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**FIRST AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS AND EASEMENTS FOR  
RED CANYON TOWNHOMES  
A COLORADO COMMON INTEREST COMMUNITY**

5/26-

THIS FIRST AMENDMENT to Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community (the "Phase 1B Declaration") is made as of 3/5, 1998, by RED CANYON TOWNHOMES, L.L.C., a Colorado limited liability company (the "Declarant"), whose address is 90 Madison Street, Suite 103, Denver, Colorado 80206

**RECITALS**

The Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded by Declarant on January 6, 1998, at Reception No. 644048 of the Eagle County, Colorado real estate records (the "Original Declaration"). Capitalized terms used but not defined in this Phase 1B Declaration shall have the meanings set forth in the Original Declaration unless the context otherwise requires. References to the Declaration in the Phase 1B Declaration shall be to the Original Declaration as modified by this instrument and any subsequent supplemental declarations or amendments. On January 6, 1998 Declarant also recorded as part of the Original Declaration the Final Plat, Red Canyon Townhomes, Phase 1A, and North Bank, Tracts C, D1 and D2, at Reception No. 644047 of the Eagle County, Colorado real estate records (the "Original Plat").

Pursuant to the Original Declaration (including, without limitation, Article 6 thereof and the Original Plat), Declarant reserved the right to create additional Units, Common Elements and Limited Common Elements (the "Additional Improvement") on all or any portion of the Expansion Property, and to submit such Additional Improvements to the Declaration. Declarant desires to exercise such Development Rights reserved in the Original Declaration, and to submit Additional Improvements located on the Expansion Property to the Declaration and to make such Additional Improvements a part of the Red Canyon Townhomes common interest community.

**FIRST AMENDMENT OF DECLARATION**

1 Pursuant to the Development Rights reserved in the Original Declaration, that portion of the Expansion Property as shown and subdivided on the Final Plat of Red Canyon Townhomes, Phase 1B, and North Bank, Tract D1, a Resubdivision of North Bank Subdivision, Tracts D1 and D2, Town of Eagle, County of Eagle, State of Colorado, recorded at Reception No. \_\_\_\_\_ of the Eagle County, Colorado real estate records, including the 11 Units and Common Elements described as Units 10 through 20 shown thereon (the "Phase 1B Property") is hereby added to the Red Canyon Townhomes common interest community project and made subject to all of the restrictions, covenants, limitations, easements, approvals, terms, conditions, uses, reservations and obligations of the Declaration, which shall run with the Phase 1B Property and shall be a burden and benefit to the Declarant, its successors and assigns, and to any person acquiring or owning any interest in the Phase 1B Property, including any Unit, and their grantees, successors, heirs, executors, administrators, personal representatives, devisees and assigns.

2 Common Elements newly created or on the Phase 1B Property are described in the Quitclaim Deed recorded at Reception No. 649713 of the Eagle County, Colorado real estate records.

3-16-98

842714 03/18/19:3 03:32P 133 Sara Fisher  
: of 3 28.610 0.00 N 0.00 Eagle CO

In connection with the foregoing exercise of Development Rights, the Original Declaration is further amended as follows:

A. That portion of EXHIBIT "A" to the Original Declaration that reads:

ATTACHED TO THE AMENDED AND RESTATED [sic] DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY

PART I

DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION

is amended to read as follows:

EXHIBIT "A"

ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY

PART I

DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION

Red Canyon Townhomes Phase 1A,

as shown on the final plat of Red Canyon Townhomes, Phase 1A and Tracts C, D1 and D2, Northbank Subdivision, a Resubdivision of Tracts C and D, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on January 6<sup>th</sup>, 1998 as Reception Number 644048 of the records of the Clerk and Recorder of Eagle County, Colorado

and

Red Canyon Townhomes Phase 1B,

as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision of Tracts D1 and D2, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on 3-16-98 as Reception Number 649712 of the records of the Clerk and Recorder of Eagle County, Colorado.

(Note: Part II of Exhibit "A" to the Declaration shall remain unchanged.)

B. In accordance with the allocation formula set forth in Section 3.03 of the Declaration, upon the recording of this Phase 1B Declaration the Allocated Interests and Exhibit "B" shall be amended as follows

EXHIBIT "B"

ATTACHED TO THE AMENDED AND RESTATED [sic] DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY

049712 03/18/1998 03:32P 133 Sara Flaher  
2 of 2 R 26.00 0 0.00 N 0.00 Eagle CO

UNIT DESIGNATIONS AND TABLE OF ALLOCATED INTEREST

is hereby amended to read as follows:

**EXHIBIT "B"**

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY.**

UNIT DESIGNATIONS AND TABLE OF ALLOCATED INTEREST

<u>Unit No.</u>	<u>Percentage Share of Common Expenses</u>	<u>Votes in the Affairs of the Association</u>
1	5.00%	1
2	5.00%	1
3	5.00%	1
4	5.00%	1
5	5.00%	1
6	5.00%	1
7	5.00%	1
8	5.00%	1
9	5.00%	1
10	5.00%	1
11	5.00%	1
12	5.00%	1
13	5.00%	1
14	5.00%	1
15	5.00%	1
16	5.00%	1
17	5.00%	1
18	5.00%	1
19	5.00%	1
20	5.00%	1





64408 03/04/1998 11:04A 133 Sara Fleher  
1 of 3 R 16.00 D 0.00 N 0.00 Eagle CO

**SECOND AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS, AND EASEMENTS FOR RED CANYON  
TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY**

**THIS SECOND AMENDMENT** to Declaration of Conditions, Covenants, Restrictions, and Easements to Red Canyon Townhomes, a Colorado common ownership community (the "Use of Units Amendment") is made as of April \_\_\_\_, 1998, by RED CANYON TOWNHOMES, LLC., a Colorado limited liability company (the "Declarant"), whose address is 90 Madison Street, Suite 103, Denver, Colorado 80206.

**RECITALS**

The Declarations of Conditions, Covenants, Restrictions, and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded by Declarant on January 6, 1998 at Reception No. 64408 of Eagle County, Colorado real estate records (the "Original Declaration"). Capitalized terms used, but not defined in this Use of Units Amendment, shall have the meanings set forth in the Original Declaration unless context otherwise requires. References to the Declaration in the Use of Units Amendment shall be to the Original Declaration as modified by the First Amendment to Declaration of Conditions, Covenants, Restrictions, and Easements for Red Canyon Townhomes, A Colorado Common Interest Community and this Instrument, and any subsequent supplemental declarations or amendments.

Pursuant to the Original Declaration (including without limitation, Article 6, and Section 11.08, Declarant reserved the right to amend and modify the Original Declaration in connection with the exercise of any Development Rights and now desires to exercise its right to Amend the Original Declaration and to modify the Use of Units in order to facilitate financing and sales.

**SECOND AMENDMENT TO DECLARATION**

Pursuant to the Declarant Association Control Period rights reserved in the Original Declaration, and the Development Rights reserved in the Original Declaration Section 3.07 Use of Units, is amended to read as follows:

**3.07 Use of Units.** The Units listed on Exhibit "A", any Units subsequently created by relocation of the boundaries thereof and any Units subsequently added to the Project shall be used and occupied solely for residential purposes. Owners of Units may rent or lease Units to others but not on a nightly basis; provided, however, that each such lease or rental agreement and the use and occupancy of the leased or rented Unit is subject to the Act, this Declaration, and the articles of incorporation, by laws and rules and regulations of the Association.

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Rec # 65-4805  
A 58

684888 05/04/1998 11:04A 133 Sara Fisher  
2 of 3 R 18.00 D 0.00 N 0.00 Eagle CO

IN WITNESS WHEREOF, Declarant has duly executed this Second Amendment of Declaration of Conditions, Covenants, Restrictions, and Easements for Red Canyon Townhomes, a Colorado Common Interest Community, effective the 23<sup>rd</sup> day of April, 1998.

RED CANYON TOWNHOMES, LLC., a Colorado limited liability company

By: Michael D Lavery  
Michael D Lavery, Manager

STATE OF Colorado )  
City and COUNTY OF Denver ) SS.

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of April, 1998, by Michael D Lavery 05 Manager of Red Canyon Townhomes, LLC.

Witness my hand and official seal

My commission expires: 10/28/2000

JACQUELINE S. SCOTT  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 10-28-2000

Jacqueline S Scott  
Notary Public



(3)

**THIRD AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS AND EASEMENTS FOR  
RED CANYON TOWNHOMES  
A COLORADO COMMON INTEREST COMMUNITY**

**THIS THIRD AMENDMENT** to Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community (the "Phase 1C Declaration") is made as of September 23, 1998, by RED CANYON TOWNHOMES, LLC, a Colorado limited liability company (the "Declarant"), whose address is 90 Madison Street, Suite 103, Denver, Colorado 80206

**RECITALS**

The Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded by Declarant on January 6, 1998, at Reception No. 644048 of the Eagle County, Colorado real estate records (the "Original Declaration"). Capitalized terms used but not defined in this Phase 1C Declaration shall have the meanings set forth in the Original Declaration unless the context otherwise requires. References to the Declaration in the Phase 1C Declaration shall be to the Original Declaration as modified by this instrument and any subsequent supplemental declarations or amendments. On January 6, 1998 Declarant also recorded as part of the Original Declaration the Final Plat, Red Canyon Townhomes, Phase 1A, and North Bank, Tracts C, D1 and D2, at Reception No. 644047 of the Eagle County, Colorado real estate records (the "Original Plat"). On March 16, 1998 Declarant, as an amendment to the Original Declaration, recorded the Final Plat, Red Canyon Townhomes Phase 1B, and North Bank, Tract D1 at Reception number 649712 of the Eagle County, Colorado real estate records ("the Phase 1B Plat"). Declarant also recorded the Second Amendment to the Original Declaration on May 4, 1998 as Reception number 654805 of the Eagle County, Colorado real estate records ("the Second Amendment").

Pursuant to the Original Declaration (including, without limitation, Article 6 thereof and the Original Plat), Declarant reserved the right to create additional Units, Common Elements and Limited Common Elements (the "Additional Improvement") on all or any portion of the Expansion Property, and to submit such Additional Improvements to the Declaration. Declarant desires to exercise such Development Rights reserved in the Original Declaration, and to submit Additional Improvements located on the Expansion Property to the Declaration and to make such Additional Improvements a part of the Red Canyon Townhomes common interest community.

**THIRD AMENDMENT OF DECLARATION**

1. Pursuant to the Development Rights reserved in the Original Declaration, that portion of the Expansion Property as shown and subdivided on the Final Plat of Red Canyon Townhomes, Phase 1C, and North Bank, Tract D1, a Resubdivision of North Bank Subdivision, Tract D1, Town of Eagle, County of Eagle, State of Colorado, recorded at Reception No. 671047 of the Eagle County, Colorado real estate records, including the 22 Units and Common Elements described as Units 21 through 42 shown thereon (the "Phase 1C Property") is hereby added to the Red Canyon Townhomes common interest community project and made subject to all of the restrictions, covenants, limitations, easements, approvals, terms, conditions, uses, reservations and obligations of the Declaration, which shall run with the Phase 1C Property and shall be a burden and benefit to the Declarant, its successors and assigns, and to any person acquiring or owning any interest in the Phase 1C Property, including any Unit, and their

grantees, successors, heirs, executors, administrators, personal representatives, devisees and assigns.

2. Common Elements newly created or on the Phase 1C Property are described in the Quitclaim Deed recorded at Reception No. 671049 of the Eagle County, Colorado real estate records.

In connection with the foregoing exercise of Development Rights, the Original Declaration as Amended, is further amended as follows:

A. That portion of EXHIBIT "A" to the Amended Declaration that reads:

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY**

**PART I**

**DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION**

Red Canyon Townhomes Phase 1A,  
as shown on the final plat of Red Canyon Townhomes, Phase 1A and Tracts C, D1 and D2, Northbank Subdivision, a Resubdivision of Tracts C and D, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on January 6<sup>th</sup>, 1998 as Reception Number 644048 of the records of the Clerk and Recorder of Eagle County, Colorado

and

Red Canyon Townhomes Phase 1B,  
as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision of Tracts D1 and D2, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on \_\_\_\_\_ as Reception Number \_\_\_\_\_ of the records the Clerk and Recorder of Eagle County, Colorado.

is hereby amended to read as follows:

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY**

**PART I**

**DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION**

Red Canyon Townhomes Phase 1A,  
as shown on the final plat of Red Canyon Townhomes, Phase 1A and Tracts C, D1 and D2, Northbank Subdivision, a Resubdivision of Tracts C and D, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on January 6<sup>th</sup>, 1998 as Reception Number 644048 of the records of the Clerk and Recorder of Eagle County, Colorado

and

Red Canyon Townhomes Phase 1B,  
 as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision  
 of Tracts D1 and D2, Northbank Subdivision, Town of Eagle, County of Eagle, State  
 of Colorado, recorded on March 16, 1998 as Reception Number 649712 of the  
 records of the Clerk and Recorder of Eagle County, Colorado.

and

Red Canyon Townhomes Phase 1C,  
 as shown on the Final Plat of Red Canyon Townhomes, Phase 1C, a Resubdivision  
 of Tract D, Northbank Subdivision, Town of Eagle, County of Eagle, State of  
 Colorado, recorded on 9-29-98 as Reception Number 671047 of the records of  
 the Clerk and Recorder of Eagle County, Colorado.

(Note: Part II of Exhibit "A" to the Declaration shall remain unchanged.)

- B. In accordance with the allocation formula set forth in Section 3.03 of the  
 Declaration, upon the recording of this Phase 1C, the Declaration  
 Allocated Interests and Exhibit "B" shall be amended as follows:

**EXHIBIT "B"**

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS,  
 RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A  
 COLORADO COMMON INTEREST COMMUNITY.**

UNIT DESIGNATIONS AND TABLE OF ALLOCATED INTEREST

<u>Unit No.</u>	<u>Percentage Share of Common Expenses</u>	<u>Votes in the Affairs of the Association</u>
1	2.3809524%	1
2	2.3809524%	1
3	2.3809524%	1
4	2.3809524%	1
5	2.3809524%	1
6	2.3809524%	1
7	2.3809524%	1
8	2.3809524%	1
9	2.3809524%	1
10	2.3809524%	1
11	2.3809524%	1
12	2.3809524%	1
13	2.3809524%	1
14	2.3809524%	1
15	2.3809524%	1
16	2.3809524%	1
17	2.3809524%	1
18	2.3809524%	1
19	2.3809524%	1
20	2.3809524%	1
21	2.3809524%	1

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 3 of 6 R 31.00 D 0.00 H 0.00 Eagle CO

22	2.3809524%	1
23	2.3809524%	1
24	2.3809524%	1
25	2.3809524%	1
26	2.3809524%	1
27	2.3809524%	1
28	2.3809524%	1
29	2.3809524%	1
30	2.3809524%	1
31	2.3809524%	1
32	2.3809524%	1
33	2.3809524%	1
34	2.3809524%	1
35	2.3809524%	1
36	2.3809524%	1
37	2.3809524%	1
38	2.3809524%	1
39	2.3809524%	1
40	2.3809524%	1
41	2.3809524%	1
42	2.3809524%	1

1 000000 000000 000000 000000 000000 000000 000000 000000 000000 000000  
671000 00/20/1998 03:01P 138 Sara Fisher  
4 of 6 R 31.00 D 0.00 N 0.00 Eagle CD





**FOURTH AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS AND EASEMENTS FOR  
RED CANYON TOWNHOMES  
A COLORADO COMMON INTEREST COMMUNITY**

*unrecorded  
file*

**THIS FOURTH AMENDMENT** to Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community (the "Phase 2A Declaration") is made as of November 4<sup>th</sup>, 1999, by RED CANYON TOWNHOMES, LLC, a Colorado limited liability company (the "Declarant"), whose address is 90 Madison Street, Suite 301, Denver, Colorado 80206

**RECITALS**

The Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded by Declarant on January 6, 1998, at Reception No. 644048 of the Eagle County, Colorado real estate records (the "Original Declaration"). Capitalized terms used but not defined in this Phase 1C Declaration shall have the meanings set forth in the Original Declaration unless the context otherwise requires. References to the Declaration in the Phase 1C Declaration shall be to the Original Declaration as modified by this instrument and any subsequent supplemental declarations or amendments. On January 6, 1998 Declarant also recorded as part of the Original Declaration the Final Plat, Red Canyon Townhomes, Phase 1A, and North Bank, Tracts C, D1 and D2, at Reception No. 644047 of the Eagle County, Colorado real estate records (the "Original Plat"). On March 16, 1998 Declarant, as an amendment to the Original Declaration, recorded the Final Plat, Red Canyon Townhomes Phase 1B, and North Bank, Tract D1 at Reception number 649712 of the Eagle County, Colorado real estate records ("the Phase 1B Plat"). Declarant also recorded the Second Amendment to the Original Declaration on May 4, 1998 as Reception number 654805 of the Eagle County, Colorado real estate records ("the Second Amendment"). Declarant also recorded the Third Amendment to the Original Declaration on September 29, 1998 at Reception No. 671048 of the Eagle County, Colorado real estate records ("the Third Amendment").

Pursuant to the Original Declaration (including, without limitation, Article 6 thereof and the Original Plat), Declarant reserved the right to create additional Units, Common Elements and Limited Common Elements (the "Additional Improvement") on all or any portion of the Expansion Property, and to submit such Additional Improvements to the Declaration. Declarant desires to exercise such Development Rights reserved in the Original Declaration, and to submit Additional Improvements located on the Expansion Property to the Declaration and to make such Additional Improvements a part of the Red Canyon Townhomes common interest community.

**FOURTH AMENDMENT OF DECLARATION**

1. Pursuant to the Development Rights reserved in the Original Declaration, that portion of the Expansion Property as shown and subdivided on the Final Plat of Red Canyon Townhomes, Phase 2A, a Resubdivision of North Bank Subdivision, Tract D1, Town of Eagle, County of Eagle, State of Colorado, recorded at Reception No. \_\_\_\_\_ of the Eagle County, Colorado real estate records, including the thirty-four (34) Units and twelve Garage Units and Common Elements described as Units 43 through 76 shown thereon and Garage Units "A" through "L", inclusive, (the "Phase 2A Property") is hereby added to the Red Canyon Townhomes common interest community project and made subject to all of the restrictions, covenants, limitations, easements, approvals, terms, conditions, uses, reservations and obligations of the Declaration, which shall run with the Phase 2A Property and shall be a burden

and benefit to the Declarant, its successors and assigns, and to any person acquiring or owning any interest in the Phase 2A Property, including any Unit and/or Garage Unit, and their grantees, successors, heirs, executors, administrators, personal representatives, devisees and assigns.

2. Common Elements newly created or on the Phase 2A Property are described in the Quitclaim Deed recorded at Reception No. \_\_\_\_\_ of the Eagle County, Colorado real estate records.

In connection with the foregoing exercise of Development Rights, the Original Declaration as Amended, is further amended as follows:

A. That portion of EXHIBIT "A" to the Amended Declaration that reads:

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY**

**PART I**

**DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION**

Red Canyon Townhomes Phase 1A,  
as shown on the final plat of Red Canyon Townhomes, Phase 1A and Tracts C, D1 and D2, Northbank Subdivision, a Resubdivision of Tracts C and D, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on January 6<sup>th</sup>, 1998 as Reception Number 644048 of the records of the Clerk and Recorder of Eagle County, Colorado

**and**

Red Canyon Townhomes Phase 1B,  
as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision of Tracts D1 and D2, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on March 16, 1998 as Reception Number 649712 of the records of the Clerk and Recorder of Eagle County, Colorado.

**and**

Red Canyon Townhomes Phase 1C,  
as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision of Tract D, Northbank Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on September 29, 1998 as Reception Number 671047 of the records of the Clerk and Recorder of Eagle County, Colorado.

is hereby amended to read as follows:

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A COLORADO COMMON INTEREST COMMUNITY**

## PART I

### DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION

Red Canyon Townhomes Phase 1A,  
as shown on the final plat of Red Canyon Townhomes, Phase 1A and Tracts C, D1  
and D2, Northbank Subdivision, a Resubdivision of Tracts C and D, Northbank  
Subdivision, Town of Eagle, County of Eagle, State of Colorado, recorded on  
January 6<sup>th</sup>, 1998 as Reception Number 644048 of the records of the Clerk and  
Recorder of Eagle County, Colorado

**and**

Red Canyon Townhomes Phase 1B,  
as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision  
of Tracts D1 and D2, Northbank Subdivision, Town of Eagle, County of Eagle, State  
of Colorado, recorded on March 16, 1998 as Reception Number 649712 of the  
records of the Clerk and Recorder of Eagle County, Colorado.

**and**

Red Canyon Townhomes Phase 1C,  
as shown on the Final Plat of Red Canyon Townhomes, Phase 1B, a Resubdivision  
of Tract D, Northbank Subdivision, Town of Eagle, County of Eagle, State of  
Colorado, recorded on September 29, 1998 as Reception Number 671047 of the  
records of the Clerk and Recorder of Eagle County, Colorado.

**and**

Red Canyon Townhomes Phase 2A,  
as shown on the Final Plat of Red Canyon Townhomes Phase 2A, a Resubdivision of  
Tract D1, Northbank Subdivision, Town of Eagle, County of Eagle, State of  
Colorado recorded on \_\_\_\_\_ at Reception Number \_\_\_\_\_ of the  
records of the Clerk and Recorder of Eagle County, Colorado.

(Note: Part II of Exhibit "A" to the Declaration shall remain unchanged.)

- B. In accordance with the allocation formula set forth in Section 3.03 of the  
Declaration, upon the recording of this Phase 2A, the Declaration  
Allocated Interests and Exhibit "B" shall be amended as follows:

#### **EXHIBIT "B"**

**ATTACHED TO THE DECLARATION OF CONDITIONS, COVENANTS,  
RESTRICTIONS AND EASEMENTS FOR RED CANYON TOWNHOMES, A  
COLORADO COMMON INTEREST COMMUNITY.**

UNIT DESIGNATIONS AND TABLE OF ALLOCATED INTEREST

<u>Unit No.</u>	<u>Percentage Share of Common Expenses</u>	<u>Votes in the Affairs of the Association</u>
1	1.3157895%	1
2	1.3157895%	1
3	1.3157895%	1
4	1.3157895%	1
5	1.3157895%	1
6	1.3157895%	1
7	1.3157895%	1
8	1.3157895%	1
9	1.3157895%	1
10	1.3157895%	1
11	1.3157895%	1
12	1.3157895%	1
13	1.3157895%	1
14	1.3157895%	1
15	1.3157895%	1
16	1.3157895%	1
17	1.3157895%	1
18	1.3157895%	1
19	1.3157895%	1
20	1.3157895%	1
21	1.3157895%	1
22	1.3157895%	1
23	1.3157895%	1
24	1.3157895%	1
25	1.3157895%	1
26	1.3157895%	1
27	1.3157895%	1
28	1.3157895%	1
29	1.3157895%	1
30	1.3157895%	1
31	1.3157895%	1
32	1.3157895%	1
33	1.3157895%	1
34	1.3157895%	1
35	1.3157895%	1
36	1.3157895%	1
37	1.3157895%	1
38	1.3157895%	1
39	1.3157895%	1
40	1.3157895%	1
41	1.3157895%	1
42	1.3157895%	1
43	1.3157895%	1
44	1.3157895%	1
45	1.3157895%	1
46	1.3157895%	1
47	1.3157895%	1

48	1.3157895%	1
49	1.3157895%	1
50	1.3157895%	1
51	1.3157895%	1
52	1.3157895%	1
53	1.3157895%	1
54	1.3157895%	1
55	1.3157895%	1
56	1.3157895%	1
57	1.3157895%	1
58	1.3157895%	1
59	1.3157895%	1
60	1.3157895%	1
61	1.3157895%	1
62	1.3157895%	1
63	1.3157895%	1
64	1.3157895%	1
65	1.3157895%	1
66	1.3157895%	1
67	1.3157895%	1
68	1.3157895%	1
69	1.3157895%	1
70	1.3157895%	1
71	1.3157895%	1
72	1.3157895%	1
73	1.3157895%	1
74	1.3157895%	1
75	1.3157895%	1
76	1.3157895%	1

C. The following definitions are hereby added to Article 1, Paragraph 1.02, Definitions:

1.02 Definitions.

(S) “Garage Unit” – means the separate Garage Units designated on the Plat. No Garage Unit shall have any Allocated Interest in the Common Expenses of the Project as a whole nor in the votes of the Association.

(T) “Garage Unit Owner” – means any person who is the record owner of an undivided fee simple interest in any Garage Unit, including any contract Seller but excluding those having such interest merely as security for the performance of any obligation, and where the context clearly requires, “Garage Unit Owner” means all co-owners of undivided fee simple interest in such Garage Unit. Each and every Garage Unit Owner(s) must also be Owner(s) of the Project Unit to which the Garage Unit is appurtenant.

- D. The following Paragraph 3.09, Garage Units, is hereby added to the Declaration after Paragraph 3.08:

3.09 Garage Units. Title to any Garage Unit may be acquired, held, encumbered and conveyed individually or in any form of concurrent ownership recognized in Colorado; provided, however, that at all times each and every Garage Unit shall be appurtenant to and transferred or alienated only in conjunction with the Project Unit with which it is originally conveyed by the Declarant. That is, any contract, deed, lease, deed of trust or other instrument used to convey; lease, assign, encumber or otherwise affect the ownership of an appurtenant Garage Unit shall describe and convey the Garage Unit only in connection with the appropriate legal description for the required project townhome Unit to which said Garage Unit is appurtenant.

Each Owner shall maintain the interior of his or her Garage Unit in a clean, safe and attractive condition and shall keep the same free from litter and debris. The Board of Directors shall have the authority to establish reasonable rules and regulations regarding the sightliness and cleanliness of the Garage Unit and the use thereof by its Owner.

No gasoline, gasohol, distillate, diesel, kerosene, naphtha or similar volatile combustible or explosive materials shall be stored in any Garage Unit except in the fuel tanks of vehicles or equipment parked therein or one container of outdoor grill fuel starter of no more than two liter capacity.

It was the intent of the Declarant in designing the overall parking plan Community that the Garage Unit be used in such a manner so that vehicles (automobiles and trucks) could be parked within such Garage Units. Therefore, any use of a Garage Unit that does not allow a vehicle to be parked within such space is expressly prohibited, and such Garage Units shall not be used for the "storage" of vehicles or other personal property. The Board of Directors is granted the authority to enforce the provisions of this provision by the levy of fines against the Owner in accordance with Bylaws of the Association.

Owners are encouraged to keep garage doors closed except when in use.

- E. The following Paragraph 8.08, Maintenance of Garage Units; Separate Capital Reserve, is hereby added to the Declaration after Paragraph 8.07:

8.08 Maintenance of Garage Units; Separate Capital Reserve. In accordance with Paragraph 8.01 of the Declaration, each Garage Unit Owner shall be responsible for the maintenance and repair of the interior of his or her Garage Unit including any Limited Common Elements allocated exclusively to such Garage Unit provided, however, that in accordance with Paragraphs 5.04 and 8.02 of the Declaration, all Garage Unit Owners shall be jointly responsible for the maintenance and repair of each Garage Unit building's siding, painted exterior surfaces, foundations,





**FIFTH AMENDMENT TO DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS AND EASEMENTS FOR  
RED CANYON TOWNHOMES  
A COLORADO COMMON INTEREST COMMUNITY**

**THIS FIFTH AMENDMENT** to Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community (the "Phase 2A Declaration") is made as of September 17, 2000, by RED CANYON TOWNHOMES, LLC, a Colorado limited liability company (the "Declarant"), whose address is 90 Madison Street, Suite 301, Denver, Colorado 80206 and by the RED CANYON TOWNHOMES OWNER'S ASSOCIATION whose address is P.O. Box 2182, Eagle, Colorado 81631.

**RECITALS**

The Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded by Declarant on January 6, 1998, at Reception No. 644048 of the Eagle County, Colorado real estate records (the "Original Declaration"). Capitalized terms used but not defined in this Fifth Amendment shall have the meanings set forth in the Original Declaration unless the context otherwise requires. References to the Declaration in this Fifth Amendment to the Declaration shall be to the Original Declaration as modified by this instrument and any subsequent supplemental declarations or amendments. On January 6, 1998 Declarant also recorded as part of the Original Declaration the Final Plat, Red Canyon Townhomes, Phase 1A, and North Bank, Tracts C, D1 and D2, at Reception No. 644047 of the Eagle County, Colorado real estate records (the "Original Plat"). On March 16, 1998 Declarant, as an amendment to the Original Declaration, recorded the First Amendment to Declaration as Reception number 649714 of the Eagle County, Colorado real estate records (the "First Amendment") and also recorded the Final Plat, Red Canyon Townhomes Phase 1B, and North Bank, Tract D1 in the Eagle County, Colorado real estate records ("the Phase 1B Plat"). Declarant also recorded the Second Amendment to the Original Declaration on May 4, 1998 as Reception number 654805 of the Eagle County, Colorado real estate records ("the Second Amendment"). Declarant also recorded the Third Amendment to the Original Declaration on September 29, 1998 at Reception No. 671048 of the Eagle County, Colorado real estate records ("the Third Amendment"). Declarant also recorded the Forth Amendment to the Original Declaration on November 12, 1999, at Reception No. 714518 of the Eagle County, Colorado Real Estate records ("The Fourth Amendment").

Pursuant to the Original Declaration, Paragraph 14.03 Amendment, this declaration may be amended by agreement of Owners of Units to which at least sixty-seven percent (67%) of votes in the Association are allocated. Per agreement of more than sixty-seven percent (67%) of the votes in the Association as expressed in connection with the Special Meeting of the Owners held March 30, 2000, and ratified by subsequent written vote of the Unit Owners, a 67 plus % majority of the Owners of Units desire to amend Paragraph 13.02 Parking of the Original Declaration.

Additionally, pursuant to the Original Declaration (including without limitation, Articles 6 and 12 thereof) Declarant reserved the right to establish use agreements and regulate parking





**Fifth Amendment to the Declaration of Conditions,  
Covenants, Restrictions and Easements for Red Canyon Townhomes,  
a Colorado common interest community**

This Fifth Amendment to the Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community (the "Declaration"), is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2003 by Red Canyon Townhomes Association ("Association").

**WITNESSETH**

**WHEREAS**, a Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes, a Colorado common interest community, was recorded on January 6, 1998, at Reception Number 644048 in the offices of the Eagle County Clerk and Recorder of Eagle County, Colorado. On March 16, 1998 a First Amendment to the Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes was recorded with the Eagle County Clerk and Recorder at Reception Number 649714. A Second Amendment to the Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes was recorded the Eagle County Clerk and Recorder on at May 4, 1998 at Reception Number 654805. A Third Amendment to the Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes was recorded the Eagle County Clerk and Recorder on September 28, 1998 at Reception Number 671048. A Fourth Amendment to the Declaration of Conditions, Covenants, Restrictions and Easements for Red Canyon Townhomes was executed November 4, 1999 but to date has not been recorded (hereinafter collectively referred to as the "Declaration"). The terms used herein shall have the meanings as defined in the Declaration, and as otherwise defined or modified herein; and

**WHEREAS**, the members of the Association desire to amend the Declaration to remove inconsistencies between the Declaration and the Bylaws concerning the definition of and requirements for maintenance of exterior features.

**WHEREAS**, pursuant to Article 14, Section 14.03 of the Declaration, the Declaration may be amended at any time upon the vote or agreement of owners of units to which at least 67% of the votes of the Association are allocated; and

**WHEREAS**, the required number of owners have approved this Amendment; and

**THEREFORE**, the Declaration is hereby amended as follows:

1. **Maintenance of Exterior Features.** Article 8, Section 8.02, of the Declaration is hereby modified and amended to specifically provide that maintenance of the exterior features by the Association, to be maintained as a Common Expense of all owners, shall specifically include any and all back decks and any and all front porches. This Fifth Amendment to the Declaration shall amend and modify the Declaration to the extent any sections or portions thereof purport to

or could be construed as excluding back decks and front porches of any and all units from the exterior maintenance area that is to be maintained by the Association as a Common Expense. This specifically, without limitation as to the effectiveness of this Amendment to the Declaration as a whole, shall modify and apply to following sections of Article 8 of the Declaration:

a. Section 8.01 Maintenance of Units. Owners shall not be responsible to maintain back decks and front porches of their units, regardless if the same is considered a limited common element allocated exclusively to such unit, as the same shall be maintained as an exterior feature by the Association as a Common Expense.

b. Section 8.02 Maintenance of Certain Exterior Features. As part of the responsibility of the Association to maintain and repair certain exterior features of the Units as a Common Expense of all the owners, the same shall specifically include back decks and front porches of each and every unit. Any provision purporting to exclude "Unit Decks" from the exterior maintenance area to be maintained by the Association as a Common Expense is hereby modified to provide that back decks and front porches are part of the exterior maintenance area and are to be maintained by the Association as a Common Expense.

c. Section 8.03 Maintenance of Common Elements. The requirement that Limited Common Elements solely appurtenant to one unit pursuant to the Declaration or the Act shall be maintained, cleaned, repaired, reconstructed and replaced solely by the Owner of such Unit shall not apply to or include back decks or front porches of any unit as the same are to be maintained as part of the exterior maintenance area Association as a Common Expense.

2. Applicability of Colorado Revised Statutes 38-33.3-315. The Declaration and this Fifth Amendment thereto are subject to the provisions of the Act, which is the Colorado Common Interest Ownership Act codified at C.R.S. 38-33.3-301 et seq. This specifically includes the provisions of C.R.S. 38-33.3-315 of the Colorado Common Interest Ownership Act concerning assessments for common expenses. Section (3)(a) of C.R.S. 38-33.3-315 provides that, "any common expense associated with the maintenance, repair or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in other proportions the Declaration may provide." Section (3)(b) of 38-33.3-315 provides that any, "common expense or portion thereof benefiting fewer than all the units shall be assessed exclusively against the units benefited". Common Expenses of the Association, including maintenance of certain exterior features as defined in the Declaration and this Amendment thereto, shall be subject to C.R.S. 38-33.3-315. Thus maintenance, repair or replacement of any limited common element, even if designated as a Common Expense, shall be borne by the units to which that limited common element is assigned and Common Expenses benefiting fewer than all units shall be assessed against the units benefited.

3. Attorneys Fees. If any owner violates the provisions of this Fifth Amendment to the Declaration and the Association incurs attorneys fees or costs as a result, the same shall be chargeable to the owner and shall constitute a lien upon the owner's unit, with all rights and remedies allowed by law, as well as those provided for in the Declaration and Bylaws.

4. **Rules and Regulations.** The Board of Directors shall be entitled to promulgate rules and regulations concerning the maintenance, repair and use of the concrete back decks and front porches.

5. **Severability.** Invalidation of any one of the terms or provisions herein by judgment or court order shall in no way affect any other provisions herein, which provisions shall remain in full force and effect.

6. **Conflicts Between Documents.** The purpose of this Amendment to the Declaration is to clarify the exterior maintenance area as set forth above. The further intent is to remove the conflict that currently exists between the Declaration and the Bylaws, specifically in Article 13, Section 1, subsection (b) of the Bylaws regarding maintenance repair. The Declaration, incorporating this Amendment, should no longer be deemed in conflict with the Bylaws, Article 13, Section 1(b) which provides that the maintenance of porches, balconies, decks and patios are a Common Expense of the Association. Yet, in the case of a conflict between the Declaration, as supplemented by the First, Second, Third and Fourth Amendments thereto, the Articles or the Bylaws of the Association, this Fifth Amendment shall control.

7. **Declaration in Full Force and Effect.** Except as specifically set forth in this Amendment, the Declaration and all previous Amendments thereto, shall remain unchanged and in full force and effect. This Amendment shall hereafter be interpreted for all purposes as part of the Declaration.

8. **The Act.** The provisions of this Fifth Amendment shall be in addition to and supplemental to the Act and all other provisions of law. In the event of any inconsistency between this Fifth Amendment and the Act, then in all events the Act shall control.

9. **Gender.** All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine, and neuter genders, and any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular, respectively.

10. **Captions.** The paragraph and section captions utilized herein are in no way intended to interpret or limit the terms and conditions hereof, but rather they are intended for purposes of convenience only.

