein, shall include without limitation the power to: initially constitute the membership of the Architectural Control Committee, appoint member(s) to the Architectural Control Committee upon the occurrence of any vacancy therein, for whatever reason remove any member of the Architectural Control Committee, with or without cause, at any time, and appoint the successor thereof; and each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Declarant. All improvements within the Property constructed by Declarant during the period in which it appoints the Architectural Control Committee shall be deemed approved by the Committee without the issuance of any writing evidencing such approval. The ACCO shall have the right to adopt Architectural Control Guidelines from time to time to assist owners in applying for ACCO approval.

Section 2. Prior Approval. No buildings or exterior improvements of any kind, including (without limitation) driveways leading to the various structures within the Property shall be constructed, remodeled or altered in any fashion on any lands within the Property, nor may any vegetation be altered or destroyed, nor any landscaping performed unless two (2) complete sets of plans and specifications for such construction or alteration or landscaping are submitted to and approved by the ACCO prior to the commencement of such work. City building and similar codes and requirements also apply. All applications shall be submitted to the ACCO in writing, if the ACCO fails to take any action within thirty days after complete architectural plans and specifications for such work have been submitted to it, then all of such submitted plans and specifications shall be deemed to be approved. The ACCO may adopt rules and regulations for processing of such applications, including a reasonable processing fee.

Section 3. Plans. Plans and specifications submitted hereunder shall show the nature, kind, shape, height, materials, floor plans, location, exterior color scheme, alterations, grading, drainage, erosion control and all other matters necessary for the ACCO to properly consider and make a determination thereon. Submittals shall include a minimum of:

- a. 1" = 10' scale site plan showing property boundaries, setbacks, building envelope, principal and accessory buildings, driveway location and width, surface drainage and fencing.
- b. Building elevations (four views) and floor plans.
- c. Engineered foundation plans by a Colorado licensed professional engineer.
- d. Samples of roof and external materials along with field, trim and accent colors for principal and accessory buildings.
- e. Landscape plans shall be in a 1" = 10' scale and shall include plant quantity and types, fencing, drainage, irrigation and other site improvements.

The ACCO shall disapprove any plans and specifications submitted to it which are not sufficient for it to exercise the judgment required of it by these covenants.

Section 4. Variance. Where circumstances such as topography, location of trees, brush, rock outcroppings, area aesthetic considerations, or other matters require or allow, the ACCO may, by two-thirds vote, allow reasonable variances as to any of these covenants, including required sizes of structures, setback or side yard requirements, on such terms and conditions as it shall require. Opinions of adjoining property owners shall be considered in any such decisions. Any setback variance shall also require the approval of the City of Grand Junction.

Section 5. Best Judgment. The ACCO shall exercise its best judgment to see that all improvements, structures, landscaping and all alterations on the land within the Property conform and harmonize with the natural surroundings and with existing structures as to external design, materials, color, siding, height, topography, grade, drainage, erosion control and finished ground elevations.

Section 6. Time. After approval of any plan by the ACCO, the same shall be completed with due diligence in conformity with conditions of approval, if any. Failure to adhere to any term of approval shall operate automatically to revoke the approval, and the ACCO may require the property to be restored as nearly as possible to its previous state. The time for completion of any such work may be extended by the ACCO.

Section 7. Liability. The ACCO, the Developer, or any owner shall not be liable in damages to any person, corporation or association submitting any plans and specifications or to any owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any such plans and specifications. Any owner submitting or causing to be submitted any plans and

specifications to the ACCO agrees and covenants that he will not bring any action or suit to recover damages against the ACCO, the Developer or any owner collectively, its members individually or its advisors, employees or agents.

Section 8. Procedures. The Architectural Control Committee shall approve or disapprove all requests for architectural control approval within thirty (30) days after the complete submission of copies of all plans, specifications, and other materials which the Committee may require in conjunction therewith. In the event that the Architectural Control Committee fails to approve or disapprove any request within thirty (30) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

Section 9. Vote and Appeal. A majority vote of the Architectural Control Committee is required to approve a request for architectural approval pursuant to this Article. An Owner may appeal the decision of the Architectural Control Committee to the Board of Directors if the Board is composed of different members than the Architectural Control Committee, and, in such event, the decision of the Board shall be final.

Section 10. Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 11. Waivers. The approval or consent of the Architectural Control Committee to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee as to any application or other matters whatsoever subsequently or additionally submitted for approval or consent hereunder.

ARTICLE VII GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation the Association, violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of the aforesaid documents in any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or 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 2. Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Easements. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded plat of the Property, or any portion thereof, or other duly recorded instrument(s). Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. Declarant hereby reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.

Section 4. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 5. Street Lighting. Unless street lighting and the cost thereof is provided by the community in which jurisdiction this subdivision is situated, all Lots shall be subject to and bound to Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

Section 6. Duration, Revocation, and Amendment.

a. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Article X hereof and in Subsections (b) and (c) of this Section 6, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than seventy-five percent (75%) of the Members. Such amendment shall be effective when duly recorded in Mesa County, Colorado.

b. If Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the Agencies, Declarant shall have and is hereby specifically granted the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to termination of the Declarant's control or the Association.

c. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, Articles of Incorporation or Bylaws of the Association

at any time prior to the termination of Declarant's control or the Association, for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of any such document.

Section 7. Rights of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant, its successors and assigns, for access, ingress and egress over, in, upon, under, and across any Common Area, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's or its designees' construction on the Property; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot. Declarant, for itself and its successors and assigns, hereby retains a right to store construction materials on Lots owned by Declarant and to make such other use thereof as may be reasonably necessary or incidental for the purpose of the completion or improvement of the Property, the performance of Declarant's obligations hereunder, and the sale of the Lots. Any special declarant rights created or reserved under this Article or elsewhere in this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the office of the Clerk and Recorder for the County of Mesa. The rights of Declarant reserved in this Section 7 shall expire five (5) years after the recording of this Declaration. Such instrument shall be executed by Declarant and its transferee. Any rights granted to Declarant under this Declaration shall expire on the date which is ten (10) years from the recording date of this Declaration, unless otherwise provided herein.

Section 8. Easement for Encroachments. If any portion of a structure encroaches upon any Common Area or upon any adjoining Lot, or if any portion of any Common Area encroaches upon any Lot, including any future encroachments arising or resulting from the repair or reconstruction of a structure subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

Section 9. Easements for Irrigation and Drainage. An easement in gross is hereby granted and conveyed to the Association, its successors and assigns over, under, in and across the Lots of the Property, except those areas depicted as building envelopes on the Building Envelope Site Plan as recorded in Mesa County Records, for the installation, operation and maintenance of ditches and irrigation lines and facilities reasonably required for the operation and maintenance of drainage and irrigation services for the Property. The Association shall exercise its easement rights in a reasonable and prudent manner after coordination with the owner of the servient estate.

Section 10. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be sent to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors of the Association or

the Association shall be sent by certified mail, postage prepaid, c/o J. Richard Livingston, GOLDEN, MUMBY, SUMMERS, LIVINGSTON & KANE, LLP, P.O. Box 398, Grand Junction, Colorado 81502, until such address is changed by the Association.

Section 11. City of Grand Junction. In order to prevent the diminution in the enjoyment, use or property value of the development, thereby impairing the health, safety and welfare of the Owners therein, the City of Grand Junction by and through its duly authorized officers and employees is hereby granted the right to take such action as the City may deem necessary to enforce the covenants, conditions or restrictions contained in this Declaration with respect to the use of the Lots and parking on the Property for the purpose of ensuring the Association's and the Lot Owners' compliance with the zoning and other applicable ordinances of the City of Grand Junction and to ensure adequate maintenance of the landscaping along UnawEEP Avenue Common Area. The Association shall not be dissolved without the consent of the City of Grand Junction. Upon request the Association shall convey to the City of Grand Junction such easements and/or rights of way over or through the Common Areas required by the City for public purposes. Such conveyances shall be without compensation to the Association. The provisions set forth in Section 11 hereinabove, shall constitute a permanent covenant which shall not be modified, amended or revoked without the written consent of the City of Grand Junction through a majority of the City Council.

IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal as of the day and year first above written.

UNAWEEP, LLC

By:

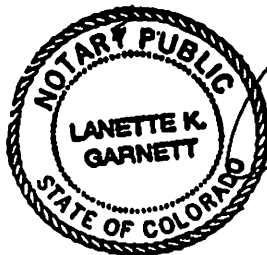
Alan Parkerson
Alan Parkerson, Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 24th day of October, 2003, by UnawEEP, LLC, by Alan Parkerson, Manager.

WITNESS my hand and official seal.

My commission expires: 02/17/06



Lanette K. Garnett
Notary Public

(Legal Description of the Property)**PARCEL 1**

Lots 3 and 6 of The Grand Junction Orchard Mesa Land Company's Orchard Subdivision;
EXCEPT a strip of land beginning 7 feet West of the Southeast Corner of said Lot 6;
thence Northeasterly to the Northeast Corner of said Lot 3;
thence South to the Southeast Corner of said Lot 6;
thence West 7 feet to beginning;
AND EXCEPT the South 5 feet thereof;
AND EXCEPT a right-of-way as described in Warranty Deed recorded in Book 89 at Page 183;
AND EXCEPT Beginning at the Northeast Corner of Lot 3 in Grand Junction Orchard Mesa Land Company's Orchard Subdivision;
thence South 0°19' West 150 feet;
thence West parallel to the North line of said Lot 3 a distance of 150 feet;
thence North 0°19' East 150 feet to the North line of said Lot 3;
thence East along the North line of said Lot 3 a distance of 150 feet to the point of beginning
AND EXCEPT that portion deeded to Mesa County in instrument recorded August 19, 2002, in Book 3134 at Page 463.

PARCEL 2

Beginning 7 feet West of the Southwest Corner of Lot 7 of the Grand Junction Orchard Mesa Land Company's Orchard Subdivision;
thence East 667 feet;
thence North 00°20' East 1,007.25 feet to the County Road right-of-way;
thence along the County Road right-of-way North 63°09' West 319.72 feet;
thence South 00°20' West 168.92 feet;
thence West 380.28 feet;
thence South 00°19' West 980.6 feet to the point of beginning.
EXCEPT that portion deeded to the County of Mesa in instrument recorded March 16, 1966, in Book 894 at Page 260;
AND EXCEPT that portion deeded to Mesa County in instrument recorded August 19, 2002, in Book 3134 at Page 463 and as corrected in instrument recorded January 29, 2003, in Book 3261 at Page 338.

2 PAGE DOCUMENT

BK 3561 PG 548

2170174 BK 3561 PG 548-549
12/31/2003 03:26 PM
Janice Ward CLK REC Mesa County, CO
RecFee \$10.00 SurChg \$1.00

**FIRST AMENDMENT TO THE
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
UNAWEEP HEIGHTS SUBDIVISION**

THE UNDERSIGNED, being all the owners of the lots and unplatted land in UNAWEEP HEIGHTS SUBDIVISION, hereby amend the Declaration of Covenants, Conditions and Restrictions recorded at Book 3517, Page 544, Mesa County Records, as follows:

1. Article V, Section 3, Minimum Size is amended to read in its entirety:

"Section 3. Minimum Size. Each single family residential dwelling shall have a minimum Dwelling space in the first floor area, exclusive of open porches, patios, basements and garages of not less than 1,400 square feet for ranch style dwellings and 1,500 square feet for multi-store dwellings."

2. Article V, Section 10, Exterior Materials and Colors is amended by adding the following sentence to the end of Section 10:

"Vinyl siding embossed to appear as wood and colored to appear as stained or painted wood shall be allowed."

3. Article V, Section 19, Fencing is amended to change "one (1) year from the date of purchase" to:

"six (6) months from the date of purchase."

Dated this 5th day of December, 2003

UNAWEEP, LLC, a Colorado Limited Liability Company

By:

Alan Parkerson
Alan Parkerson, Manager

PINNACLE HOMES, INC., a Colorado Corporation

By:

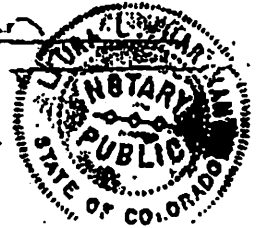
H.W. Grace, II
H.W. Grace, II, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 9th day of December, 2003, by
Unawee, LLC, a Colorado Limited Liability Company, by Alan Parkerson, Manager.

WITNESS my hand and official seal.
My commission expires: 8-2-07

Laura L. Hartman
Notary Public

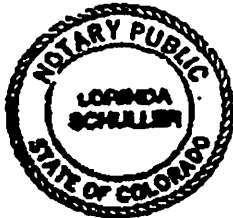


STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 22nd day of December, 2003, by
H.W. Grace, II, as President of Pinnacle Homes, Inc., a Colorado Corporation.

WITNESS my hand and official seal.
My commission expires: 3-3-05

Lorinda Schuller
Notary Public



2 PAGE DOCUMENT

BK 3624 PG 558

2185622 BK 3624 PG 558-559

04/06/2004 03:54 PM

Janice Ward CLK REC Mesa County, CO

RecFee \$10.00 SurChg \$1.00

**SECOND AMENDMENT TO THE
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
UNAWEEP HEIGHTS SUBDIVISION**

THE UNDERSIGNED, being all the owners of the lots and unplatted land in UNAWEEP HEIGHTS SUBDIVISION, hereby amend the Declaration of Covenants, Conditions and Restrictions recorded at Book 3517, Page 544, as amended at Book 3561, Page 548, Mesa County Records, as follows:

1. Article V, Section 18, Landscaping is amended to read in its entirety:

" ACCO shall review for approval all landscaping and site plans. Landscaping plans must be submitted for ACCO approval within six (6) months after home construction is complete, which plans shall include a schedule of completion for not more than six (6) months after approval for the front yard and one (1) year for the back yard."

2. Article V, Section 19, Fencing is amended by adding the following sentence to the end of Section 19:

"Fence material shall be white vinyl or white with tan matching fencing along UnawEEP Avenue."

Dated this 31st day of March, 2004.

UNAWEEP, LLC, a Colorado Limited Liability Company

By: _____

Alan Parkerson, Manager

PINNACLE HOMES, INC., a Colorado Corporation

By: _____

H.W. Grace, II, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 24th day of March, 2004, by Unaweeep, LLC, .
a Colorado Limited Liability Company, by Alan Parkerson, Manager.

WITNESS my hand and official seal.
My commission expires: 8-02-07

Laura L. Hartman
Notary Public



STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 31st day of March, 2004, by H. W. Grace, II ,
as President of Pinnacle Homes, Inc., a Colorado Corporation.

WITNESS my hand and official seal.
My commission expires:

Daniel W. Grace
Notary Public



My Commission Expires 01/29/2005

**THIRD AMENDMENT TO THE
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
UNAWEEP HEIGHTS SUBDIVISION**

THE UNDERSIGNED, being more than 75% of the owners of the lots and unplatted land in UNAWEEP HEIGHTS SUBDIVISION, hereby amend the Declaration of Covenants, Conditions and Restrictions ("Declaration") recorded at Book 3517, Page 544, as amended, Mesa County Records, as follows:

Exhibit "A" to the Declaration is hereby amended to include the following described real property, to-wit:

Parcel 1

Beginning at the Northwest Corner of Lot 11, Grand Junction Orchard Mesa Land Company Orchard Subdivision;
thence East 658.5 feet to the Northeast Corner of Lot 11;
thence South 00°04'E 298.00 feet to the centerline of an irrigation ditch;
thence North 89°40'W along said centerline 524.38 feet;
thence North 61°31'30"W 153.00 feet to the West line of said Lot 11;
thence North 222.00 feet to the point of beginning.
Except the North 5.0 feet thereof for road right-of-way

AND

Parcel 2

Beginning at a point S00°04'E 298.00 feet from the Northeast Corner of Lot 11, Grand Junction Orchard Mesa Land Company Orchard Subdivision,
thence along the centerline of an irrigation ditch N89°40'W 524.38 feet,
thence North 61°31'30"W 153.0 feet to the West line of said Lot 11;
thence South 88.00 feet,
thence South 89°59'30"E 658.87 feet to the East line of said Lot 11;
thence North 0°04'W 12.1 feet to the point of beginning.

TOGETHER WITH that portion of B $\frac{1}{4}$ Road adjoining subject property vacated by Resolution No. 2003-060 recorded May 28, 2003 in Book 3369, at Page 91, Reception No. 2123937.

and

Parcel 3

The S½ of Lot 11 in Grand Junction Orchard Mesa Land Company's Orchard Subdivision

Dated this 7th day of February 2005.

UNAWEEP, LLC, a Colorado Limited Liability Company

By: Alan Parkerson

Alan Parkerson, Manager

PINNACLE HOMES, INC., a Colorado Corporation

By: H.W. Grace, II

H.W. Grace, II, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 7th day of February 2005, by Unawep, LLC
a Colorado Limited Liability Company, by Alan Parkerson, Manager.

WITNESS my hand and official seal.
My commission expires: 8-2-07

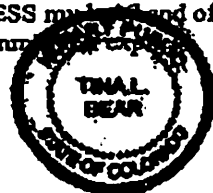
Laura L. Hartman
Notary Public



STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 18th March day of ~~February~~ 2005, by H.W. Grace, II,
as President of Pinnacle Homes, Inc., a Colorado Corporation.

WITNESS my hand and official seal.
My commission expires: 06/04/2007



Tina L. Bear
Notary Public

2285139 BK 4033 PG 261
 11/07/2005 03:42 PM
 Janice Ward CLK&REC Mesa County, CO
 RecFee \$5.00 SurChg \$1.00
 DocFee NO FEE

QUIT CLAIM DEED

No Consideration

UNAWEEP, LLC, a Colorado Limited Liability Company, for the consideration of Ten Dollars and Other Good and Valuable Consideration, in hand paid, hereby sells and quit claims to UNAWEEP HEIGHTS HOMEOWNERS ASSOCIATION, INC., a Colorado non-profit corporation, whose legal address is 710 S. 15th Street, Grand Junction, CO 81501, all right, title and interest in and to all irrigation and drainage easements as set forth on the recorded plat for UnawEEP Heights, Filing No. 4 (being seven (7) feet on all side and rear lot lines except along the perimeter lots which shall be ten (10) feet along the rear, unless otherwise noted on the plat), as perpetual easements for the installation, operation, maintenance and repair of irrigation systems and to supply and drain irrigation water.

also known as street and number as Vacant Land

with all its appurtenances, and subject to 2005 general taxes, payable in 2006, and all subsequent taxes, easements, rights-of-way, restrictions, covenants, conditions and reservations of record or in use.

Signed this 7th day of November, 2005.

UNAWEEP, LLC, a Colorado Limited Liability Company

By: Alan Parkerson

Alan Parkerson, Manager

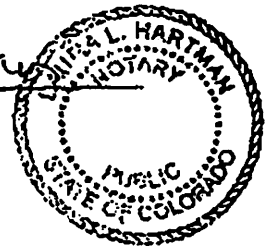
STATE OF COLORADO)
)ss.
 COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 7th day of November 2005, by UnawEEP, LLC, a Colorado Limited Liability Company, by Alan Parkerson, Manager.

Witness my hand and official seal.

My commission expires: 8-2-07

Laura L Hartman
 Notary Public



RECORDING MEMORANDUM
EXHIBIT D2285142 BK 4033 PG 265
11/07/2005 03:43 PM
Janice Ward CLK&REC Mesa County, CO
RecFee \$5.00 SurChs \$1.00City of Grand Junction
Community Development Department Community Development
File # FP-2005-051

This memorandum relates to and confirms that certain Development Improvements Agreement and/or Maintenance Guarantee concerning land in Mesa County, Colorado. The Agreement is by and between Unawcep, LLC (Developer) and the City of Grand Junction (City) pertaining to Unawcep Heights - F4 (Project), located at Unawcep Avenue & 29 Road, Lot 4, Block 2, Unawcep Heights Filing No. 1.
(Subject subdivision is more particularly depicted and described in the recording found at Plat Book 20, Pages 46, 47, 48 Plat 110d being used, ad - OK. to release plat 110d - Replace w/cash 10/26/06. WB)

The Developer of the Project was required by law to install and construct certain public and private improvements, the completion of which was guaranteed by a Development Improvements Agreement and/or Maintenance Guarantee. The Project is required to be constructed in accordance with the approval by the City pursuant to and in accordance with the Zoning and Development Code all as more fully detailed and described in City of Grand Junction development file # FP-2005-051.

The Developer and the City of Grand Junction by and through the signatures of the undersigned have determined and agreed to the type, quality and amount of improvements required and/or necessitated by the approval of the Project and that the improvements are guaranteed by and through the Development Improvements Agreement and/or Maintenance Guarantee. Furthermore, the Developer and the City agree that the Development Improvements Agreement and/or Maintenance Guarantee are contractual in nature and that the obligations under the Development Improvements Agreement and/or Maintenance Guarantee shall not be assigned except as provided in the agreement(s).

By virtue of this notice being recorded in the land records of the Mesa County Clerk and Recorder, subsequent owners and/or those that claim by, through or under the Developer are on notice of the Developer's obligations under the agreement(s).

NOW THEREFORE, the Developer and an official of the City of Grand Junction, both possessing and representing by their signatures that they possess sufficient authority, do hereby memorialize the relative, rights and obligations contained in the Development Improvement Agreement and/or Maintenance Guarantee herein characterized.

DEVELOPER:

By: Alan Parkerson, Manager 7/14/05
Date(Print Name) Alan Parkerson

CITY OF GRAND JUNCTION:

In accordance with the above, I hereby certify that the Development Improvement Agreement and/or Maintenance Guarantee are made of record by this memorandum and that the same may be inspected and/or copied at the City of Grand Junction, Community Development Department, 250 N. 5th Street, Grand Junction Colorado.

Lucy V. Brown July 14, 2005
Community Development Department Date