

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
ADOBE VIEW NORTH SUBDIVISION**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ADOBE VIEW NORTH SUBDIVISION ("Declaration") is made and entered into this ____ day of _____, 2016, by **ADOBE VIEW DEVELOPMENT COMPANY, LLC**, hereinafter referred to as the "Declarant."

RECITALS

A. Declarant is the owner of certain real property situated in Mesa County, Colorado, all as more specifically described as:

Parcel 2697-201-38-001
Tract A, Adobe View Subdivision

Parcel 2697-201-38-002
Tract B, Adobe View Subdivision

Parcel 2697-201-00-043
The N½SE¼NE¼ of Section 20, Township 1 North, Range 2 West of the Ute Meridian which lies East of the drain or wash,
EXCEPT the North 330 feet thereof.

to be platted as Lots 1 through 34, inclusive, and Tracts and A and B, Adobe View North Subdivision.

B. Declarant desires to subject and place upon 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 open space tracts, irrigation system and easements located upon the Property and such right shall be appurtenant to and shall pass with the title to every Lot. The cost of irrigation water provided by Grand Valley Irrigation Company shall be billed to the Association, and use of such irrigation water is expressly subject to the requirements of Grand Valley Irrigation Company. Upon recording of this Declaration, Declarant shall convey title to all open space tracts, the irrigation water and easements located upon the Property to the Association.

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

a. The right of the Adobe View North Homeowners Association, Inc. ("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 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 reside on his Lot.

Section 4. Open Space Tracts. The Association shall own and maintain Tract A, the irrigation water delivery system and fifteen (15) shares of the Grand Valley Irrigation Company water stock. Tract B shall be dedicated and conveyed to the City of Fruita.

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.

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 75% of the Lots to Owners other than Declarant, two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business, or two (2) years after the right to add new lots was exercised by 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 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.

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

Section 5. Budget. Pursuant to §38-33.3-303(4), C.R.S., within 90 days after adoption of any proposed budget for the common interest community, the board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all lot owners and shall set a date for a meeting of the lot owners to consider the budget. The meeting shall be held within 30 days of the mailing of the notice. The proposed budget does not require the consent of the lot owners to be effective, but may be vetoed by a majority of the lot owners present in person or by proxy at the meeting if a quorum is present.

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 common area maintenance and improvements, 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 of the Common Area.

Section 3. Maximum Annual Assessment.

a. Until commencement of the second annual assessment period, the maximum annual assessment shall be Fifty Dollars (\$50.00) 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 Lots and shall be allocated to each Lot on the basis of a fractional share per Lot, the numerator of which fraction shall be one and the denominator of which shall be the number of Lots 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 established by the Association not exceeding 21% per year. 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.

Section 9. Limitation Upon Liability.

a. Indemnification of Officers and Board Members. Neither the Association, any member of the Board, any officer of the Association, any member of the ACC, nor any agent or employee of the Association, shall be liable to any Owner or other Person or entity for any action or any failure to act with respect to any matter, provided the action taken or failure to act was in good faith and without willful or intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, any member of the ACC, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages charges, liabilities, obligations, fines, penalties and claims, demands, or judgments and any and all expenses, including, without limitation, attorneys' fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such Person or of the Association, the Board, the ACC or any committee of the Association, provided that such Person has acted in good faith and without willful or intentional misconduct.

b. Limitation of Liability of Association. Notwithstanding the duty of the Association to maintain and repair the Common Elements and other portions of the Property as authorized in the Declaration, the Association shall not be liable for bodily injury, property damage or death to any Person caused by any hazardous or dangerous physical condition of the Common

Elements which is not known, or would not be known in the exercise of reasonable diligence, by the Association, or the acts or omissions of any other Owner or other Persons causing such personal bodily injury, property damages or death.

Section 10. Association Insurance. Commencing not later than the time of the first conveyance of a Lot to an Owner other than the Declarant, the Association shall maintain, to the extent reasonably available:

a. Property Insurance. Property insurance on the Common Elements for broad form covered causes of loss; except that the total amount of insurance must not be less than full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property insurance policies.

b. Commercial General Liability Insurance. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements in such amounts deemed sufficient in the judgment of the Executive Board insuring the Executive Board, the Association, any management and their respective employees, agents and all Persons acting as agents. The Declarant shall be included as an additional insured in the Declarant capacity as a Lot Owner and/or Board member. The Lot Owners shall be included as an additional insured but only for claims and liabilities arising in connection with their use of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

c. Insurance Requirements The insurance policies carried pursuant to subsections Section 10(a) and (b) above must provide that:

(1) Each Owner is an insured Person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association;

(2) The insurer waives its rights to subrogation under the policy against any Owner or member of such Owner's household;

(3) No act or omission by an Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

d. Workers' Compensation and Unemployment Insurance. The Association shall purchase and maintain workers' compensation and unemployment insurance upon employees of the Association as required by statute.

e. Fidelity Insurance. The Association shall purchase fidelity insurance to the extent required by the Act; but if not required by the Act, The Association may purchase fidelity insurance in its discretion.

f. Other Insurance. Such other insurance as the Board may deem desirable for the benefit of the Owners.

Section 11. Ownership and Maintenance of the Common Elements. The ownership, maintenance, repair and restoration of the Common Elements, together with Improvements thereon, shall be vested solely in the Association. The costs and expenses incurred for the purpose of owning, maintaining, repairing and restoring the Common Elements and Improvements thereon shall be borne by the Owners as a regular assessment as provided in Article III hereof.

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 residence, 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.

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ARTICLE V ALLOWED USES

Section 1. General. All of said lots shall be used only for residential purposes. Only detached single family dwellings may be constructed on any lot, and only one per lot. Every dwelling shall have covered parking for no less than two cars. The front exterior of all residences shall be covered in stucco, rock or brick, or other material as approved by the ACCO.

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

Section 3. Minimize Size. Each dwelling shall have minimum dwelling space in the first floor area, exclusive of open porches, patios, basements and garages of not less than 1100 square feet.

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. Advertising. No signs, advertising devices or billboards shall be displayed within Adobe View North Subdivision unless written approval thereof is granted by ACCO. With the exception of one "for sale" sign per lot, which shall not be larger than 18 inches by 24 inches, and except for signs used by the Developer for subdivision advertisement and signs used by builders to advertise during the building and sale period. Political signage shall not be prohibited but is subject to regulation as to size, time limits and location as established by the ACCO. All signage shall be subject to regulation by the City of Fruita.

Section 8. Restrictions on Occupants and Pets. No animals shall be allowed other than domestic pets. Domestic pets shall be limited to a reasonable number on an Owner's Lot. No domestic pet may be kept on any Lot which is a nuisance, annoyance or is dangerous or hazardous to the other Owners or occupants of Lots. Household pets shall be contained on the Owner's Lot and not permitted to run loose or at large in the Subdivision. The Association's Board shall have the authority to determine if any domestic pet is a nuisance or hazardous or whether the number of pets

kept on any Lot is unreasonable in number. No horses, cows or other livestock of any type shall be kept on any Lot. Household pets shall be under the control of their owners at all times.

Section 9. 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 10. Tanks. No elevated or underground tanks of any kind shall be permitted.

Section 11. Lighting. All exterior lights and light standards shall be subject to approval by the ACCO for harmonious development and prevention of lighting nuisances.

Section 12. Recreational Vehicles. No snowmobiles, ATV's, go-carts, motorcycles, or similar recreational vehicles shall be operated in Adobe View North Subdivision except as may be utilized for transportation to public roads.

Section 13. 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 14. Utilities. All utilities shall be buried underground from their primary source adjacent to the lot line at the owner's sole expense.

Section 15. 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 16. Landscaping. 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 one (1) year after approval. Each owner is responsible for weed control on their lot.

Section 17. 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 unless specific written permission is given by the ACCO for a variance.

Section 18. 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 19. 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 20. 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 21. Irrigation. Due to concerns regarding water conservation, the Association shall have the exclusive right to control the irrigation system within the Subdivision. The Association shall own 15 shares of Grand Valley Irrigation Company stock. The 15 shares of Grand Valley Irrigation Company stock shall be transferred from the Declarant to the Association prior to the conveyance of any lot and shall not be encumbered, dedicated nor conveyed by the Association in all or in part without the expressed written consent of the City of Fruita, Colorado. Use of the irrigation system shall be controlled by the Association under rules and regulations adopted by the Association. The Association shall pay all fees and assessments to the irrigation company when due as necessary to prevent the loss of such water shares. This provision of the Declaration may not be amended or deleted without the expressed written consent of the City of Fruita.

Section 22. Parking.

a. Owners' Motor Vehicles. Passenger automobiles and pick-up trucks not exceeding one ton owned by the Owner or occupant of a Lot shall be parked within the garage situate on the Lot or on the driveway of the Lot. No street or other portion of the Lot may be used by the Owner or the occupant for the parking or storage of automobiles or pick-ups except to the extent permitted under section 38-33.3-106.5(1)(d), C.R.S.

b. Other Vehicles. Recreational vehicles, boats, campers, trailers, snowmobiles and vehicles used for business (other than passenger automobiles) may be stored on a Lot only if placed within a garage, placed in an Architectural Control Committee-approved outbuilding or screened storage facility, behind the front of the principal dwelling Building on the Lot. No recreational vehicles, boats, trailers, trucks or other vehicles or equipment shall be parked or stored on any street except for vehicles or trucks of guests or invitees visiting on a temporary basis not to exceed 48 hours in any five-day period, unless permission is obtained from the Association.

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. 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 Adobe View North Subdivision shall be constructed, remodeled or altered in any fashion on any lands within Adobe View North Subdivision, 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. 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 Fruita.

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 Adobe View North Subdivision 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. Liability. The Architectural Control Committee and the members thereof shall not be liable in damages to any person submitting requests for approval or to any Owner, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 12. 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 DECLARANT'S RESERVED RIGHTS

Section 1. Statement of Interest. Declarant hereby reserves to itself and its successors and assigns the Development Rights set forth herein, any one or more of which rights may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the recording of this Declaration and ending on the date of termination of such rights established under Section 7.7 below. It is expressly understood that Declarant shall not be obligated to exercise any of these Development Rights, and that no consent shall be required from any Owner, Mortgagee, or the Association for the effective exercise of any of the Development Rights.

The Development Rights hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Lots, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the Development Rights reserved by and to Declarant in this Article VII and elsewhere in this Declaration, even though no specific reference to such rights appears in the conveying instruments.

Section 2. Construction of Improvements on the Common Elements. The Declarant reserves the right, but not the obligation, to construct additional Improvements on the Common Elements at any time and from time to time for the improvement and enhancement thereof for the benefit of the Association or the Lot Owners. The right to complete Improvements indicated on the Plat or this Declaration may be amended from time to time. The right to construct and complete Improvements required by the terms of any development improvements agreement with applicable governmental entity may be amended from time to time. The Declarant shall have the right to create, grant and/or use and enjoy additional nonexclusive easements, and to relocate existing platted or other easements, upon or across any portion of the Property (including Lots and Common Elements), as may be reasonably required for the construction by Declarant of Improvements to the Common elements or the effective exercise by Declarant of any of the other Development Rights described in this Article.

Section 3. Sales, Marketing and Management. The Declarant shall have the right to construct, locate or operate, and to maintain upon, and to remove from any part of the Property, in

the discretion of Declarant, and in such number, size and location as may be reasonably required by Declarant in connection with the completion of Improvements, the management of the development, and/or the promotion, marketing, sale or rental of Lots, the following:

- a. A sales office, management office and/or construction office, and structure containing or relating to the same, including without limitation mobile home, office trailer and construction trailer. Such office, facility and structure, to the extent it is not situated on a Lot or is removable therefrom, is hereby declared to be personal property of the Declarant and shall in any case be removable by Declarant or their successors or assigns upon the Declarant or Declarant's successors or assigns ceasing to be a Lot Owner;
- b. Signs identifying, advertising and marketing the Property and the Lots therein or related to development or construction thereon;
- c. Model residences constructed or to be constructed on Lots;
- d. Parking areas and facilities and lighting necessary or desirable in the marketing of the Property and the Lots; and
- e. Employees, equipment, vehicles and marketing and construction materials.

Section 4. Declarant's Control of Association. Declarant shall have the right to appoint or remove any Executive Board member or officer of the Association as more specifically set forth in Article 4.3 above consistent with the Act.

Section 5. Other Reserved Development Rights. Subject to compliance with the requirements of the applicable governmental authority, the Declarant may as to all or any portion of the Declarant-owned Property: (a) create additional Lots; (b) subdivide Lots; (c) combine Lots; (d) create Common Elements; and (e) reconfigure Lots, or streets. Additionally, in order to effectively exercise the Development Rights reserved to Declarant under this Article VII, the Declarant may amend this Declaration and the Plat (without the consent of Owners, Mortgagees or the Association being required) for purposes of complying with or qualifying for any required federal or state registration of the project, satisfying title insurance requirements, bringing any provision or provisions of the Declaration or the Plat into compliance with the Act, or cure technical errors, typographical errors or deficiencies in the Declaration or Plat.

Section 6. Transfer of Declarant's Reserved Rights. Any one or more rights created or reserved for the benefit of Declarant under this Article VII or elsewhere in this Declaration or in any supplemental Declaration may be transferred to any Person by an instrument describing the right or rights transferred and recorded in the Mesa County records. Such instrument shall be executed by the Declarant and the transferee. The provisions of section 38-33.3-304 of the Act shall apply to any transfer of the Declarant's reserved rights.

Section 7. Termination and Extension of Declarant's Reserved Rights. With the exception of Declarant's right to appoint or remove Executive Board members and officers of the Association,

the rights reserved to Declarant in this Article VII shall automatically terminate and expire upon the first to occur of (i) the date which is twenty (20) years after the recording of this Declaration, or (ii) Declarant's relinquishment and surrender of such rights by recorded instrument. The Association is authorized and empowered to extend the time period for Declarant's exercise of the Development Rights, or reinstate a lapsed Development Right, without requiring Lot Owner or Mortgagee approval thereof. The extension or renewal of a Development Right shall be made as an amendment to the Declaration or Plat, as the circumstances require, and shall be executed by Declarant and the Association.

Section 8. Owner Acceptance and Waiver of Rights Regarding Declarant's Reserved Rights. Each Owner, by his/her acceptance of a deed to a Lot, acknowledges that the Owner has read and understands the Declarant's reserved Development Rights as set forth in this Article VII or elsewhere in this Declaration, that the Owner accepts, approves and understands the Declarant's reserved Development Rights and waives and releases any rights the Owner may have to object to or to interfere with the implementation or the exercise of the Development Rights reserved by the Declarant.

ARTICLE VIII 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. Resolution Procedures.

a. Dispute Resolution. Except as provided in Section 5.7, all actions, disputes, claims or controversy between any Owner, the Architectural Committee, the Association, the Declarant, and their respective agents, contractors, successors and assigns, whether in contract, tort or otherwise, shall be resolved by the procedures as set forth in this Section 8.2 or as set forth in any limited warranty (if any), or any applicable agreement between Declarant and any Owner or his/her heirs, successors or assigns.

b. Initial Notification; Negotiation. For each claim governed by this section (a "Claim"), the claimant ("Claimant") shall give notice to the other party(ies) against whom the claim

is asserted ("Respondent"), setting forth: the nature of the Claim; the basis or reason for the Claim; any other material information regarding the Claim; the specific relief and/or proposed remedy sought; and the intent to invoke this Section (the "Notice of Claim"). Claimant and Respondent shall use good faith efforts to resolve the Claim through negotiations following delivery of the notice, pending mediation pursuant to Section 8.2(c).

c. Mediation. The Claim shall first be mediated before a mediator jointly selected by the parties. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute formally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The mediation shall occur within thirty (30) days following delivery of the Notice of Claim (the "Mediation Period"). Mediation shall be a condition precedent to arbitrating any dispute. In the event Claimant does not appear for mediation, Claimant shall be deemed to have irrevocably waived the Claim, and Respondent shall be released from any and all liability to Claimant on account of such Claim. The costs of the mediation shall be borne equally by Claimant and Respondent. In the event mediation is successful, the resolution shall be documented in writing and signed by the parties. Thereafter, if either party violates the resolution, the other party may apply immediately to a court for relief. The mediation, unless otherwise agreed, shall terminate in the event that the entire dispute is not resolved before the expiration of the Mediation Period. In the event that mediation is unsuccessful, then Claimant may make written demand for arbitration pursuant to Section 8.2(d) within sixty (60) days following the expiration of the Mediation Period. If no written demand for arbitration is made within the specified time, Claimant shall irrevocably waive the Claim and any and all right to proceed to arbitration regarding the Claim.

d. Arbitration. Following the Mediation Period and a written demand for arbitration, the Claim shall be resolved by binding arbitration administered by the American Arbitration Association (or any successor to such association) in accordance with the current American Arbitration Association Construction Industry Arbitration Rules in effect at the time of submission to arbitration, and as provided for in this subsection. In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules. Should an action, dispute, claim or controversy be brought against Declarant and or any builder by a third party who is not bound by a binding arbitration provision similar to the arbitration provision contained herein, the terms of this subsection shall apply to such action, dispute, claim or controversy. The Arbitrator shall be selected from a panel of Arbitrators from Mesa County, Colorado (or if no such panel is available, from Denver County, Colorado), with an Arbiter mutually acceptable to the parties. If the parties are unable to jointly agree upon the Arbiter, then each party shall select an arbiter and the two arbiters shall select a third person to serve as the sole Arbiter. The parties agree that the Arbiter shall have substantial experience in the real estate field. The parties shall share equally in the arbitrator's fees and the costs of the arbitration. All parties shall have the right to be represented by legal counsel. In determining any question, matter, or dispute before them, the Arbiter shall apply the provisions of the Declaration and Articles and Bylaws, without varying from them in any respect, and they shall not have the power to add to, modify or change any of the provisions hereof. Any arbitration award may be enforced through entry of judgment by any court having jurisdiction thereover. Exclusive venue for any arbitration proceeding shall be in Mesa

County, Colorado. Except as may be required by law or for enforcement, neither a party nor the Arbiter may disclose the existence, content, or results of any arbitration without the prior written consent of all parties to the Claim.

The Arbiter's decision may contain findings of fact and conclusions of law to the extent applicable and the Arbiter shall have the authority to rule on all post-hearing motions in the same manner as a trial judge. The statement of decision of the Arbiter upon all of the issues considered by the arbitrator is conclusive, final and binding upon the parties. Judgment upon any award rendered by the Arbiter may be entered by any State or Federal Court, as appropriate.

e. Standards of Construction. If any claim regarding defects in construction is made, each claim shall be specified with particularity. Each location of any claimed defect must be identified and all evidence supporting each claim, along with all repair methodologies and costs of repair, must be provided by the claimant in advance of any mediation hereunder. In any arbitration or other proceedings, it shall be rebuttably presumed that any construction done by the builder or Declarant was not defective, that the builder or Declarant adequately performed its obligations under its contract, and that the builder or Declarant was not negligent if the builder or Declarant's performance was substantially in accordance with any of the following: (A) the standards of trade in the Grand Junction Area on the date hereof or (B) Any applicable building code in Grand Junction on the date hereof; or (C) any applicable national association of home builders residential construction guidelines. In any such proceedings, evidence of any scientific, engineering, or technical advancements or other knowledge or techniques, or any design theory or philosophy, or any construction or testing knowledge or techniques, where such advancements were discovered subsequent to the date hereof, shall not be admissible for any purpose. If any of Claimant's claims relate, in any way, to any work completed by any of Declarant's or builder's subcontractors or any materials and/or equipment provided by any suppliers, Declarant or builder, as applicable, in its sole discretion, may join such subcontractors and/or suppliers to any arbitration proceeding with Claimant. The sole manner which may be used to establish breach of any obligations under this Declaration, any obligations which may exist by law or reason of any statute, any applicable industry standards, and/or Claimant's damages, including, but not limited to, appropriate repair costs, shall be through the testimony of a homebuilder with experience in Mesa County, Colorado. The Arbiter shall completely exclude the testimony of any tendered expert who does not meet the foregoing qualifications.

f. Limitation of Remedies. Each party hereby disclaims and waives any claims for the following remedies and damages for any matters related to any Claim, whether a Claim is made on the basis of contract, tort or any other theory or basis at law or in equity: (i) punitive or exemplary damages, (ii) claims for emotional distress or pain and suffering and/or (iii) claims for incidental and/or consequential damages (except as otherwise provided herein). Claimant further agrees that, subject to the other limitations contained herein, Respondent's total liability to Claimant shall be limited to, and in no event exceed, the amount of any insurance proceeds actually available with respect to any and all Claims, whether in contract, tort or otherwise.

g. Acknowledge of Waiver of Right to Jury Trial. Each party understands that by using binding arbitration to resolve disputes they are voluntarily waiving and giving up any right that they may have to a judge or jury trial with regard to all issues concerning the Lot, Home, common elements, the Property, Improvements, and matters related thereto.

Section 3. 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 4. Easements. Easements for the installation and maintenance of utilities, signage, 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 5. 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 6. 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 by Xcel Energy 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 7. 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 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 sixty-seven percent (67%) 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.

d. Pursuant to §38-33.3-217(7), C.R.S., the board has the right to petition the Mesa County District Court for amendments to this Declaration under certain circumstances.

Section 8. 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 9. 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 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, Livingston & Mumby, LLC, 2764 Compass Dr., Ste 200A, Grand Junction, Colorado 81506, until such address is changed by the Association.

Section 11. City of Fruita. 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 Fruita 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 for the purpose of ensuring the Association's and the Lot Owners' compliance with the zoning and other applicable ordinances of the City of Fruita and to ensure adequate maintenance of the Common Area. The Association shall not be dissolved without the consent of the City of Fruita.

Section 12. Governing Clause. This Declaration shall control and govern over any conflicting provision of the Act, except to the extent that such conflicting provision in the Act is mandatory according to the terms of Sections -105, -106, and -107 of the Act. This Declaration shall further control any conflicting term in the Articles, Bylaws or any rule or regulation promulgated by the Association or the ACC.

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

ADOBE VIEW DEVELOPMENT COMPANY, LLC

By: _____
Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Adobe View Development, LLC, by _____, its Manager.

WITNESS my hand and official seal.
My commission expires:

DRAFT

Notary Public