

AMENDED DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

This Amended Declaration of the Covenants, Conditions and Restrictions made on the date hereinafter set forth by the undersigned who represent a majority of the lot owners within Discovery Subdivision Filing No. 2 in the City of Colorado Springs, El Paso County, Colorado by the signatures affixed hereto do hereby amend the covenants, conditions and restrictions originally recorded at Book 2569 Pages 302 through 308:

W I T N E S S E T H:

WHEREAS, the undersigned represent the majority of lot owners of certain real property in the County of El Paso and State of Colorado which is more particularly described as:

Lots 1 through 12, in Block 1, Lot 1 through 28, in Block 2, all in Discovery Subdivision Filing No. 2 in the City of Colorado Springs, El Paso County, Colorado.

AND WHEREAS, the original Declarants conveyed these properties subject to certain protective covenants, conditions, restrictions, reservations, liens and charges and further provided for a method of amendment of said covenants by an instrument signed by a majority of the lot (or living unit) owners; and

WHEREAS, by this instrument signed by the majority of the lot owners the lot owners desire to amend the original covenants to provide for, among other things, a homeowner's association, to amplify their original covenants concerning commercial vehicles, campers and trailers, to amplify their original covenants dealing with enforcement, and to add covenants for maintenance assessment and exterior maintenance, and

WHEREAS, there are nine separate Filings in the Discovery Subdivision and whereas the lot owners within all of the nine Discovery Subdivisions desire to be controlled by one Declaration of Covenants, Conditions and Restrictions that are identical throughout the Discovery Subdivisions all being controlled by one architectural control committee and one homeowner's association.

NOW THEREFORE, the undersigned declare that all the properties described above and all other property in the Discovery Subdivision Filings No. 1 through 9 shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions as amended, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the real property. These amended declarations of covenants, conditions and restrictions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof and shall inure to the benefit of each owner thereof.

**2012 DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
DISCOVERY SUBDIVISION**

This 2012 Declaration of the Covenants, Conditions and Restrictions (“2012 Covenants”) made on the date hereinafter set forth by the undersigned who represent a majority of the owners (the “Owners”) of lots (the “Lots”) within Discovery Subdivision Filings 1 through 9, in the City of Colorado Springs, El Paso County, Colorado (the “Discovery Subdivision”).

WITNESSETH:

WHEREAS, the original Declarants conveyed the Lots subject to the Declarations of Covenants, Conditions and Reservations which are described on Exhibit A attached hereto and incorporated herein by this reference (the “Original Covenants”); and

WHEREAS, the Original Covenants were amended by the Amended Declaration of Covenants, Conditions and Restrictions recorded on January 28, 1980 in Book 3276 beginning at Page 552 of the El Paso County Colorado records (the “Amended Covenants”); and

WHEREAS, Section 3 of Article VII of the Amended Covenants provided for a method of amendment of said Covenants by an instrument signed by a majority of the Owners of Lots; and

WHEREAS, there are nine separate Filings in the Discovery Subdivision and whereas the Owners within all of the nine Filings desire to be controlled by one Declaration of Covenants, Conditions and Restrictions which are identical throughout the Discovery Subdivision all being controlled by one Architectural Review Committee (the “ARC” which was formerly called the ACC) and one homeowners’ association; and

WHEREAS, by this instrument, signed by the majority of the Owners of Lots, those Owners desire to amend the Amended Covenants to clarify, simplify, and comply with current procedures and legal requirements and to restate, supersede and replace the Original Covenants and the Amended Covenants with these 2012 Covenants; and

WHEREAS, all Lot owner projects that were submitted and approved by the ACC under the previous covenants shall be deemed “grandfathered” and thereby similarly approved under these 2012 Covenants.

NOW THEREFORE, the undersigned declare that all the Lots and all other property in the Discovery Subdivision shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions set forth in these 2012 Covenants, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the real property. These 2012 Covenants shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the Discovery Subdivision or any part thereof and shall inure to the benefit of each Owner thereof.

**ARTICLE I
Definitions**

Section 1. Item Definitions. The following items when used in these 2012 Covenants or any Supplement or Amendment thereto shall have the following meanings unless prohibited by the context:

(a) "Discovery Subdivision" shall mean and refer to those Lots described in these Covenants along with all the properties in the Discovery Subdivision Filings No. 1 through 9.

(b) "Lot" shall mean and refer to any part of land shown upon any recorded subdivision map of the Discovery Subdivision.

(c) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Discovery Subdivision, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation.

(d) "2012 Covenants" shall mean and refer to this 2012 Declaration of Covenants, Conditions and Restrictions which shall completely amend, restate, supersede and replace the Original Covenants and the Amended Covenants as described above.

(e) "Association" shall mean and refer to Discovery Homeowners Association, a Colorado nonprofit corporation, its successors and assigns.

(f) "ARC" shall mean and refer to the Architectural Review Committee described in Article II of these 2012 Covenants, which is the successor to the Architectural Control Committee under the Original Covenants and the Amended Covenants.

(g) "Board" shall mean and refer to the Association's Board of Directors.

(h) "Earth Tone" shall mean and refer to the definition of colors in an earth tone scheme which are dark, muted and flat in an emulation of the natural colors found in soil, moss, trees and rocks as defined by the ARC or the Association's Board of Directors.

ARTICLE II

Architectural Review Committee (ARC)

Section 1. **Members.** The members of the Architectural Review Committee (ARC) shall exercise architectural review over Discovery Subdivision as set forth herein and shall have full authority to approve or disapprove the plans and specifications as hereinafter described. ARC members shall be appointed or removed by the Association's Board. If any member of the ARC is unable to perform his or her duties, the Association's Board shall have the power to appoint replacements. At any time, the then record Owners of a majority of the Lots shall have the power through a duly recorded written instrument to change the membership of the ARC or to withdraw from the ARC or restore to it any of its powers and duties.

Section 2. **Review by the ARC.** No change in the exterior appearance of any Lot and/or any structure, on such Lot including without limitation, any dwelling structure, accessory building, tennis court, swimming pool, antenna, flagpole, fence, wall, house numbers, mail box, exterior lighting, or other improvements as defined by the ARC shall be constructed or maintained on any Lot and no alteration or repainting of the exterior of a structure and/or Lot shall be made and no landscaping, site grading, or removal of existing trees, shrubs, or rock formations, performed unless complete plans, specifications, and Lot plans therefore, have been submitted to and approved in writing by the ARC. The plans and specifications, to the extent required by the ARC, shall show such matters as required by the ARC which may include the exterior design,

height, building materials and color scheme thereof, the location and size of driveways, the plans of landscaping, fencing, walls and windbreaks, and grading plans. The ARC may require that the plans for new construction or additions show the entire Lot including the existing topography at two-foot contour intervals, the size and location of existing trees, scrub oak, rock outcropping and other vegetation and may be required to show the proposed site grading and those trees, shrubs, or rock outcropping that are to be removed or altered during the course of construction.

Section 3. Procedures. The ARC may establish reasonable procedures for architectural review. The ARC shall approve or disapprove in writing all plans and requests within thirty (30) days after the date of written receipt of the application. If the ARC fails to take action within thirty (30) days after written receipt, the application shall be deemed approved and this Article will be deemed to have been fully complied with.

A majority vote of the members of the ARC is required for approval or disapproval of the proposed improvements. The ARC shall maintain written records for seven (7) years of all applications submitted to it and of all action taken. In approving or disapproving the plan submitted to it, the ARC should, in its discretion, take into consideration the design, style and construction of the proposed building or alteration, its location on the Lot, the harmony of its design, architecture and location with the terrain and surrounding neighborhood. It should determine whether such proposed building is consistent with the general terrain, the architecture of other buildings located upon the property subject to these 2012 Covenants and whether or not the construction or alteration of said building will adversely affect or decrease the value of other Lots because of its design, location, height or type of materials used in the construction. The ARC may make reasonable requirements of the Lot Owner, including the submission of additional plans to ensure conformance of such building when erected with these restrictions and covenants and the plans submitted and approved. The ARC shall have the authority to grant variances from the provisions of these 2012 Covenants in cases of irregularly shaped Lots, unusual terrain, or other conditions wherein the strict enforcement of these restrictions would result in unusual hardship. The ARC shall be the judge of whether or not said hardship exists. Whenever the ARC disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be reviewed on appeal to the Board or met by alterations acceptable to the ARC. It is the intent of these 2012 Covenants that the ARC shall exercise broad discretionary powers hereunder. The Association's Board shall resolve, on appeal, all questions of interpretation or otherwise under these 2012 Covenants and such decisions shall be final, binding on all owners.

Section 4. Non-liability of the ARC and the Board. Neither the Board nor the ARC shall be liable in damages or otherwise to any person submitting requests for approval or to any Lot Owner by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests.

ARTICLE III
Use Restrictions

The following restrictions, covenants and easements are imposed uniformly upon the Discovery Subdivision, and are used to maintain the natural look and character of each Lot, and may be enforced by the ARC, any Owner, or the Board.

Section 1. Land Use, Building Type and Occupancy. Lots shall be used solely and exclusively for private, single family dwelling purposes as determined by the Board. Multi-family dwellings or uses shall not be permitted on any Lot. Lot owners shall abide by the applicable zoning ordinances of the City of Colorado Springs. No building or structure, whether attached or detached, shall be permitted on any Lot unless such building or structure has been approved by the ARC and applicable governmental authorities and duly constructed thereon. The removal of dwellings or structures from other locations to any Lot shall not be permitted.

Section 2. Building Location. No building shall be located on any Lot or building site nearer to the front Lot line or nearer to the side street lines than shall be allowed by the applicable zoning ordinances of the City of Colorado Springs, Colorado.

Section 3. Building Construction. All buildings erected within the Discovery Subdivision shall be designed and constructed in accordance with the standards, which are set forth by the ARC and approved by the Board, which should include the following standards:

(a) Roofing material shall be Class A fire rated, heavy weight, high definition, composite shingles; concrete or composite tiles; or slate; or comparable material. Color shall be that of wood tones. Standard 2 tab, 3 tab, or T-lock asphalt shingles are not permitted. Alternate materials and colors will be considered by the ARC.

(b) An Association mailbox design will be used throughout the Discovery Subdivision. See Exhibit B attached to these 2012 Covenants as "Discovery HOA Mailbox Design," provided however, Filing 5, Woodmen Road, is excluded from this provision of the Exhibit B due to U.S. Post Office requirements.

(c) Only Earth Tone colors shall be used on the exterior of all buildings. Bright accent colors can be used in small areas to add interest and variety such as on door panels and small wall areas.

(d) All exterior siding must have a matt textured finish that blends with the architecture of the house.

(e) No less than a two car garage is allowed. No carports will be permitted. Oversized garages will be considered by the ARC on a case by case basis.

(f) Exposed concrete will be allowed only when it is textured or patterned and is to be approved by the ARC. All other exposed concrete must be stuccoed.

Section 4. Building Design. Only custom designed single family homes, additions and other structures, whether attached or detached, will be approved. The design of the home, addition or other structure should be done with similar or compatible materials and architecture and should be done in an effort to protect as much of the natural environment as possible, minimizing the removal of trees and the disturbance of the natural topography and native vegetation.

Section 5. Fences or Walls. Fences or walls may be used to enclose limited areas on the Lot where privacy is desired in either the side or rear yard. Fencing the entire Lot or long continuous fences on any Lot lines will not be permitted, except along the Lot lines that adjoin the City Park. All fence designs must be approved by the ARC.

Section 6. Removal of Trees. The removal of live trees, live scrub-oak, and other live natural landscaping will not be allowed unless approved by the ARC. The removal of dead, diseased, or infected trees, shrubs, or plants is encouraged and does not require ARC approval. Trimming, pruning, and vegetation control prescribed by legal authorities does not require ARC approval.

Section 7. Landscaping. Excluding paved driveways, patios and sidewalks, all areas of the Lot are to be grassed, shrubbed, treed, xeriscaped or otherwise landscaped. Preservation of the natural landscaping is encouraged. Landscaping for existing homes must be completed within six (6) months after ARC approval. Substitute materials such as rock, gravel or paving must be approved by the ARC. Landscaping shown on the approved plot plan for a new house or addition must be completed within one year after construction of the house or addition has been completed.

Section 8. Construction Restriction and Materials Storage. During construction, material storage, equipment movement, and grading will be permitted only in those areas required for construction of the structures. Other areas of the Lot shall be fenced to preserve foliage and natural landscape prior to beginning any construction on the lot. The area to be fenced off shall be indicated along with the type of fence on the plot plan submitted to the ARC. Erosion control fencing should be installed as a minimum.

Section 9. Unightly Objects. Refuse piles or other unsightly objects or materials shall not be allowed to be placed or to remain upon any premises, easements or any street unless placed in a suitable container. Containers for trash, garbage or other refuse must be stored behind decorative fencing or otherwise hidden from view of the street and adjacent lots, except on the day of trash pickup.

Section 10. Commercial Vehicles, and Other Items. No commercial-type vehicles, recreational vehicles, boats, ATV's, campers, trailers, motor homes, trucks or similar items as determined by the Board shall be stored or parked on any Lot or parked on any street except while engaged in transport to or from a dwelling, or unless the same shall be stored inside of the garage or otherwise stored at the rear of the lot out of sight of the street and screened from the view of other lots. For the purposes of this restriction, a truck having a 3/4 ton or less manufacturer's rated capacity, commonly known as a pickup truck, shall not be deemed to be a commercial vehicle or a truck. The Board may grant temporary waivers for this restriction, in its sole discretion and upon such terms as it requires, and may further specify the prohibitions regarding vehicles under this Section 10.

Section 11. Nuisances. No noxious or offensive activities shall be carried on upon any Lot nor shall anything be done thereupon which may or may become an annoyance or nuisance to the neighborhood, such as loud noises and barking dogs.

Section 12. Animals. No persons shall be allowed to keep, breed or raise chickens, turkeys, cattle, horses, sheep, goats, swine, rabbits or any other domestic farm or barnyard animals or fowl on any Lot or erect thereupon any building designed to house the same. This restriction shall not be construed to prohibit any person from keeping dogs, cats or other household pets on any Lot, provided they are not kept, bred or raised for any commercial purpose and do not cause any nuisance. All dogs shall be kept on a leash when outside of the Owner's Lot.

Section 13. Temporary Residences. No structure of temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently, and no used structure of any sort shall be moved onto any Lot.

Section 14. Signs. Permanent signs are not allowed. Signs of not more than five square feet will be allowed for temporary activities, such as construction, political, or house sale or rent, and must be removed within seven days of the completion of the activity. American flags, flag poles, security notices and service flags are exempt from these restrictions.

Section 15. Outside Clotheslines, Aerials, Antennas, Carports, Patio Covers and Other Similar Structures. Outside aerials, clotheslines, antennas, carports, and patio covers or similar structures shall not be allowed unless approved by the ARC or unless otherwise authorized by federal, state or local law. Satellite dish antennas 24 inch diameter or less will generally be approved.

Section 16. Sight-lines Distance at Intersections. For the purposes of safety, sight-lines at street intersections should not be obscured and should allow sufficient viewing of oncoming traffic in both directions in accordance with the ordinances of the City of Colorado Springs.

Section 17. Vehicle Parking. No vehicle shall be parked in or near the same place upon a street continuously for a period of more than seventy-two (72) hours. Unused vehicles shall not be parked on any street or Lot. An unused vehicle shall be any vehicle which is not properly licensed or is inoperable for over thirty (30) days as determined by the Board. No Lot or street shall be used for the purpose of repair of any motor vehicle.

ARTICLE IV **Discovery Homeowners Association**

Section 1. General. In order to ensure that the purposes of these 2012 Covenants are promoted, the Board shall have the power to administer and enforce these 2012 Covenants, to collect funds, and to recommend updates to the Association's governing documents.

Section 2. Membership. Every person or entity who is an Owner of any Lot shall be a member of the Association. When more than one member is a record Owner of a Lot, all such persons shall be members, but the Lot shall have only one vote to be exercised as its Owners decide. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 3. Board of Directors. The affairs of the Association shall be managed by the Board of at least five (5) Directors who will have overlapping terms and whose election and qualifications shall be set forth in the Association's Articles of Incorporation and Bylaws, which may also set forth the voting and other procedures of the Association.

Section 4. Scope. There are nine (9) separate filings in the Discovery Subdivision. The Association will serve the Owners within all of the Discovery filings, whose Owners shall be members of the Association as provided above.

ARTICLE V

Covenant for Maintenance Assessments

Section 1. Personal Obligation for Assessments. Each Owner shall pay to the Association an annual assessment as may be established and collected from time to time by the Association as hereinafter provided. The annual assessment, together with the interest thereon, the cost of collection and reasonable attorney's fees shall be the personal obligation of the person who is the Owner of the property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association upon the Lot shall be used for the purpose of promoting the welfare of the residents of the Discovery Subdivision, as specified in these 2012 Covenants.

Section 3. Basis and Maximum of Annual Assessments. Each Lot shall, as hereinafter provided, be subject to an annual maximum assessment of not more than Thirty Dollars (\$30.00) for 2012 which shall be fixed by the Board and may be raised or lowered within said maximum as the Board may deem necessary, provided however, the following limitation shall be effective three hundred eighty (380) days after the recording of these 2012 Covenants:

Notwithstanding any provision of these 2012 Covenants, the Association's Articles of Incorporation or Bylaws, the annual average common expense assessment imposed under these 2012 Covenants shall never exceed the maximum amount set forth in C.R.S. § 38-33.3-116 and therefore, pursuant to said Section, the Association and the Discovery Subdivision shall not be subject to the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101, etc.) .

In future years an annual maximum assessment can be voted on by the members attending a duly constituted annual meeting of the Association.

Section 4. Date of Commencement of Annual Assessments. The Board should fix the amount of the annual assessment at least thirty (30) days in advance of said commencement date. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The due dates shall be established by the Board.

Section 5. Assessment Lien. Assessments levied upon Lots shall also be a perpetual lien upon the Lots until such assessments and any interest, penalties and charges which may accrue thereon shall have been paid. Said lien shall be subordinate to the lien of any first deed of trust or mortgage recorded prior to said assessment lien, except to the extent of six months assessments. Sale or transfer of any Lot shall not affect the assessment lien.

Section 6. Effect of Nonpayment of the Assessment: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten (10) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment.

ARTICLE VI **Exterior Maintenance**

Section 1. Lot Maintenance. The Owner of each Lot shall maintain the structures on and grounds and landscaping thereof in a neat and attractive manner. Upon the Owner's failure to do so, the Board may, at its option, after giving the Owner thirty (30) days written notice, have the grass, trees, shrubs and other vegetation maintained, cut or trimmed when, and as often as, the same is necessary in its judgment, and have dead trees, weeds, shrubs and plants removed from any Lot to maintain the beauty of the Discovery Subdivision.

Section 2. Structure Maintenance. Upon the Owner's failure to maintain the exterior of any structure in good repair and appearance the Board may, at its option, after giving the Owner six (6) months written notice, make repairs to and improve the appearance of such structure in a reasonable and workmanlike manner.

Section 3. Assessment of Cost. The cost of such maintenance referred to in Sections 1 and 2 above shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the maintenance assessment or charge to which such Lot is subject under Article V hereof.

Section 4. Access at Reasonable Hours. For the purpose solely of performing the maintenance referred to in Sections 1 and 2 of this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any structure situated thereon at reasonable hours on any day except Sunday.

ARTICLE VII **General Provisions**

Section 1. Enforcement. The ARC, any Owner, or the Association shall have the right to enforce by any proceeding through the courts and/or by any mediation or arbitration procedures established by the Association's Bylaws, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these 2012 Covenants. Failure by the ARC or by any Owner or by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the rights to do so hereafter. The party in any proceeding who is successful in enforcing these covenants, conditions and restrictions shall be entitled to recover the costs of said proceeding including without limitation reasonable attorney's fees, costs and expenses.

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, as Secretary of Discovery Homeowners Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

{S E A L}

Notary Public
My Commission Expires: _____